

# CDLP20-02020 Appeal

CONTRA COSTA COUNTY DEPARTMENT OF CONSERVATION AND DEVELOPMENT

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# Today's Presentation

- ▶ Background on Cannabis in Contra Costa County
- ▶ Review of Project
- ▶ Review of Appeal
- ▶ Staff Recommendation



# Background



# Proposition 64

- ▶ In response to California voter approval of Proposition 64 (Adult Use of Marijuana Act) in November 2016, the Board of Supervisors directed County staff to prepare regulations for the establishment of commercial cannabis businesses in the unincorporated areas of the County
- ▶ Board also initiated a process for analyzing and taxing the various commercial cannabis uses.
- ▶ Our department, in collaboration with other County departments and stakeholders developed a comprehensive cannabis regulation under Board Direction.



# Cannabis Ordinance and Outreach

**Proposition 64  
Adult Use of Marijuana Act**  
Nov 8, 2016

**First BOS Workshop on  
Prop 64 and Regulating Cannabis**  
April 25, 2017

**BOS Meeting Prelim Draft Regs**  
Oct 24, 2017

**27 Public Presentations**  
Oct 24, 2017 - April 16, 2018

**BOS Meeting Approval of  
Draft Taxation**  
May, 8 2018

**BOS Cond. Approval of  
Cannabis Tax**  
July 10, 2018

**First Public Hearing on  
Interim Regulations**  
Jan 17, 2017

**BOS Meeting on Draft  
Principles and Public Outreach**  
July 18, 2017

**BOS Meeting Approval of Draft  
Land Use Regulations**  
April 24, 2018

**BOS Cond. Approval of  
Cannabis Regulation**  
June 26, 2018

**Measure R Approved**  
November 6, 2018



# Measure R and Cannabis Ordinance

- ▶ Following voter's approval of Measure R (Contra Costa County Marijuana Business Tax) in November 2018, the County's cannabis ordinance became operative.
- ▶ The cannabis ordinance provides comprehensive zoning regulations for the establishment and operation of various commercial cannabis activities within the unincorporated areas of the County.



# Cannabis Ordinance RFP

- ▶ County initiated an RFP process to select cannabis cultivation businesses in February 2019.
- ▶ Based on the individual scores of the December 2019 businesses' RFP proposals, the County Board of Supervisors invited high scoring proponents to submit a LUP.
- ▶ The subject application was then submitted in February 2020.





# Zoning Administrator

- ▶ October 19, 2020, this Land Use Permit application was heard by the County Zoning Administrator. After considering testimony, on November 2, 2020, the ZA approved the Land Use Permit.
- ▶ On November 12, 2020, the City of Brentwood filed a timely appeal of the ZA decision.





# County Planning Commission

- ▶ January 27, 2021, this Land Use Permit application was heard by the County Planning Commission. After considering testimony, the CPC denied the Land Use Permit.
- ▶ On February 8, 2021, Diablo Valley Farms, Robert Nunn, and the applicant, Lisa Borba, appealed the CPC decision prior to the appeal deadline.



