



**SAN BENITO COUNTY  
PLANNING COMMISSION**

<b>Vincent Ringheden</b> District No. 1	<b>Richard Way</b> District No. 2	<b>Robert Scagliotti</b> District No. 3 - Vice-Chair	<b>Robert Gibson</b> District No. 4 - Chair	<b>Celeste Toledo-Bocanegra</b> District No. 5
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*Board of Supervisors Chambers 481 Fourth Street, Hollister, CA 95023*

**PLANNING COMMISSION - REGULAR SESSION-  
SEPTEMBER 18, 2024  
6:00 PM**

The meeting will be available through Zoom, YouTube, and Peak Agenda for those who wish to join or require accommodations

Members of the public may participate remotely via zoom at the following link  
<https://zoom.us/join> with the following Webinar ID and Password:

**Webinar ID: 821 4941 3929**  
**Webinar Password: 754449**  
**Join by Phone: +1 408 638 0968 US (San Jose)**

Those participating by phone who would like to make a comment can use the “raise hand” feature by dialing “\*9”. In order to receive the full zoom experience, please make sure your application is up to date.

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Page: [https://www.youtube.com/channel/UCLj3iW3\\_dsDzbYqnY1KdCvA](https://www.youtube.com/channel/UCLj3iW3_dsDzbYqnY1KdCvA).
- B. Peak Agenda Page: [https://cosb.granicus.com/ViewPublisher.php?view\\_id=1](https://cosb.granicus.com/ViewPublisher.php?view_id=1)

## Written Comments & Email Public Comment

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C. Each individual speaker will be limited to a presentation total of three (3) minutes, or such other time as may be designed by the Chair.

D. Speakers are encouraged to keep your comments, brief and to the point, and not to repeat prior testimony, so that as many people as possible can be heard. Your cooperation is appreciated.

If you have any questions, please contact the Resource Management Agency at [sbcplan@cosb.us](mailto:sbcplan@cosb.us).

### 1 CALL TO ORDER

### 2 PLEDGE OF ALLEGIANCE

### 3 ROLL CALL

### 4 DEPARTMENT ANNOUNCEMENTS

### 5 PUBLIC COMMENT

### 6 CONSENT AGENDA

*These items will be considered as a whole without discussion unless a particular item is requested by a member of the Commission, Staff or the public to be removed from the Consent Agenda. Approval of a consent item means approval of the recommended action as specified in the Staff Report.*

*If any member of the public wishes to comment on a Consent Agenda Item please fill out a speaker card present it to the Clerk prior to consideration of the Consent Agenda and request the item be removed and considered separately.*

6.1. [RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING -Acknowledge the Certificate of Posting for the September 18, 2024 Regular Planning Commission Meeting.SBC FILE NUMBER: 790.2](#)

[2024-09-18\\_ PC\\_Certificate of Posting.pdf](#)

6.2. [RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND](#)

**BUILDING -Approve the draft Planning Commision Minutes from the Special Meeting of August 7th, 2024 and Regular Meeting of August 21st, 2024.SBC FILE NUMBER: 790.2**

2024-08-07\_PC\_MINUTES\_DRAFT  
2024-08-21\_PC\_MINUTES\_DRAFT

**7 PUBLIC HEARING**

- 7.1. **RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING -Hold a public hearing and consider resolution regarding County Planning file PLN240013, a conditional use permit to allow for the operation of a woodworking workshop that provides custom woodworking and small-scale cabinetry services as well as an agricultural equipment repair service business located at 10 Flint Road, San Juan Bautista, CA.SBC FILE NUMBER: 790**  
Staff Report  
Resolution  
Freelance Notice
- 7.2. **RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING -Hold a public hearing to consider adopting a resolution for PLN240026 to approve a tentative map subdividing an existing 111.68-acre site, currently composed of three parcels, into four separate parcels. Â Two, measuring 7.61 acres and 23.20 acres, would be located entirely on commercially zoned land. Â The others, respectively 40.34 acres and 40.53 acres, would be located on agriculturally zoned land. This project proposes no construction at this time.SBC FILE NUMBER: 790**  
Staff Report  
Resolution  
Freelance Notice
- 7.3. **RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING -Hold a public hearing to consider adopting a resolution recommending that the County Board of Supervisors adopt an ordinance enabling execution of a development agreement (reviewed under County Planning file PLN240037) between the project developer and the County regarding the Ag Center commercial development (under County Planning file PLN220052, still under review with Planning). Â Under County Code Â§19.11.003, County policy requires that development agreements shall result in a public benefit beyond that which would be forthcoming through conditions of development project approvals.SBC FILE NUMBER: 790 ORD No.:**  
Planning Commission Resolution Recommending the Board of Supervisors Enact Ordinance for Entry into Development Agreement  
Ordinance for Entry into Development Agreement (draft)  
Freelance Notice

**8 REGULAR AGENDA**

- 8.1. **RESOURCE MANAGEMENT AGENCY- A.PRADO, PLANNING AND BUILDING DIRECTOR -Review, discuss and make recommendations on ordinance amendments for Â§3.05.051 Planning Commission Meetings; Duties;**

**Operation.SBC FILE NUMBER: 790ORDINANCE NO.:**

\_03.05.051\_Planning\_Commission\_Meetings\_\_Duties\_\_Operations\_DRAFT\_AMENI

- 8.2. **RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING -Receive information from Code Enforcement Officer Robin Leland regarding Title 1 Code Enforcement update.SBC FILE NUMBER: 790.2**  
Title 1 Code Presentation  
Title 1 Code Revisions - Redlined.pdf
- 8.3. **RESOURCE MANAGEMENT AGENCY- A.PRADO, PLANNING AND BUILDING DIRECTORStaff to provide an update on the status of the Commercial Cannabis Ordinance amendments.SBC FILE NUMBER: 790**  
Chapter 7.02 Cannabis Business (Ord. No. 1036)\_Track Changes.docx  
Chapter 19.43 Cannabis Business Land Use Regulations (Ord. No. 1036)\_Track Changes.docx  
Limits-Comparison to Other Cannabis Code.docx
- 8.4. **RESOURCE MANAGEMENT AGENCY- A.PRADO, PLANNING AND BUILDING DIRECTOR -Review San Benito Country's Farmworker Housing locations.SBC FILE NUMBER: 790**  
Employee Housing Search - CASAS.pdf

**9 COMMISSIONER ANNOUNCEMENTS**

**10 ADJOURNMENT**

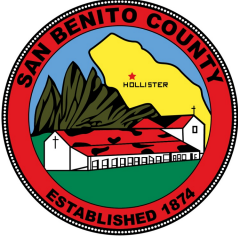
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**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

**Vincent  
Ringheden**  
District No. 1

**Richard  
Way**  
District No. 2

**Robert  
Scagliotti**  
District No. 3  
- Vice-Chair

**Robert  
Gibson**  
District No. 4  
- Chair

**Celeste Toledo-  
Bocanegra**  
District No. 5

**Item Number: 6.1**

**MEETING DATE:** 09/18/2024

**DEPARTMENT:** RESOURCE MANAGEMENT AGENCY

**AGENDA ITEM PREPARER:** Stephanie Reck

**SUBJECT:**

**RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING -  
Acknowledge the Certificate of Posting for the September 18, 2024 Regular Planning Commission  
Meeting.**

**SBC FILE NUMBER: 790.2**

**AGENDA SECTION:**

CONSENT AGENDA

**BACKGROUND/SUMMARY:**

N/A

**STRATEGIC PLAN GOALS: 1. Operational Development & Excellence**

Yes

**STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth**

No

**STRATEGIC PLAN GOALS: 3. Technology**

No

**STRATEGIC PLAN GOALS: 4. Community Engagement**

Yes

**STRATEGIC PLAN GOALS: 5. Health & Safe Community**

No

**STAFF RECOMMENDATION:**

Acknowledge the Certificate of Posting for the September 18, 2024 Regular Planning Commission Meeting.

**ATTACHMENTS:**

[2024-09-18\\_ PC\\_Certificate of Posting.pdf](#)

*San Benito County Planning Commission  
2301 Technology Parkway  
Hollister, CA 95023*



**CERTIFICATE OF AGENDA POSTING**

Pursuant to Government Code §59454.2(a), I, *Stephanie Reck*, certify that the **REGULAR MEETING AGENDA** for the **SAN BENITO COUNTY PLANNING COMMISSION MEETING** scheduled for September 18, 2024, was posted at the following locations, freely accessible to the public, on this day of September 11, 2024:

The bulletin board outside the front entrance of the San Benito County Planning Department, 2301 Technology Parkway, Hollister, CA

AND

The bulletin board outside the front entrance of the San Benito County Administration Building, 481 Fourth Street, Hollister, CA

AND

On The San Benito County website <https://www.cosb.us/> in the Events Calendar.

Stephanie Reck  
Associate Planner  
County of San Benito





**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

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**Robert Scagliotti**  
District No. 3  
- Vice-Chair

**Robert Gibson**  
District No. 4  
- Chair

**Celeste Toledo-Bocanegra**  
District No. 5

**Item Number: 6.2**

**MEETING DATE:** 09/18/2024

**DEPARTMENT:** RESOURCE MANAGEMENT AGENCY

**AGENDA ITEM PREPARER:** Stephanie Reck

**SUBJECT:**

**RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING - Approve the draft Planning Commission Minutes from the Special Meeting of August 7th, 2024 and Regular Meeting of August 21st, 2024.**  
**SBC FILE NUMBER: 790.2**

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**BACKGROUND/SUMMARY:**

N/A

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Yes

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Yes

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No

**STAFF RECOMMENDATION:**

Approve the draft Planning Commission Minutes from the Special Meeting of August 7th, 2024 and Regular Meeting of August 21st, 2024.

**ATTACHMENTS:**

[2024-08-07\\_PC\\_MINUTES\\_DRAFT](#)

[2024-08-21\\_PC\\_MINUTES\\_DRAFT](#)



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**Celeste Toledo-Bocanegra** District No. 5  
- Vice-Chair - Chair

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*Board of Supervisors Chambers 481 Fourth Street, Hollister, CA 95023*

**PLANNING COMMISSION - SPECIAL SESSION-  
AUGUST 07, 2024, @ 6:00P.M.**

**NOTE: The minutes herein provide a summary of agenda items presented to the Planning Commission, but do not provide a transcript. The meetings are recorded and the full recording should be consulted for the complete presentations, discussions, and public comments.**

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### 1. CALL TO ORDER

Robert Gibson, Chair of the Planning Commission, called the meeting to order at 6:00p.m.

### 2. PLEDGE OF ALLEGIANCE

Celeste Toledo-Bocanegra, Planning Commissioner, led the Pledge of Allegiance.

### 3. ROLL CALL

Victor Tafoya, Associate Planner, administered Roll Call.

Vincent Ringheden, Planning Commissioner, was present in chambers.

Richard Way, Planning Commissioner, was present in chambers.

Robert Scagliotti, Vice-Chair of the Planning Commission, was present in chambers.

Robert Gibson, Chair of the Planning Commission, was present in chambers.

Celeste Toledo-Bocanegra, Planning Commissioner, was present in chambers.

#### 4. CONSENT AGENDA

These items will be considered as a whole without discussion unless a particular item is requested by a member of the Commission, Staff or the public to be removed from the Consent Agenda. Approval of a consent item means approval of the recommended action as specified in the Staff Report.

If any member of the public wishes to comment on a Consent Agenda Item please fill out a speaker card present it to the Clerk prior to consideration of the Consent Agenda and request the item be removed and considered separately.

Robert Scagliotti, Vice-Chair of the Planning Commission, motioned to adopt the Consent Agenda.

Celeste Toledo-Bocanegra seconded this motion.

Motion passed Five (5) to Zero (0).

**Moved by** Robert Scagliotti; seconded by Celeste Toledo-Bocanegra to Confirm Robert

Motion passed Five (5) to Zero (0).

**Motion Passed: 5 - 0**

**Voting For:** Vincent Ringheden, Richard Way, Robert Scagliotti, Robert Gibson, Celeste Toledo-Bocanegra

**Voting Against:** None

4.1 **RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING** – Acknowledge the Certificate of Posting for the August 7<sup>th</sup>, 2024, Special Planning Commission Meeting.

**SBC FILE NUMBER: 790.2**

Robert Scagliotti, Vice-Chair of the Planning Commission, motioned to adopt the Consent Agenda.

Celeste Toledo-Bocanegra seconded this motion.

Motion passed Five (5) to Zero (0).

**Moved by** Robert Scagliotti; seconded by Celeste Toledo-Bocanegra to Confirm.

**Motion Passed: 5- 0**

**Voting For:** Vincent Ringheden, Richard Way, Robert Scagliotti, Robert Gibson, Celeste Toledo-Bocanegra

**Voting Against:** None

#### 5. PUBLIC HEARING

5.1 **RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING** - Staff recommends taking no action and proceeding to

the next item on the agenda after the development agreement application regarding the prior-approved Vista Del Calabria residential development (then reviewed under County Planning file PLN190070, approved in 2020) was withdrawn by the applicant.  
**SBC FILE NUMBER: 790**

**Discussion among the Commissioners regarding** the item being withdrawn by the applicant after the meeting agenda had been published. There was no further discussion or actions on this item.

## **5.2 RESOURCE MANAGEMENT AGENCY - S. LOUPE, PUBLIC WORKS**

**ADMINISTRATOR** - Presentation and reading of Ordinance Amendments to Title 23 Subdivisions Chapter 01 (General Provisions) Section 23.01.004 (Definitions) and Chapter 17 (Improvements) Section 23.17.002 (Standards for Improvements) and Section 23.17.003 (Required Improvements), if desired, adopt resolution recommending adoption to the Board of Supervisors.

**SBC FILE NUMBER: 790.2**

Steve Loupe, Public Works Administrator, and Arielle Goodspeed, Principal Planner, stated the length of road improvements in the proposed ordinance change is 50 feet per lot, for example, a 1,000-lot subdivision would require full road improvements for roughly 9 miles. The proposal scales this back to improvements for the length of the subdivision and one quarter miles of roadway beyond the edges of the subdivision. This was decided on after the planning department reviewed what other jurisdictions currently dictate. All large subdivisions require an EIR study. An EIR including a traffic study, will specify impacts to the area.

**Public Comment:** No public comment in chambers or via zoom

**Discussion among the Commissioners regarding** the formula for determining the length of road improvements for subdivisions. Many felt it was not asking enough from developers for the needs of the county. There were also questions on drainage storage and options for handling drainage. Commissioners asked that staff return with updated changes reflecting 100-feet of road improvements per lot, not to exceed 2.5 miles in either direction beyond the subdivision and expanding the 100-year flood drainage specifications to 1000-year. This would include 100 percent of additional runoff to be retained by development.

Richard Way, Planning Commissioner, motioned to continue the item to the Regular Meeting of September 2024 with the requested changes.

Robert Scagliotti, Vice-Chair of the Planning Commission, seconded the motion.

The motion passed Five (5) to Zero (0).

**Moved by** Richard Way; seconded by Robert Scagliotti to Continue.

**Motion Passed:** 5- 0

**Voting For:** Vincent Ringheden, Richard Way, Robert Scagliotti, Robert Gibson, Celeste Toledo-Bocanegra

**Voting Against:** None

## 6. REGULAR AGENDA

**6.1 RESOURCE MANAGEMENT AGENCY-A. PRADO, DIRECTOR- PLANNING AND BUILDING-** Discussion of amendments to Title 25 Zoning including chapters 25.01 General Provisions and Administration, 25.02 Permits and Other Planning Actions, 25.03 Zoning Map and Districts, 25.08 Standards for Specific Uses, and 25.06 Glossary. Receive presentation and, if desired, provide staff direction.  
**SBC FILE NUMBER: 790.2**

Arielle Goodspeed, Principal Planner, presented the proposed amendments to Title 25 Zoning including chapters 25.01 General Provisions and Administration, 25.02 Permits and Other Planning Actions, 25.03 Zoning Map and Districts, 25.08 Standards for Specific Uses, and 25.06 Glossary.

### **Discussion among the Commissioners regarding:**

**25.01.007A Public Hearing Procedures. 25.01.08A Appeals and Expansion of Nonconforming Uses, Structures and Sites:** There were minor wording changes to clear up directions. State noticing requirements call for 300-foot notices to be mailed to neighboring properties within a 300-foot radius of the property lines for the project in question. Commissioners were interested in expanding it to 1000-foot notices to provide greater reach of notice to neighboring properties. Some projects already call for 1000-foot notices.

**25.02 Crowing Foul:** The commissioners discussed whether to address roosters separately from other noise generating foul such as peacocks. The lot size that the ordinance would pertain to should be addressed so it did not adversely affect agricultural zones or egg production but should focus on regulations in residential districts. Currently ownership of 6 or more crowing foul requires a permit. They would like the ordinance to specifically address cock fighting. This section will be brought back for future consideration.

**25.02A, Development Plan Review Thresholds:** The ordinance would adjust the thresholds for different types of commercial, office and institutional structures based on square footage and daily people/vehicle traffic. The thresholds determine what type of review or clearance that is required for the project. It would not affect the California Environmental Quality Act requirements. The goal is to streamline the building and use permit stage for reduction of costs and promoting local business and agritourism. The Land Use Tables will be updated to add more uses. The Commissioners asked for a correction of a typo on page 54 to stipulate the correct area of A and not C.

**25.07 General Development and Design Standards:** There is an update to 25.07.007.6 to correct an oversight from previous approval of the accessory dwelling unit's gross square footage from 1,000 square feet to 2,500 square feet.

**25.08 ADU, Mobile Homes and Recreational Vehicles, Pet Shops, Commercial Kennels and Hobby Kennels, Animal Keeping, Renewable Energy Facilities, Movable Tiny Homes, Short Term Rentals, Commercial Shooting Ranges:**

**Animals:** The Commissioners asked that kennels be required to not only post the operator or on-duty managers name, but also their contact information. Animal Control Officers and Code Enforcement would work in unison to investigate complaints pertaining to animals. Any new Conditional Use Permits would fall under this code and be obligated for yearly inspections. There are more specifications for the number of large animals allowed compared to lot size. They asked that asphalt not be including in building materials for kennels. Commercial stables should be on 10 acres. Residential stables were recommended to on a 5-acre lot.

**Shooting Complexes:** The updated ordinance includes indoor and outdoor shooting range standards. Commissioners said they felt the size percentage of 10% of the lot are too small and would opt to strike the requirement. They suggested changes to the wording for indoor ranges, of the length between shooter and bullet trap statement. Proposed wording "length of the range must be sufficient such that the shooters will never be closer than 35 feet". The commissioners asked for more research into the prescribed 35-foot spacing with interest in expanding that length. They asked for a provision that would require first aid/emergency kits on site.

**Accessory Dwelling Unit (ADU):** The commissioners discussed capping the impact fee ratio for ADU units at 10% of the main home currently existing on the lot. They agreed to bring a discussion item to Administration on impact fees.

**Tiny Homes:** Staff will confer with the building official on the requirements of the foundation.

The Commissioners discussed the glossary of terms. Commissioners asked that the limit off our local producers sharing a tasting room be eliminated from the definition of tasting room.

Robert Scagliotti; Vice-Chair of the Planning Commission, motioned to bring the item back with changes at the Regular Meeting of September 2024.

Celeste Toledo-Bocanegra, Planning Commissioner, seconded this motion.

Motion passed Five (5) to Zero (0).

**Moved by** Robert Scagliotti; seconded by Celeste Toledo-Bocanegra to Continue.

**Motion Passed:** 5- 0

**Voting For:** Vincent Ringheden, Richard Way, Robert Scagliotti, Robert Gibson, Celeste Toledo-Bocanegra

**Voting Against:** None

**7. ADJOURNMENT**

Richard Way, Planning Commissioner, motioned to adjourn the meeting.



Robert Scagliotti seconded the motion.

Motion passed five (5) to zero (0).

**Moved by** Richard Way; seconded by Robert Scagliotti to Confirm Richard Way.

**Motion Passed: 5 – 0**

**Voting For:** Vincent Ringheden, Richard Way, Robert Scagliotti, Robert Gibson, Celeste Toledo-Bocanegra

**Voting Against:** None

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- Vice-Chair      - Chair

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*Board of Supervisors Chambers 481 Fourth Street, Hollister, CA 95023*

**PLANNING COMMISSION - REGULAR SESSION-  
AUGUST 21, 2024 @ 6:00P.M.**

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- A. Community Media Access Partnership (CMAP) YouTube Page:** [https://www.youtube.com/channel/UCLj3iW3\\_dsDzbYqnY1KdCvA](https://www.youtube.com/channel/UCLj3iW3_dsDzbYqnY1KdCvA)  
**B. Peak Agenda Page:** [https://cosb.granicus.com/ViewPublisher.php?view\\_id=1](https://cosb.granicus.com/ViewPublisher.php?view_id=1)

## **Written Comments & Email Public Comment**

**Members of the public may submit comments via email by 5:00 PM on the Monday prior to Planning Commission meeting to the Resource Management Agency at [sbcplan@cosb.us](mailto:sbcplan@cosb.us).**

## **Public Comment Guidelines**

- A. The San Benito County Board of Supervisor's welcomes your comments.**
- B. If participating on Zoom, once you are selected you will hear that you have been unmuted: At this time, please state your first name, last name, and county you reside in for the record.**
- C. Each individual speaker will be limited to a presentation total of three (3) minutes, or such other time as may be designed by the Chair.**
- D. Speakers are encouraged to keep your comments, brief and to the point, and not to repeat prior testimony, so that as many people as possible can be heard. Your cooperation is appreciated.**

**If you have any questions, please contact the Resource Management Agency at [sbcplan@cosb.us](mailto:sbcplan@cosb.us).**

### **1. CALL TO ORDER**

Robert Gibson, Chair of the Planning Commission, called the meeting to order at 6:00 P.M.