# Diablo Valley Farms Project

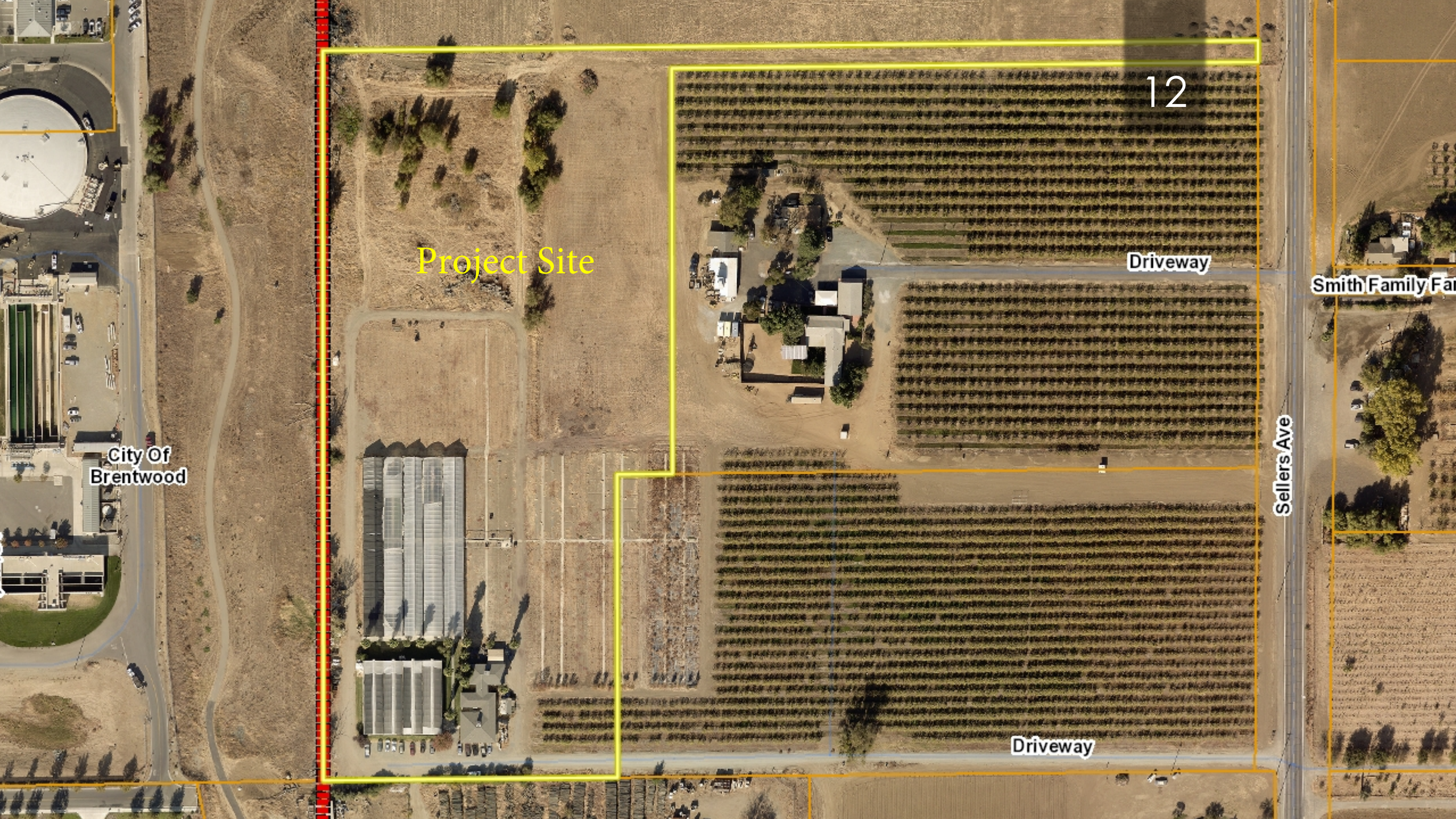


# Summary

- ▶ Indoor Cultivation Cannabis Facility
  - ▶ Two 10,000 sq. ft. Greenhouses







Project Site

12

Driveway

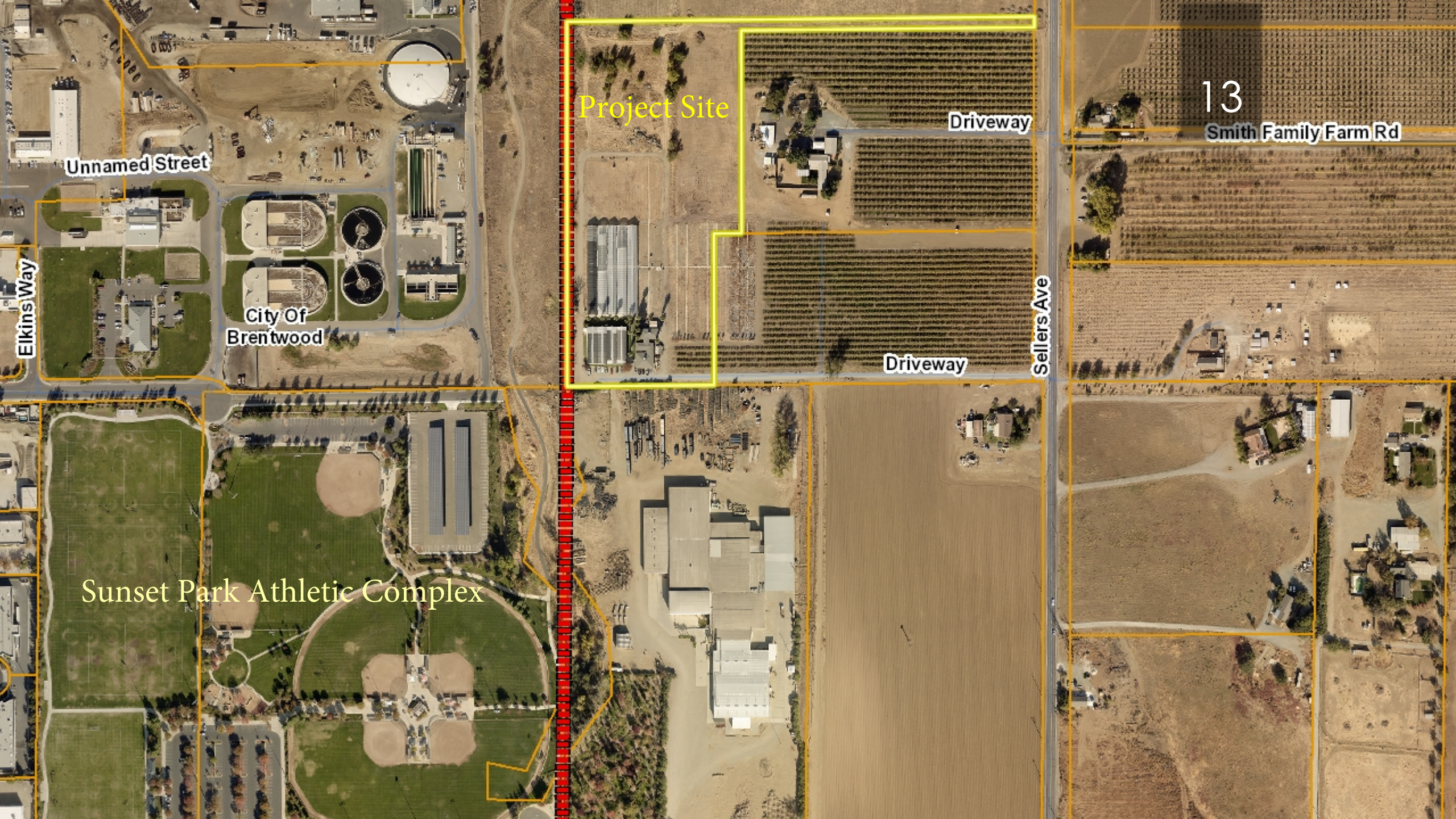
Smith Family Farm

City Of  
Brentwood

Sellers Ave

Driveway





Project Site

Driveway

13  
Smith Family Farm Rd

Unnamed Street

City Of  
Brentwood

Driveway

Sellers Ave

Sunset Park Athletic Complex

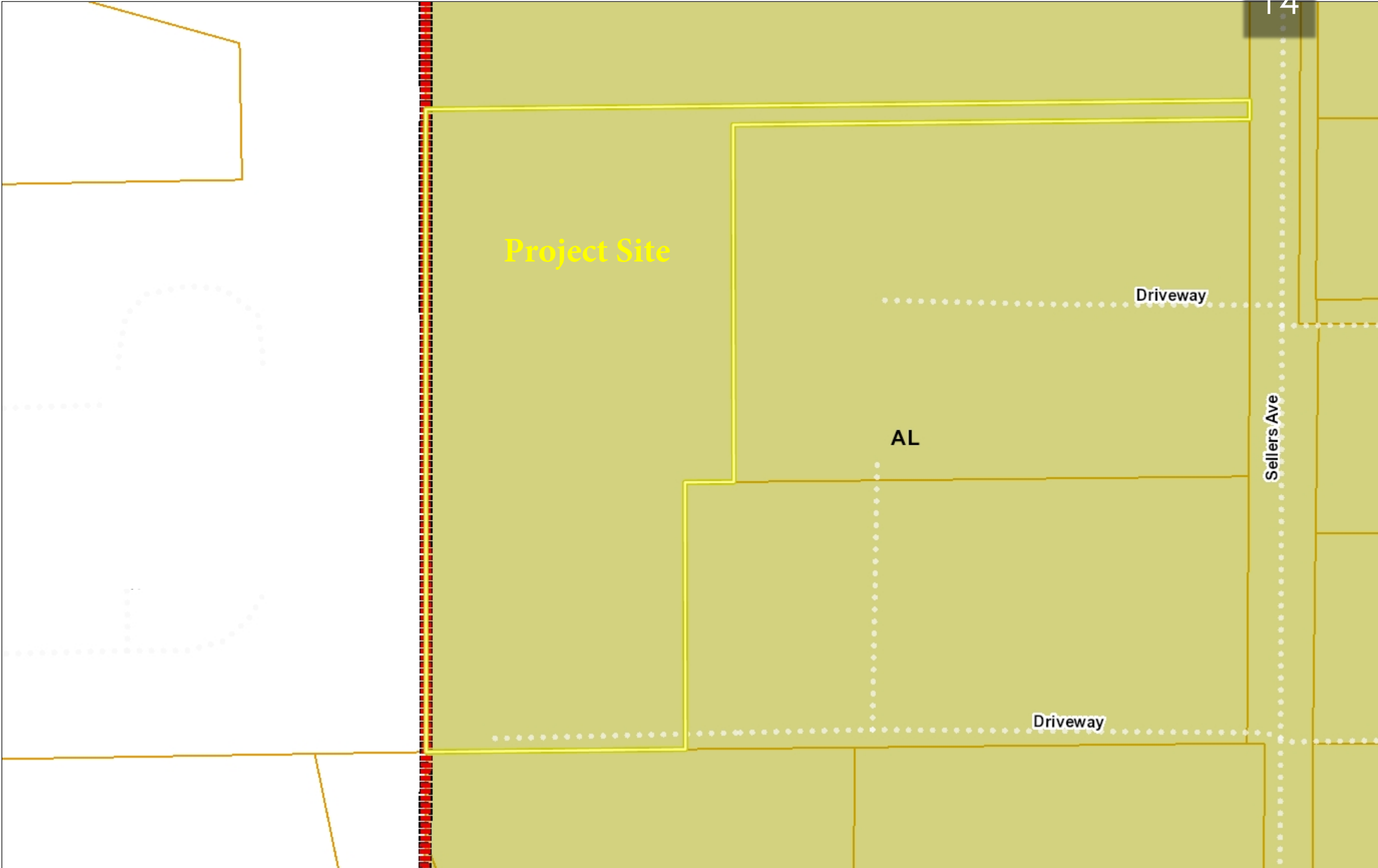
Elkins Way



# General Plan: AL



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## Legend

- City Limits
- General Plan Agricultural Lands

1: 2,257



## Notes

Contra Costa County -DOIT GIS

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

0.1 0 0.04 0.1 Miles

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

Zoning: A-2



15

A-3

Project Site




Driveway

A-2

Sellers Ave

Driveway

Legend

-  A-2 General Agricultural
-  A-3 Heavy Agricultural
-  City of Brentwood

1: 2,257



Notes

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0.1 0 0.04 0.1 Miles