### **2. PLEDGE OF ALLEGIANCE**

Vincent Ringheden, Planning Commissioner, led the Pledge of Allegiance.

### **3. ROLL CALL**

Stephanie Reck, Associate Planner, administered the Roll Call.

Vincent Ringheden, Planning Commissioner, was present in chambers.

Richard Way, Planning Commissioner, was present in chambers.

Robert Scagliotti, Vice-Chair of the Planning Commission, was present in chambers.

Robert Gibson, Chair of the Planning Commission, was present in chambers.

Celeste Toledo-Bocanegra, Planning Commissioner, was present in chambers.

#### 4. DEPARTMENT ANNOUNCEMENTS

**4.1 RESOURCE MANAGEMENT AGENCY - A.PRADO, DIRECTOR OF PLANNING AND BUILDING** - Accept informational report on recent project applications submitted following the June 19<sup>th</sup>, 2024 Regular Meeting.  
**SBC FILE NUMBER: 790**

Abraham Pardo, Director of Planning and Building, presented the recent planning applications that have been received since the last regular Planning Commission meeting in June 2024.

#### 5. PUBLIC COMMENT

**Public comment opened**

**Public comment in chambers by** Elia Salinas.

**No public comment via Zoom.**

**Public comment is closed.**

#### 6. CONSENT AGENDA

These items will be considered as a whole without discussion unless a particular item is requested by a member of the Commission, Staff or the public to be removed from the Consent Agenda. Approval of a consent item means approval of the recommended action as specified in the Staff Report.

If any member of the public wishes to comment on a Consent Agenda Item please fill out a speaker card present it to the Clerk prior to consideration of the Consent Agenda and request the item be removed and considered separately.

Robert Scagliotti, Vice-Chair of the Planning Commission, motioned to adopt the Consent Agenda.

Celeste Toledo-Bocanegra, Planning Commissioner, seconded this motion.

Motion passed five (5) to zero (0).

**Moved by** Robert Scagliotti; seconded by Celeste Toledo-Bocanegra to Approve.

**Motion Passed: 5 - 0**

**Voting For:** Vincent Ringheden, Richard Way, Robert Scagliotti, Robert Gibson, Celeste Toledo-Bocanegra

**Voting Against:** None

**6.1 RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING** - Approve the draft Planning Commission Minutes from the Regular Meeting of June 19<sup>th</sup>, 2024.

**SBC FILE NUMBER: 790.2**

**6.2 RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING** - Acknowledge the Certificate of Posting for the August 21st, 2024 Regular Planning Commission Meeting.  
**SBC FILE NUMBER: 790.2**

**7. PUBLIC HEARING**

**7.1 RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING** - Hold a public hearing and consider resolution regarding County Planning file PLN240013, a conditional use permit to allow for the operation of a woodworking workshop that provides custom woodworking and small-scale cabinetry services as well as an agricultural equipment repair service business located at 10 Flint Road, San Juan Bautista, CA.  
**SBC FILE NUMBER: 790**

Victor Tafoya, Associate Planner, presented a continuation of the item to the Regular meeting of September 18 2024.

**Public comment opened**

**Public comment in chambers by** Elia Salinas.

**No public comment via Zoom.**

**Public comment period closed.**

Richard Way, Planning Commissioner, motioned to approve the continuation to the date of September 18, 2024.

Vincent Ringheden, Planning Commissioner, seconded this motion.

Motion passed three (3) to two (2).

Robert Scagliotti, Vice-Chair of the Planning Commission, denied this continuation.

Celeste Toledo-Bocanegra, Planning Commissioner, denied this continuation.

**Moved by** Richard Way; seconded by Vincent Ringheden to Continue.

**Motion Passed:** 3- 2

**Voting For:** Vincent Ringheden, Richard Way, Robert Gibson

**Voting Against:** Robert Scagliotti, Celeste Toledo-Bocanegra

**7.2 RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING** - Hold a public hearing to consider adopting a resolution to approve a tentative map subdividing an existing 251.94-acres parcel into two separate parcels of 20.00 acres and 228.48 with a 3.46-acre road dedication. The Project, County Planning file PLN240016, is located at 2231 Shore

Road approximately 8 miles northwest of downtown Hollister within unincorporated San Benito County.

**SBC FILE NUMBER: 790**

Jonathan Olivas, Associate Planner, presented the location, project description, CEQA, land use consistency, and staff recommendations for PLN240016.

Matt Kelly, Kelly Engineering and Surveying (applicant representative), requested a waiver to condition 26 requesting improvements along shore road and 29 requesting the undergrounding of utilities. this is a 0-impact project - has positive impact on the environment by preserving sensitive wetlands that have been identified. The project has no construction and no traffic impacts and will provide opportunity for local farmworker to own land he has been working for years. Applicant stated the packing shed has been there since 2013 and there will be no additional traffic that has not been there for the last 10 years. it is a beet packing facility.

**Discussion among the commissioners regarding** willingness to remove condition 29 and modification of condition 26 to be delayed until further subdivision of either parcel, amount of vehicle traffic along the 20-acre frontage for the packing shed located on the parcel, concerns that the road is not wide enough near the packing shed.

Steve Loupe, Public Works Administrator, stated that the condition 26 could be predicated on future development of the property, might not need them for what is current if the operation does not expand.

Celeste Toledo-Bocanegra, Planning Commissioner, motioned to approve PLN240016 with the amendments of removing condition 29 for the undergrounding of utilities and updating condition 26 for frontage road improvements to be deferred until further subdivision of the two parcels.

Robert Scagliotti, Vice-Chair of the Planning Commission, seconded this motion.

Motion passed five (5) to zero (0).

**Moved by** Celeste Toledo-Bocanegra; seconded by Robert Scagliotti to Approve as Amended.

**Motion Passed:** 5- 0

**Voting For:** Vincent Ringheden, Richard Way, Robert Scagliotti, Robert Gibson, Celeste Toledo-Bocanegra

**Voting Against:** None

**7.3 RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING** - Hold a public hearing to consider adopting a resolution to approve a tentative map subdividing an existing 38.93-acres parcel into four separate parcels of 5.00 acres, 5.00 acres, 5.00 acres, and 23.57 acres. The project, County Planning file PLN220004, is located at 1175 Comstock Road

approximately 7 miles northeast of downtown Hollister in the unincorporated San Benito County.

**SBC FILE NUMBER: 790**

Jonathan Olivas, Associate Planner, presented the location, project description, CEQA, land use consistency, and staff recommendations for PLN220004.

Matt Kelly, Kelly Engineering (applicant representative), stated that a retention pond has been tentatively deigned per the county's standards to contain 100-year flood and release at the 10-year level. Representative requested minor revisions to condition 25 (roadway improvements) condition 26 (improvement plan) with the statements prior to the recordation of final maps, they would like the ability to bond for the roadway improvements so being able to record the final maps prior would help this cause. Representative stated that undergrounding was not completed in prior subdivisions and the overhead lines are not visually impairing in a rural agricultural area, the length of undergrounding does not pencil out for the project.

**Discussion among the Commissioners regarding** concern for the amount of homes that are being built off Comstock and what the traffic concerns are and the status of the road near the curve, concerns for head on traffic, staff stated the traffic study does not cause any adverse impacts on the road and the southern end of the curve is being widened as part of the project, concerns regarding drainage and how the applicant will hold the water coming down from the applicants high point on the hill. concerns about Bio-2 and request to change wording to "shall be timed", the acronym SWPP Storm Water Pollution Prevention Plan, condition 30 requiring compliance with state permitting, wants the pond to hold a 500-year flood, Bio-3 is vague regarding the employee education program - wants to know what the parameters are, staff stated there are typically state standards applied to these condition for the work they need to complete. consensus to add bonding to conditions 25/26 and remove language for prior to recordation of final map, remove condition 28, and Bio-2 language needs to change from can/Shall

**Public Comment opened**

**Public comment in chambers by** Elia Salinas.

**No comments via zoom**

**Public Comment closed**

Vincent Ringheden, Planning Commissioner, motioned to approve PLN220004 with amendments to condition 25 and 26 to allow for bonding, remove condition 28 for undergrounding of utilities, and update of Bio-2 language to change from can to shall.

Celeste Toledo-Bocanegra, Planning Commissioner, seconded this motion.

Motion passed four (4) to one (1).

Robert Scagliotti, Vice-Chair of the Planning Commission, denied the approval.

**Moved by** Vincent Ringheden; seconded by Celeste Toledo-Bocanegra to Approve as Amended.

**Motion Passed:** 4- 1

**Voting For:** Vincent Ringheden, Richard Way, Robert Gibson, Celeste Toledo-Bocanegra

**Voting Against:** Robert Scagliotti

## 8. REGULAR AGENDA

### 8.1 RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING

- Receive presentation from RWE Clean Energy on the Panoche Valley Solar Plant Decommissioning Fund Discussion and provide direction on request for the second decommissioning deposit waiver.

**SBC FILE NUMBER: 790**

Jun Kim, Representative with RWE Clean Energy, Presented information regarding the Panoche Valley Solar Plant Decommissioning Fund and request waiver for second decommissioning deposit.

**Public Comment opened**

**Public comment in chambers by** Elia Salinas.

**No public comment via Zoom**

**Public comment period is closed.**

Arielle Goodspeed, Principal Planner, stated that the Joe Paul, SBC Auditor Controller, made comments on the depreciating value of the equipment and the fact that the 3.6 million would accumulate interest and if it was added up in the next 5 years it would total half a million dollars.

**Discussion among the commissioners regarding** why the facility is being decommissioned, staff clarified it is not being decommissioned but the discussion is for when and if it is decommissioned, Commissioners not okay with waiving money that is due to the county, how the deposit requirement works, the fact that RWE is a public profit making corporation, and if they are in a position to make the deposit then they should perform it, the fact that the funds are sitting in the account and can be used by the county to conduct the decommissioning, if RWE conducts the decommissioning they would receive the deposit and the interest, RWE is the owner of the site and bought out the previous company, questioning why they would request a waiver for only their second payment, and a request for the county to review old development agreements to catch issues.

Robert Scagliotti, Vice-Chair of the Planning Commission, motioned to recommend to the Board of Supervisors the denial of the waiver of second decommissioning deposit for RWE Clean Energy for the Panoche Valley Solar Plant.



Celeste Toledo-Bocanegra, Planning Commissioner, seconded this motion

Motion passed Five (5) to Zero (0).

**Moved by** Robert Scagliotti; seconded by Celeste Toledo-Bocanegra to Deny.

**Motion Passed:** 5- 0

**Voting For:** Vincent Ringheden, Richard Way, Robert Scagliotti, Robert Gibson, Celeste Toledo-Bocanegra

**Voting Against:** None

## 9. COMMISSIONER ANNOUNCEMENTS

Vincent Ringheden, Planning Commissioner, presented updates regarding the homeless taskforce and stated it was a good forum to review where the county is at in addressing homelessness

Richard Way, Planning Commissioner, stated that they reviewed the facilities and programs that are available for homeless persons during the Homeless Taskforce Committee.

Celeste Toledo-Bocanegra, Planning Commissioner, thanked staff for the hard work and stated that applicants who come forward should give staff a reasonable excuse for why an item should be continued.

## 10. ADJOURNMENT

Robert Scagliotti, Vice-Chair of the Planning Commission, motioned to adjourn the meeting.

Richard Way, Planning Commissioner, seconded this motion.

Motion passed Five (5) to Zero (0).

**Moved by** Robert Scagliotti; seconded by Richard Way to Approve.

**Motion:** 5 – 0

**Voting For:** Vincent Ringheden, Richard Way, Robert Scagliotti, Robert Gibson, Celeste Toledo-Bocanegra

**Voting Against:** None

**NOTE:** A copy of this Agenda is published on the County's Web site by the Friday preceding each Commission meeting and may be viewed at [www.cosb.us](http://www.cosb.us). All proposed agenda items with supportive documents are available for viewing at the San Benito County Administration Building, 481 Fourth Street, Hollister, CA between the hours of 8:00 a.m. & 5:00 p.m., Monday through Friday (except holidays.) This is the same packet that the Planning Commission reviews and discusses at the Commission meeting. The project planner's name and email address has been added at the end of each project description.

As required by Government Code Section 54957.5 any public record distributed to the Planning Commission less than 72 hours prior to this meeting in connection with any agenda item shall be made available for public inspection at the Planning Department, 2301 Technology Parkway, Hollister, CA 95023. Public records distributed during the meeting will be available for public inspection at the meeting if prepared by the County. If the public record is prepared by some other person and distributed at the meeting it will be made available for public inspection following the meeting at the Planning Department.

**APPEAL NOTICE:** Any person aggrieved by the decision of the Planning Commission may appeal the decision within ten (10) calendar days to the Board of Supervisors. The notice of appeal must be in writing and shall set forth specifically wherein the Planning Commission's decision was inappropriate or unjustified. Appeal forms are available from the Clerk of the Board at the San Benito County Administration Office, 481 Fourth Street, Hollister and the San Benito County Planning Department, 2301 Technology Parkway, Hollister.

**NOTE:** In compliance with the Americans with Disabilities Act (ADA) the Board of Supervisors meeting facility is accessible to persons with disabilities. If you need special assistance to participate in this meeting, please contact the Clerk of the Board's office at (831) 636- 4000 at least 48 hours before the meeting to enable the County to make reasonable arrangements to ensure accessibility.



**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

**Vincent  
Ringheden**  
District No. 1

**Richard  
Way**  
District No. 2

**Robert  
Scagliotti**  
District No. 3  
- Vice-Chair

**Robert  
Gibson**  
District No. 4  
- Chair

**Celeste Toledo-  
Bocanegra**  
District No. 5

**Item Number: 7.1**

**MEETING DATE:** 09/18/2024

**DEPARTMENT:** RESOURCE MANAGEMENT AGENCY

**AGENDA ITEM PREPARER:** Victor Tafoya

**SUBJECT:**

**RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING - Hold a public hearing and consider resolution regarding County Planning file PLN240013, a conditional use permit to allow for the operation of a woodworking workshop that provides custom woodworking and small-scale cabinetry services as well as an agricultural equipment repair service business located at 10 Flint Road, San Juan Bautista, CA. SBC FILE NUMBER: 790**

**AGENDA SECTION:**

PUBLIC HEARING

**BACKGROUND/SUMMARY:**

The project at 10 Flint Road, San Juan Bautista, CA, involves the ongoing operation of two businesses: a custom woodworking workshop and an agricultural equipment repair service. These businesses have been using the property's existing structures, which were originally built for agriculture, for several years without obtaining formal approval from the county.

The woodworking workshop focuses on custom woodworking and small-scale cabinetry services. It operates within three existing buildings on the property, each dedicated to different phases of the woodworking process, from manufacturing to finishing. The workshop employs four individuals and is equipped with specialized machinery, including a large belt sander, shaper, and planer machine. The business does not engage in on-site customer interactions, minimizing traffic and maintaining a controlled operational environment.

The agricultural equipment repair service primarily serves local farms, providing essential maintenance and repair services for agricultural machinery. This business operates within a section of the woodworking buildings, using the space for storage of tools and equipment necessary for off-site repairs. On-site activities are limited to light maintenance and storage, ensuring that the repair services do not disrupt the agricultural character of the area.

On January 9, 2024, San Benito County staff issued a notice of violation to the property owner, Anthony Botelho, for operating these businesses without the required county permits. In response, Anthony Botelho submitted an application for a Conditional Use Permit (CUP) on February 27, 2024, to bring the operations into compliance with county regulations. The CUP is necessary because the scale and scope of these operations exceed what is typically allowed under a Rural Home Enterprise, which would ordinarily require only an administrative permit.

The application was initially scheduled for review by the Planning Commission on August 21, 2024. However, at the request of the applicant, the project was postponed to the September 18, 2024, Planning Commission meeting due to personal reasons that made it not possible for him to attend the original meeting date.

**STRATEGIC PLAN GOALS: 1. Operational Development & Excellence**

No

**STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth**

Yes

**STRATEGIC PLAN GOALS: 3. Technology**

No

**STRATEGIC PLAN GOALS: 4. Community Engagement**

No

**STRATEGIC PLAN GOALS: 5. Health & Safe Community**

Yes

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission review the staff report, hold a public hearing, and hear any proponents and opponents of the proposed project. Staff further recommends that the Planning Commission consider Resolution 2024-\_\_ and adopt said resolution, subject to the findings and conditions of approval included therein, in order to approve the conditional use permit under County Planning file PLN240013.

**ATTACHMENTS:**

[Staff Report](#)

Resolution  
Freelance Notice

# STAFF REPORT

## PROJECT INFORMATION

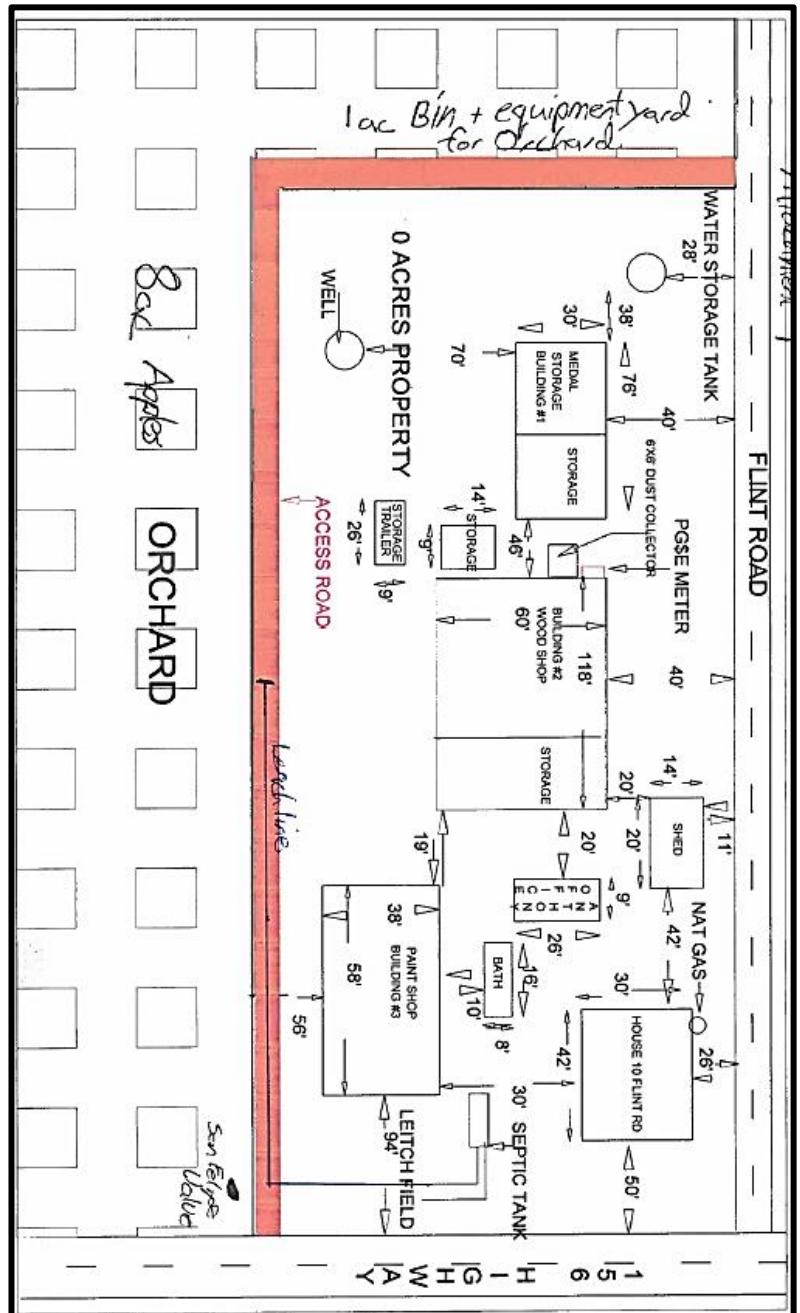
Application: PLN240033 (Conditional Use Permit)  
 Public Hearing: September 18, 2024  
 Applicant: Anthony Botelho  
 Owner: Anthony Joseph & Susan M. Botelho  
 Location: 10 Flint Road (2.5 miles east of San Juan Bautista and 4.5 miles west of Hollister)  
 APN: 018-160-027  
 Zoning: Agricultural Productive (AP)  
 General Plan: Agriculture (A)  
 Planner: Victor Tafuya

## PROJECT DESCRIPTION

The project at 10 Flint Road involves the operation of two businesses: a woodworking workshop that provides custom woodworking and small-scale cabinetry services, and an agricultural equipment repair service. Both businesses utilize existing structures on the property and have been established for several years. The project seeks to formalize these operations as a Rural Home Enterprise. However, the expansion of activities across multiple accessory structures exceeds the standard regulations for Rural Home Enterprises, necessitating a Conditional Use Permit (CUP). The CUP will ensure compliance with zoning regulations and address previous code enforcement issues.

The woodworking workshop is a specialized facility focused on custom woodworking and small-scale cabinetry, employing four individuals, including the owner. The workshop operates within three buildings on the property, each dedicated to a specific phase of the woodworking process.

**Building 1** (1,600 square feet) is shared by both the woodworking workshop and the agricultural equipment repair service. The woodworking workshop utilizes 400 sq ft of Building 1 primarily for the storage of completed cabinetry, a company forklift, and essential tools. The agricultural equipment repair service occupies the remaining 1,200 sq ft of Building 1, where it conducts storage and light maintenance activities for agricultural



equipment. This building, originally constructed as a cold storage facility, features insulated walls, a cement floor, and no windows, providing a controlled environment suitable for both businesses. Building 1 is accessed via a 10' x 10' roll-up door and a standard metal door, and while it is equipped with 220 three-phase electrical power, this capacity is not currently in active use.