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere



# Appeal



# Summary of Appeal

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- ▶ The CPC's decision to deny the Permit was based on an erroneous finding that Sunset Park is a "youth center."
- ▶ The project complies with: all requirements of the County's cannabis ordinance; applicable zoning; and the General Plan.



# Location Requirements

- ▶ Location requirements established under County Code Section 88-28.410(b)
  - ▶ 1) must be located outside of a cannabis exclusion combining district
  - ▶ 2) Not located within one thousand feet of a school, day care center, **youth center**, or drug treatment center, and
  - ▶ 3) located within an agricultural zoning district outside, and at least one mile from, the urban limit line
- ▶ What is a “Youth Center”
  - ▶ ““Youth center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.”



# Staff Recommendation

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- ▶ 1. OPEN the public hearing on an appeal of the County Planning Commission's denial of a land use permit to allow an indoor commercial cannabis cultivation business at 4425 Sellers Avenue in the unincorporated Brentwood area, RECEIVE testimony, and CLOSE the public hearing.
- ▶ 2. GRANT the appeal of Diablo Valley Farms, Robert Nunn, and Lisa Borba.
- ▶ 3. DETERMINE that the project is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (existing structures).
- ▶ 4. DIRECT the Department of Conservation and Development to file a CEQA Notice of Exemption with the County Clerk.
- ▶ 5. APPROVE a land use permit to allow an indoor commercial cannabis cultivation business to be established within two existing greenhouses located at 4425 Sellers Avenue in the unincorporated Brentwood area (County File No. CDLP20-02020).
- ▶ 6. APPROVE the findings in support of the project.
- ▶ 7. APPROVE the project conditions of approval, including modified COA No. 1 and additional security measures in COA Nos. 20-37.



# Questions?

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