**Building 2** (6,000 square feet) is the central hub for manufacturing activities, housing specialized woodworking equipment necessary for the production of custom cabinetry. The building contains a large belt sander, shaper, planer machine, and other precision tools required for the fabrication of high-quality wood products. A dust collection system is installed to manage particulate matter generated during the manufacturing process, ensuring a clean and safe working environment. The building is powered by 220 three-phase electricity, with natural gas used for heating purposes.

**Building 3** (2,400 square feet) is dedicated to the finishing process of the cabinetry. This building is equipped with a permitted paint booth, inspected and approved by the Air Pollution Quality Control Agency, ensuring that all finishing activities comply with environmental regulations. Additionally, the building contains metal cabinets for the secure storage of lacquer, paint, and other finishing materials. An adjacent cement apron facilitates light hand sanding operations, which are integral to the final preparation of the cabinetry before delivery.

The woodworking workshop operates with clearly defined business hours, limited to 8 a.m. to 7 p.m., seven days a week (Monday through Sunday). The business does not engage in on-site customer interactions, with all finished products delivered off-site for installation. This operational model minimizes traffic onto the property. The woodworking workshop generates approximately 18 trips per week, including 10 trips for employee commutes, 1 trip weekly for wood deliveries, 1 trip biweekly for wood waste disposal, and 1 trip weekly for delivering finished products to clients.

The agricultural equipment repair service is focused on the maintenance and repair of agricultural equipment, primarily serving four major agricultural clients: Dobbler & Sons Farm, Phil Foster Farm, Gonzales Orchards, and Gibson Farms. This business operates within Building 1 and conducts off-site repairs as the primary mode of operation, using the on-site facility for tool and equipment storage, along with light maintenance activities.

**Building 1** (1,600 square feet) is shared with the woodworking workshop, and the repair service utilizes 1,200 sq ft of this space. The facility is equipped with essential tools and equipment, including drilling presses, a lathe, a tool truck, welding equipment, and a forklift. The space is specifically arranged to accommodate the storage and minor maintenance of agricultural implements, ensuring operational efficiency and safety. On-site repair activities are limited to one item at a time, maintaining a low impact on the shared space and overall property use. Building 1's insulated walls, cement floor, and lack of windows provide a suitable environment for both storage and light repair activities. The facility is accessed through a 16' x 16' roll-up door and a standard metal door, and it is powered by 220 three-phase electricity, though it lacks natural gas service, which reduces potential environmental hazards.

The repair service adheres to the same operating hours as the woodworking workshop, from 8 a.m. to 7 p.m., seven days a week (Monday through Sunday). This business model avoids public customer interactions and does not engage in advertising, thereby minimizing its presence and impact on the surrounding area. Hazardous materials, such as spray paint for equipment marking and acetylene tanks for welding, are used in limited quantities, managed under strict safety protocols.

**Legal Lot of Record:** The parcel was established as a legal lot of record as a portion of Lot 32 of the Western portion of the San Justo Rancho, as described in Volume 1 of Maps, at page 33, recorded on September 16, 1891, in the San Benito County Records.

**Minimum Building Site Allowed:** 5 acres under AP zone.

**Sewage Disposal:** Septic System

**Water:** Public well.

**State Farmland Map Designation:**

Prime farmland.

**Land Conservation Act (Williamson Act):** Not under the Williamson Act Contract.

**Soils:** Sorrento silt loam, 0 to 2 percent slopes (Grade 1).

**Seismic** Not within an Alquist–Priolo fault zone.

**FEMA Flood Zone:** Not located within a FEMA Flood Zone.

**Fire Severity:** Non-Wildland/Non-Urban.

**Archaeological sensitivity:** Not in sensitive location.

In terms of traffic generation, the agricultural equipment repair service anticipates 14 trips per week. This includes 10 trips per week for employee commutes, 2 trips per week for off-site repair work, and 2 trips per week for equipment delivery or pickup related to on-site repair activities.

The project is also a response to a notice of violation issued by County staff on January 9, 2024, for the operation of a woodworking workshop and an agricultural equipment repair services business without obtaining proper county approvals. Anthony Botelho subsequently filed an application on February 27, 2024, to obtain proper permit.

### SITE DESCRIPTION

The subject property at 10 Flint Road, San Juan Bautista, CA, is in an unincorporated area of San Benito County and is identified by Assessor's Parcel Number (APN) 018-160-027. The 10-acre site is at the intersection of Flint Road and Highway 156, providing access to regional and county transportation networks. This access supports the logistical needs of the woodworking and agricultural repair businesses.

The property hosts three metal structures that serve as the operational bases for two distinct businesses: a woodworking workshop specializing in custom woodworking and small-scale cabinetry services, and an agricultural equipment repair service. Historically, these buildings were utilized for agricultural purposes, reflecting the site's integration into the rural and agricultural landscape of the surrounding area. This historical use underscores the minimal environmental impact observed on the site, as the transition from purely agricultural to light industrial activities has been managed with attention to preserving the local character.

Surrounding land uses are primarily characterized by agricultural activities and rural residential properties, which collectively contribute to the overarching agricultural identity of the region. The continuity of agricultural land use in the area is crucial for maintaining the rural character and ensuring that any development aligns with county zoning and land use regulations.

The property is equipped with essential infrastructure to support its current operations. A well water system, connected to a 5,000-gallon storage tank and pressure system, provides a reliable and adequate water supply for both operational needs and sanitary purposes. This self-sufficiency in water management is complemented by an on-site septic system for sewage disposal, ensuring that the property can operate independently of municipal utilities. Additionally, the site features a base rock driveway, which not only facilitates efficient ingress and egress for the businesses but also ensures safe and stable access from Flint Road, particularly important given the site's semi-rural context.

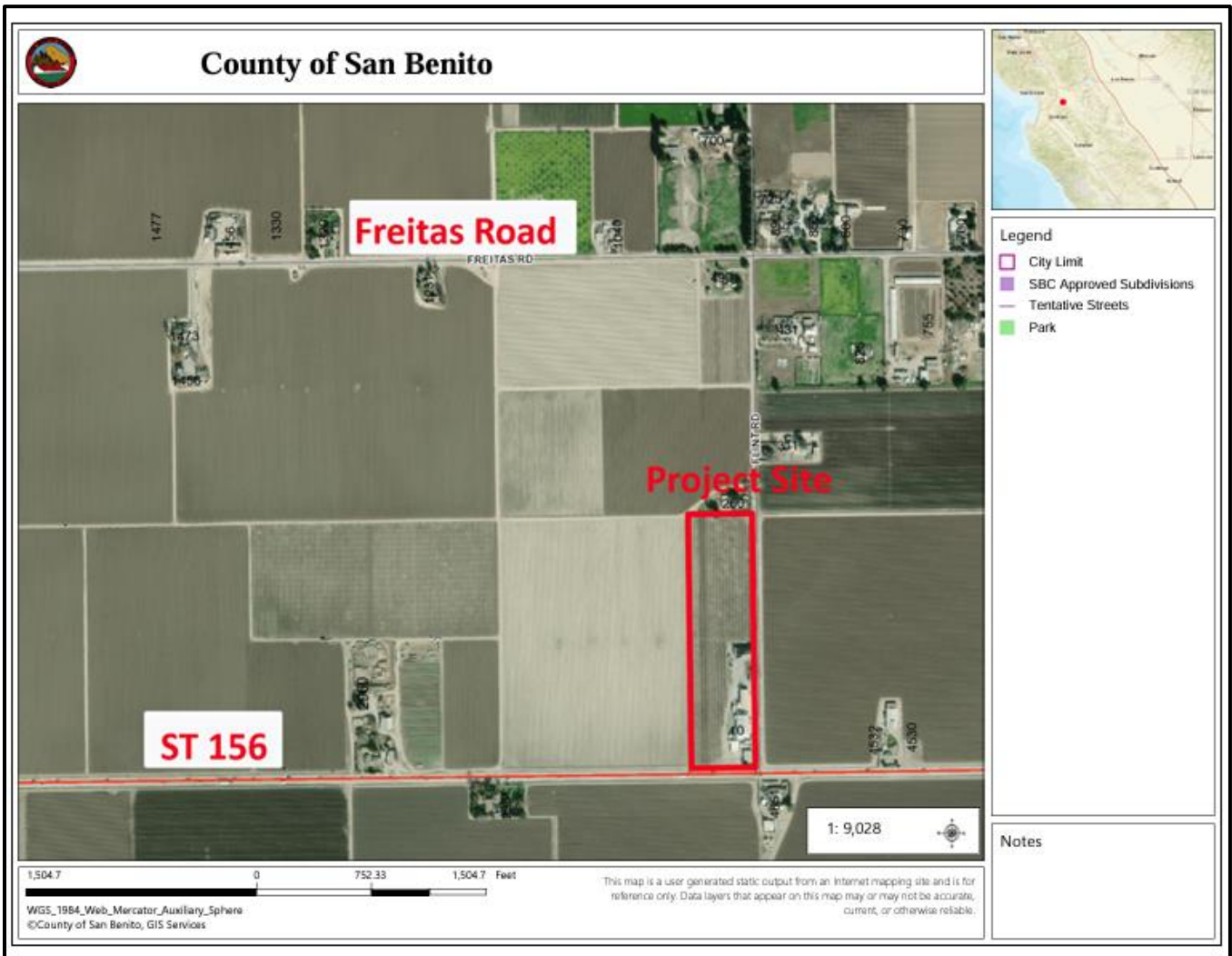
Overall, the subject property at 10 Flint Road is integrated into the surrounding rural landscape, with infrastructure and land use practices that align with the agricultural character of the area. The combination of its location, self-sufficient utilities, and minimal environmental impacts contributes to a functional site within the county's unincorporated area.

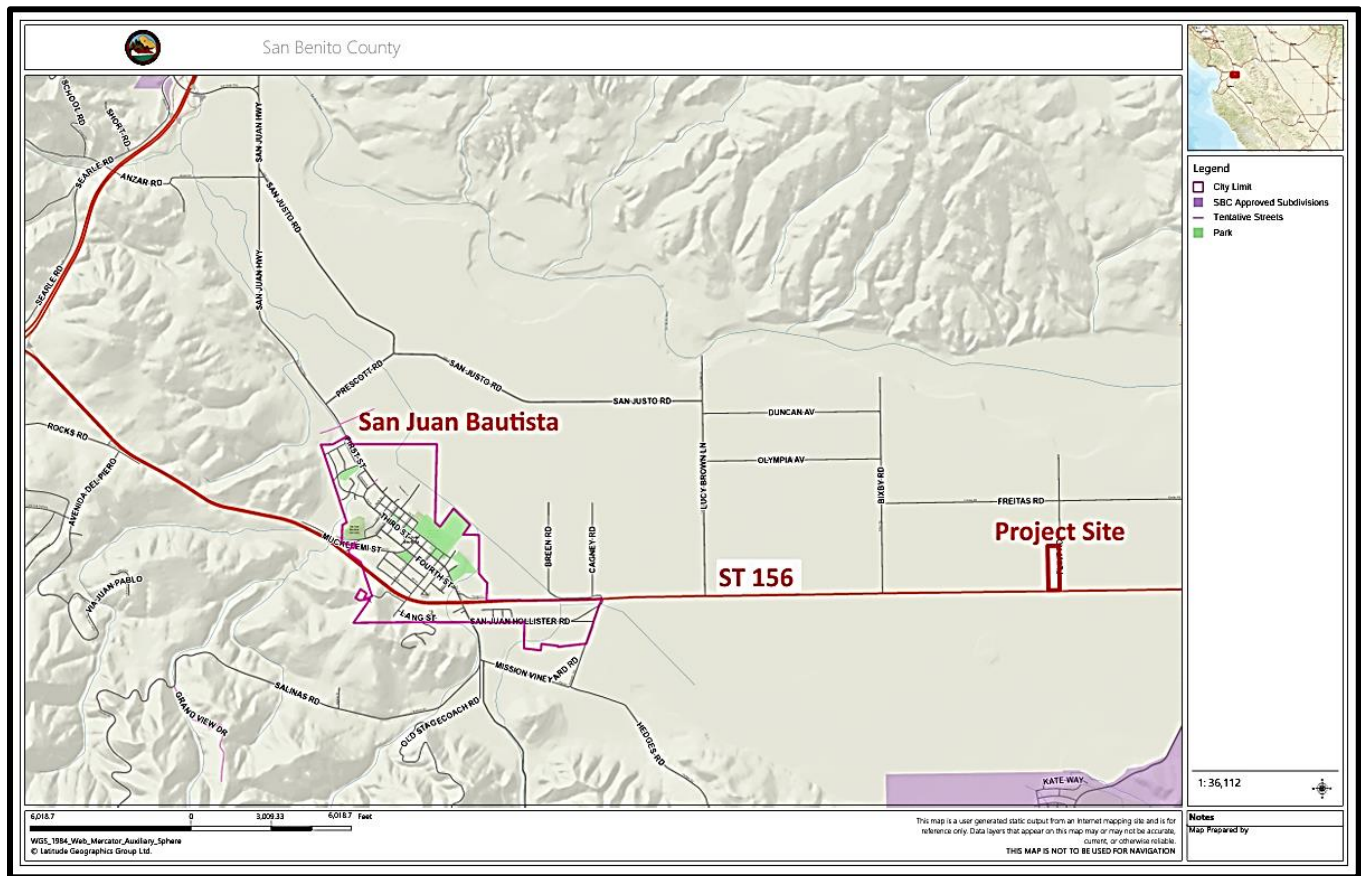


## PLANNING AND ZONING

The site is under the Agriculture (A) land use designation in the San Benito County 2035 General Plan. The intent of this designation is to support and sustain the productivity of agricultural land, encompassing various types of agriculturally productive lands such as crop land, vineyards, and grazing lands, allowing for agricultural support uses and limited residential development while prioritizing transportation access and minimizing reliance on public infrastructure; this relates to the project by aligning with its goal of providing essential logistical support for agricultural operations while maintaining the integrity and productivity of the land. One dwelling per five acres is allowed and therefore additional dwellings will be limited to the lot and density standards per the site's Agricultural Productive zoning.

This property is also currently subject to the Agricultural Productive (AP) zone, a designation very similar to the similarly-named General Plan designation in terms of land use and intensity of use. The AP zone allows agriculture in general, with County Code §25.08.004 allowing a Rural Home Enterprise under an administrative permit. However, because the scope of this project expands beyond the standard rules and regulations typically governing Rural Home Enterprises, a Conditional Use Permit (CUP) is required.





## ENVIRONMENTAL EVALUATION

Pursuant to San Benito County Local Guidelines for the California Environmental Quality Act, this project qualifies for an exemption from CEQA under State CEQA Guidelines §15301 (Existing Facilities), §15303(C) (New Construction or Conversion of Small Structure), and §15304 (Minor Alteration of Land). The attached resolution contains finding conveying this together with supporting evidence. This evidence includes the use of the existing structures and minimal alteration to existing structures. The findings also consider aspects of the site’s environmental sensitivity and further consider the use of regulations and typical conditions of approval that would minimize environmental impacts.

## STAFF ANALYSIS

The proposed project aligns with the Agricultural Productive (AP) zoning district, which permits the operation of a woodworking workshop and agricultural equipment repair service under a Rural Home Enterprise. Per County Code §25.08.004(J), Rural Home Enterprises are permissible in the AR, AP, and R zones. This project involves a Rural Home Enterprise that has expanded to operate within three accessory structures, which requires a Conditional Use Permit (CUP) to accommodate this expansion. The business complies with all other rules and regulations for a Rural Home Enterprise, including compliance with the limits outlined in §25.08.004(J) et seq., such as the number of non-resident employees, the lack of minimum parcel size requirements, and adherence to the standard operating hours from 8 a.m. to 7 p.m. The conditions of approval for this CUP are designed to ensure that these requirements are satisfied and that the operations remain compliant with zoning regulations while addressing any prior code enforcement concerns. In addition, it aligns with the Agriculture (A) land use designation in the General Plan, which allows for the support uses that directly contribute to agriculture operations. The present proposal can be found consistent with the General Plan:

- *The proposed project description fulfills the general plan designation of Agriculture (A) by supporting the productivity of agricultural land and operations through the establishment of a woodworking workshop and agricultural equipment repair service. The woodworking workshop*

*provides custom woodworking and cabinetry services that can be integral to maintaining agricultural facilities, while the agricultural repair business offers essential maintenance and repair services for agricultural equipment. These activities support the ongoing productivity of the surrounding agricultural lands. Additionally, by utilizing existing structures on the property without disrupting the land's primary agricultural use, the project maintains the agricultural character and integrity of the area.*

- *The General Plan land use designation of Agriculture (A) allows support uses that directly support agriculture operations.*
- *General Plan Policy LU-1.10 (Development Site Suitability). The project site at 10 Flint Road does not have the presence of active seismic faults, landslides, steep slopes greater than 30 percent, or floodplains, thereby avoiding potential natural and man-made hazards.*
- *Policy LU-3.2 (Agricultural Integrity and Flexibility). The policy instructs that the County shall "protect the integrity of existing agricultural resources, and provide for flexibility and economic viability of farming and ranching operations." By offering custom woodworking and agricultural equipment repair services within existing structures, the project supports the economic viability and operational flexibility of local farming and ranching activities, contributing to the sustainability and productivity of agricultural operations in the county.*
- *Policy LU-3.6 (Agricultural Support Services): The policy encourages services such as trucking, warehousing, and distribution centers in appropriate locations to support the economic viability of commercial agriculture. The woodworking workshop offers custom woodworking and cabinetry, which could be used in various agricultural settings, while the agricultural repair business provides necessary repair services for agricultural equipment. By offering these services in close proximity to agricultural operations, the project supports the efficiency and sustainability of commercial agriculture in the area, aligning with the County's goal of encouraging agricultural support services in appropriate locations.*
- *Under General Plan policy ED-1.2 "Jobs/Housing Balance" the County "shall strive to improve housing balance countywide by providing sufficient employment-based land uses." The projects' activities generate economic activity, create employment opportunities, and foster trade relationships. This direct contribution to the job/housing balance aligns with the County's General Plan policy.*
- *Implementation Program ED-H (New and Existing Business Support). The project would reflect the program's direction to develop "incentives to attract new investment and support existing local businesses, particularly small locally owned businesses."*
- *Policy NCR-7.12 (Archaeological Artifacts). The project site is understood to have high sensitivity for cultural resources. Compliance with standard procedures included in conditions of project approval would address potential for disturbance of any such resources. Project description indicates no proposed changes to the surrounding environment.*
- *Policy NCR-9.1 (Light Pollution Reduction). A condition of approval requires compliance with exterior lighting limits under the Zone II regulations of County Code Chapter 19.31.*

The resolution presented for adoption includes conditions of approval aimed at mitigating the potential effects of the proposed use, ensuring environmental impact is controlled, and upholding County oversight over the granted use permit.

### **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission review the staff report, hold a public hearing, and hear any proponents and opponents of the proposed project. Staff further recommends that the Planning Commission consider Resolution 2024-\_\_\_ and adopt said resolution, subject to the findings and

conditions of approval included therein, in order to approve the conditional use permit amendment under County Planning file PLN240013.

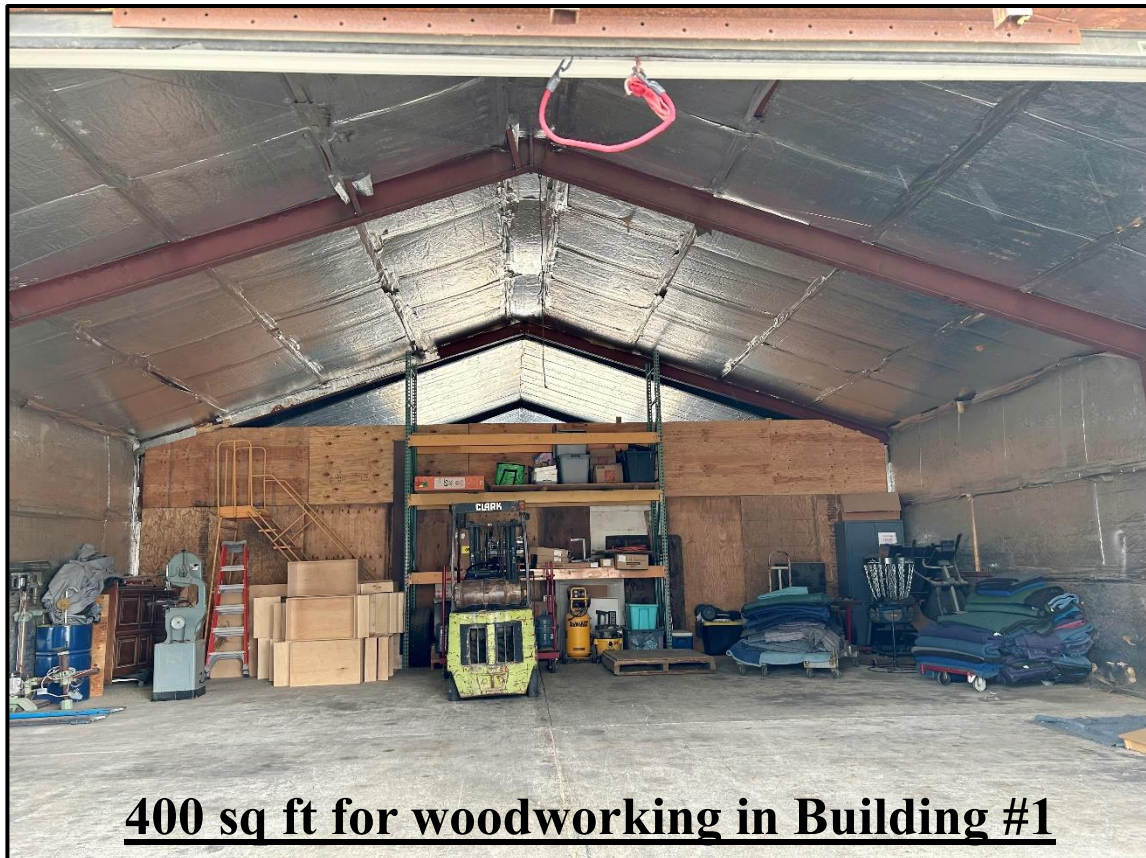
**ATTACHMENTS**

- A. Site Photos
- B. Planning Commission Resolution 2024-\_\_\_\_ (draft), including
  - Exhibit A, Findings
  - Exhibit B, Conditions of Approval
  - Exhibit C, Project Plan

## Site Photos.



**View Looking South Over Flint Road**



**400 sq ft for woodworking in Building #1**

## Site Photos Continued.



## Site Photos Continued.



**Interior of Building 3, cabinetry finishing**



**View Looking North Overlooking Orchard Fields**

***BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO***

**RESOLUTION 2024-\_\_\_**

A RESOLUTION OF THE SAN BENITO COUNTY PLANNING COMMISSION APPROVING, FOLLOWING THE CONSIDERATION OF COUNTY PLANNING FILE **PLN240013**, A CONDITIONAL USE PERMIT TO ALLOW FOR THE OPERATION OF A WOODWORKING WORKSHOP THAT PROVIDES CUSTOM WOODWORKING AND SMALL-SCALE CABINETRY SERVICES, AS WELL AS AN AGRICULTURAL EQUIPMENT REPAIR SERVICE BUSINESS LOCATED AT 10 FLINT ROAD, SAN JUAN BAUTISTA, CA 95045, ASSESSOR'S PARCEL NUMBER (APN) 018-160-027.

**WHEREAS** the subject parcel is located 10 Flint Road, San Juan Bautista, in San Benito County, California (Assessor's Parcel Number 018-160-027), and is 10 acres in area; and

**WHEREAS** on January 9, 2024, County staff issued a notice of violation for the operation of a woodworking workshop and an agricultural equipment repair services business without obtaining proper county approvals; and

**WHEREAS** Anthony Botelho has filed an application February 27, 2024, to obtain a use permit for the operation of a woodworking workshop and an agricultural equipment repair services business; and

**WHEREAS** County staff received the proposal as County Planning file PLN240013 and distributed this plan to responsible County and peer agencies for review and comment; and

**WHEREAS** the subject parcel currently has a General Plan land use designation of Agriculture (A) and a zoning designation of Agricultural Productive (AP); and

**WHEREAS** a Conditional Use Permit is required to allow the operation and certain expansions of the Rural Home Enterprise on the subject parcel, in accordance with County Code §25.08.004; and

**WHEREAS** the project was originally scheduled for review by the Planning Commission on August 21, 2024, but was postponed and rescheduled to the Planning Commission meeting held on September 18, 2024; and

**WHEREAS** the Planning Commission of the County of San Benito reviewed the use permit at its regularly scheduled meeting held on September 18, 2024; and

**WHEREAS** at said meeting the Planning Commission reviewed all written and oral information presented to them by County staff and the public at the public hearing; and

**WHEREAS** at the conclusion of the public testimony, the Planning Commission closed the public hearing, deliberated, and considered the merits of the proposal; and



**NOW, THEREFORE, BE IT RESOLVED** that, based on the evidence in the record, the Planning Commission of the County of San Benito hereby finds as stated in **Exhibit A**, and

**BE IT FURTHER RESOLVED** by the Planning Commission of the County of San Benito that, based on the foregoing findings and evidence in the record, the Planning Commission hereby approves the conditional use permit subject to the conditions of approval found in **Exhibit B**.

**PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 18<sup>th</sup> DAY OF SEPTEMBER 2024 BY THE FOLLOWING VOTE:**

AYES:

NOES:

ABSENT:

ABSTAIN:

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Robert Gibson, Chair  
San Benito County Planning Commission

ATTEST:

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M. Abraham Prado, Director of Planning, Building & Code Enforcement  
Resource Management Agency of San Benito County

**California Environmental Quality Act (CEQA) Finding:**

**Finding:** Pursuant to San Benito County Local Guidelines for the California Environmental Quality Act, this project qualifies for an exemption from CEQA under State CEQA §15301 (Existing Facilities), §15303 (New Constructions or Conversion of Small Structures), and §15304 (Minor Alterations of Land).

**Evidence:** Section §15301 (Existing Facilities) exemptions consist of “the operation, repair, maintenance, permitting, leasing, licensing, or minor alterations of existing public or private structures.” The proposed project involves the continued operation of a woodworking workshop and an agricultural equipment repair services business within existing buildings on the property. These operations have been ongoing for years without any significant physical alterations or expansions to the existing structures. Any maintenance or minor repairs conducted are routine and do not result in significant changes, making this project consistent with the criteria under Section §15301.

**Evidence:** Section §15303(C) (New Construction or Conversion of Small Structures) exemptions consist of “the construction and location of limited numbers of new, small facilities or structures, and the conversion of existing small structures from one use to another where only minor modifications are made.” The project does not involve any significant expansion or alteration of the existing structure or introduce significant amounts of hazardous materials. Additionally, a hazard mitigation plan will be prepared and submitted to the San Benito County Environmental Health Department to address potential risks associated with these activities. The combination of limited structural changes and the implementation of a hazard mitigation plan demonstrates the project's compliance with the exemption criteria specified in Section §15303(C).

**Evidence:** Section 15304 (Minor Alterations of Land) exemptions include “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees.” The alterations, such as roadbed improvements are minor in nature and do not entail extensive grading, excavation, or changes to the topography. Additionally, the project does not involve the removal of mature, scenic trees or alterations to significant natural features.

**Use Permit Findings:**

**Finding 1:** The proposed use is conditionally permitted within applicable zone and complies with all other applicable provisions of County Code Title 25 (Zoning) and all other titles of the County of San Benito County Code, the General Plan, and any applicable Specific Plan.

**Evidence:** The proposed project aligns with the Agricultural Productive (AP) zoning district, which permits the operation of a woodworking workshop and agricultural equipment repair service under a Rural Home Enterprise. Per County Code §25.08.004(J), Rural Home Enterprises are permissible in the AR, AP, and R zones. This project involves a Rural Home Enterprise that has expanded to operate within three accessory structures, which requires a Conditional Use Permit (CUP) to accommodate this expansion. The business complies with all other rules and regulations for a Rural Home Enterprise, including compliance with the limits outlined in §25.08.004(J) et seq., such as the number of non-resident employees, the lack of minimum parcel size requirements, and adherence to the standard operating hours from 8 a.m. to 7 p.m. The conditions of approval for this CUP are designed to ensure that these requirements are satisfied and that the operations remain compliant with zoning regulations while addressing any prior code enforcement concerns. In addition, it aligns with the Agriculture (A) land use designation in the General Plan, which allows for the support uses that directly contribute to agriculture operations. The present proposal can be found consistent with the General Plan:

## Exhibit A to Resolution

- *The proposed project description fulfills the General Plan designation of Agriculture (A) by supporting the productivity of agricultural land and operations through the establishment of a woodworking workshop and agricultural equipment repair service. The woodworking workshop provides custom woodworking and cabinetry services that can be integral to maintaining agricultural facilities, while the agricultural repair business offers essential maintenance and repair services for agricultural equipment. These activities support the ongoing productivity of the surrounding agricultural lands. Additionally, by utilizing existing structures on the property without disrupting the land's primary agricultural use, the project maintains the agricultural character and integrity of the area.*
- *General Plan Policy LU-1.10 (Development Site Suitability). The project site at 10 Flint Road does not have the presence of active seismic faults, landslides, steep slopes greater than 30 percent, or floodplains, thereby avoiding potential natural and man-made hazards.*
- *Policy LU-3.2 (Agricultural Integrity and Flexibility). The policy instructs that the County shall "protect the integrity of existing agricultural resources, and provide for flexibility and economic viability of farming and ranching operations." By offering custom woodworking and agricultural equipment repair services within existing structures, the project supports the economic viability and operational flexibility of local farming and ranching activities, contributing to the sustainability and productivity of agricultural operations in the county.*
- *Policy LU-3.6 (Agricultural Support Services). The policy encourages services such as trucking, warehousing, and distribution centers in appropriate locations to support the economic viability of commercial agriculture. The agricultural repair business provides necessary repair services for agricultural equipment. By offering these services in close proximity to agricultural operations, the project supports the efficiency and sustainability of commercial agriculture in the area, aligning with the County's goal of encouraging agricultural support services in appropriate locations.*
- *Under General Plan policy ED.1.2 "Jobs/Housing Balance" the County "shall strive to improve housing balance countywide by providing sufficient employment-based land uses." The projects' activities generate economic activity, create employment opportunities, and foster trade relationships. This direct contribution to the job/housing balance aligns with the County's General Plan policy.*
- *Implementation Program ED-H (New and Existing Business Support). The project would reflect the program's direction to develop "incentives to attract new investment and support existing local businesses, particularly small locally owned businesses."*
- *Policy NCR-7.12 (Archaeological Artifacts). The project site is understood to have high sensitivity for cultural resources. Compliance with standard procedures included in conditions of project approval would address potential for disturbance of any such resources. Project description indicates no proposed changes and disturbance to the surrounding environment.*
- *Policy NCR-9.1 (Light Pollution Reduction). A condition of approval requires compliance with exterior lighting limits under the Zone II regulations of County Code Chapter 19.31.*

**Finding 2:** The proposed use will not be adverse to the public health, safety, or general welfare of the community, nor detrimental to surrounding properties or improvements.

**Evidence:** County departments and responsible agencies have reviewed the application and have recommended conditions of project approval to address possible effects on the vicinity and the overall County general public and to prevent hazard or nuisance to persons and property. Activity beyond the scope of the proposed use as approved by the County shall require further permit review.

**Exhibit A to Resolution**

**Finding 3:** The proposed use complies with any design or development standards applicable to the zone or the use in question, unless waived or modified pursuant to the provisions of County Code Title 25 (Zoning).

***Evidence:** The proposed use adheres to the design and development standards as outlined in San Benito County Title 25. The project utilizes existing structures in accordance with the zoning regulations, including requirements for building setbacks and height restrictions. Noise concerns have been addressed by ensuring that all activities occur within enclosed buildings, must comply with the noise-level standards specified in County Code Chapter 19.39. Additionally, a condition of approval has been included to ensure ongoing compliance with these noise standards, further mitigating any potential impact on surrounding properties.*

**Finding 4:** The site is physically suitable for the type, density, and intensity of the use being proposed. Suitability criteria may include, but are not limited to, access, utilities, and the absence of physical constraints.

***Evidence:** The site is well-suited for the proposed use in terms of type, density, and intensity. It provides adequate access, utility connections, and existing infrastructure to support the operations without requiring significant alterations. The absence of physical constraints, such as steep, further confirms the site's suitability for the intended activities. This ensures that the proposed use can be carried out effectively and efficiently while maintaining compliance with all relevant regulations and minimizing potential impacts on the surrounding area.*

Conditions of Approval of Use Permit:

Planning:

- 1. **Indemnification:** APPLICANT shall defend, indemnify, and hold San Benito County, its agents, officers, and/or employees (hereinafter “COUNTY”) free and harmless from any and all suits, fees, claims, demands, causes of action, proceedings (hereinafter collectively referred to as “Legal Action”), costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorneys’ fees, expert witness fees, and court costs) incurred by COUNTY arising (directly or indirectly) or resulting from the review, processing, consideration, or approval of APPLICANT’S Project or action taken by COUNTY thereon, including Legal Actions based on the negligence of COUNTY. APPLICANT will reimburse COUNTY for any damages, costs, or fees awarded pursuant to any settlement, default judgment, or other judgment taken against the County, whether the result of Applicant’s decision not to defend Legal Action or otherwise. COUNTY retains its discretion to direct counsel regarding whether to defend, settle, appeal, or take other action regarding any Legal Action. APPLICANT shall defend COUNTY’S actions with competent legal counsel of APPLICANT’S choice without charge to COUNTY, subject to COUNTY approval, which shall not be unreasonably withheld. Nothing contained in the foregoing, however, shall be construed to limit the discretion of COUNTY, in the interest of the public welfare, to settle, defend, or appeal, or to decline settlement or to terminate or forego defense or appeal of a Legal Action. Furthermore, in no event shall COUNTY have any obligation or liability to APPLICANT in connection with COUNTY’S defense or prosecution of litigation related to the Project (including, but not limited to, the outcome thereof) or in the event COUNTY elects not to prosecute a case or defend litigation brought against it. If either COUNTY or APPLICANT determines in good faith that common counsel presents a bona fide conflict of interest, then COUNTY may employ separate counsel to represent or defend the COUNTY, and APPLICANT shall pay the reasonable attorneys’ fees and costs of such counsel within thirty (30) days of receiving an itemized billing statement or statements. [Planning]
- 2. **Successors in Interest:** The conditions of approval are binding on all successors in interest of Applicant, whether succession is by agreement, operation of law, or other means, including but not limited to all future owners utilizing this use permit. [Planning]
- 3. **Agreement with All Conditions of Approval:** Prior to or upon approval by the Planning Commission, the Applicant shall sign the statement below certifying that Applicant is in agreement with all conditions of approval. [Planning]

I certify that I understand and agree to comply with all Conditions of Approval imposed by the Planning Commission, or Board of Supervisors as applicable, on this Permit.

Applicant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- 4. **Conformity with Plan:** The applicant shall demonstrate that the use of the site conforms substantially to the proposed site/project plan (as illustrated in **Exhibit C**), and conditions of approval as approved by the Planning Commission. Any increase in the nature or intensity of land use on the site beyond that already analyzed shall be subject to further Planning review and approval. Approved plans and

specifications shall not be changed, modified or altered without written authorization from the Planning Department. All work shall be in accordance with the approved plans and with San Benito County Code. [Planning]

5. **Compliance Documentation:** Within 60 days of the approval of this conditional use permit, the applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
6. **Staff Review Invoices:** Within 60 days of approval of the Conditional Use Permit, the applicant shall pay all remaining invoices for reimbursement of County staff time related to the review of the use permit to be paid in full. Payment of these invoices are a prerequisite to commencing the staff verification of compliance with conditions of approval for this project. Additionally, the project proponent shall be responsible for the payment of fees associated with the review and monitoring of the conditions of approval. Failure to comply with this condition may result in the suspension or revocation of the Conditional Use Permit. [Planning]
7. **Notice of Exemption (Fish & Game Fees):** The applicant/owner shall be required to file a Notice of Exemption for the project. The notice shall be provided by the County Planning Department and filed with the County Clerk within five (5) days of approval of the project. An administrative fee of \$50.00 shall be submitted to the Resource Management Agency for the filing of the notice. [Planning/CDFW]
8. **County Business License:** All businesses are subject to San Benito County Code Title 5 Article IV Business License Tax. [Planning]
9. **Activities Allowed:** The activities permitted at 10 Flint Road are strictly limited to those specified in the project description. The use of Building 1 is limited to storage of completed products, tools, and equipment. Building 2 is dedicated to the manufacturing process, including the use of specialized equipment such as a belt sander, shaper equipment, and a planer machine, with associated material storage. Building 3 is designated for finishing work, including a permitted paint booth and light hand sanding. Additionally, the permitted activities include an agricultural equipment repair service business, with limited on-site repairs and tool storage within a portion of Building 1. No additional activities shall be conducted on-site without prior approval from the Planning Commission. The number of employees on-site is limited to a total of five, with operating hours restricted to 8:00 AM to 7:00 PM. No additional activities shall be conducted on-site without prior approval from the Planning Commission [Planning].
10. **Site Plan Conformity:** All activities, including the operation of the woodworking workshop and agricultural equipment repair service, shall be confined to the designated areas as illustrated in Exhibit C of the site plan. This condition reinforces the requirement for strict adherence to the approved site plan, ensuring that all proposed activities occur only within the specified locations. [Planning]
11. **Hours of Operation:** Business operation shall be restricted to the hours from 8 a.m. to 7 p.m, Monday through Sunday. [Planning]
12. **Noise:** Business operation shall comply with the noise-level standards of County Code Chapter 19.39. [Planning]
13. **Periodic Review:** Each year, if necessary, the applicant shall pay the cost of an inspection by the County. In the event of a compelling public necessity, noncompliance, problems, concerns or complaints, this permit will be subject to further review and conditioning or, if necessary, revocation by the Planning Commission. Violation of the permit, creation of a nuisance, or a compelling public

necessity could cause the modification or revocation of this permit. Any expansion of this use beyond what is currently proposed must first be reviewed by the Planning Director and, if necessary, shall require further Rural Home Enterprise Permit review by the Planning Commission. [Planning]

14. **Cultural Resources:** A note shall be placed on the project improvement plan to state that that any property owner who, at any time in the preparation for or process of excavation or otherwise disturbing the ground, discovers any human remains of any age, or any significant archaeological artifact or other evidence of an archeological site shall:
  - a. cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
  - b. arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of no less than one hundred feet from the point of discovery, provided that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking and that said staking not include flags or other devices which may attract vandals.
  - c. notify the County Sheriff–Coroner and County Resource Management Agency of the discovery if human and/or questionable remains have been discovered; and
  - d. grant, subject to due legal process, to all duly authorized representatives of the Coroner and the Resource Management Agency permission to enter onto the property and to take all actions consistent with Chapter 19.05 of San Benito County Code, with State Health and Human Safety Code §7050.5, and with State Government Code Title 3 Division 2 Part 3 Chapter 10 (§27460 et seq.). [Planning]
15. **Outdoor Lighting:** All development is required to comply with Zone II regulations set within County Ordinance 748 (County Code Chapter 19.31). Prior to issuance of a building permit for development on the site, the applicant shall provide details for all outdoor lighting to the building official for review and approval. [Building]
16. **Landscaping:** The site shall be maintained in a litter-free and weed-free condition. All storage of equipment and other items shall be inside or behind the structure so that it is not visible from the public right-of-way. No trees of six-inches diameter at breast (d**h**b) or larger shall be removed from site without prior approval of the planning department [Planning]

**Public Works:**

17. **Right-of-Way Dedication:** The applicant shall provide confirmation that a 60-foot right-of-way (ROW) already exists on Flint Road. If such confirmation is not provided, the applicant shall be required to dedicate half of the 60-foot ROW along the entire property frontage on Flint Road. This dedication must be completed within 90 days of Conditional Use Permit (CUP) approval. [Public Works]
18. **Roadway Improvements:** Applicant shall improve half of a 28-foot-wide asphaltic concrete (AC) roadway on a 38-foot-wide roadbed (14-foot asphalt roadway surface and 5-foot shoulder per County standards) along the entire property frontage on Flint Road. This improvement must comply with County Code standards and be completed within 180 days of CUP approval. This requirement may be waived or deferred at the discretion of the Planning Commission. [Public Works]
19. **Improvement/Grading Plan Submission:** The applicant shall submit an Improvement/Grading Plan for review and approval by the County Engineer, along with the required fees as specified by the San

Benito County's Engineering Service Fees adopted by the County Board of Supervisors. This plan must be approved before the commencement of any construction activities. [Public Works]

20. **Compliance with Geotechnical Report:** The applicant shall submit a geotechnical investigation report as part of the Improvement/Grading Plan submission. The report must be reviewed and accepted by the Public Works Department. The design of the project improvements shall adhere to the recommendations provided by the Geotechnical Engineer. [Public Works]
21. **Drainage and Erosion Control:** The applicant shall provide drainage and erosion control measures to mitigate stormwater runoff from impermeable surfaces created by the project. As part of the Improvement/Grading Plan submission, the applicant shall provide hydraulic calculations, construction details for any existing or proposed detention/retention ponds, and erosion control details. If the disturbed area exceeds one acre, the applicant must comply with the California State Water Resources Control Board's Construction Stormwater General Permit by submitting a Notice of Intent (NOI) and developing a Stormwater Pollution Prevention Plan (SWPPP). A Waste Discharge Identification (WDID) number or Erosivity Waiver must be provided to Public Works prior to the start of any construction activities. [Public Works]
22. **Driveway and Non-Access Strip:** The applicant shall delineate the driveway (ingress/egress) to the property and establish a non-access strip along the property frontages to the public right-of-way, limiting access to the designated driveway(s) only. The driveway shall conform to the County standard driveway detail, available at the RMA-Public Works office. These requirements must be met within 90 days of CUP approval [Public Works]
23. **Annual Traffic Impact Review:** The traffic impact of the project shall be monitored and reviewed annually by the Public Works Department. The applicant shall implement mitigation measures if deemed necessary based on the annual review. [Public Works]
24. **Parking Delineation:** As part of the Improvement/Grading Plan submission, the applicant shall delineate parking spaces to enable verification of the required parking spaces. This must be completed no later than 90 days after CUP approval. [Public Works]
25. **Encroachment Permit:** In accordance with § 19.27.004 of the San Benito County Code, the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County Right-of-Way or any road offered for dedication to the County prior to commencement of any improvements associated with this project. [Public Works]
26. **New Address:** Following the approval of this Conditional Use Permit (CUP) and prior to the issuance of any building or grading permits, the applicant shall apply for and obtain new addresses for each of the proposed business facilities. This application must be submitted within 30 days of CUP approval and addresses assigned before any further building permits are issued. [Public Works]

**Fire:**

27. **Fire Code:** Any and all development on this property, shall meet the standards set forth in the latest adopted editions of the California Fire Code, California Building Code, San Benito County Ordinances 822 and 823, Public Resources Codes 4290 and 4291 and all other related codes as they apply to a project of this type and size. Compliance with these standards must be verified within a year of approval of permit. [County Fire]



**Environmental Health:**

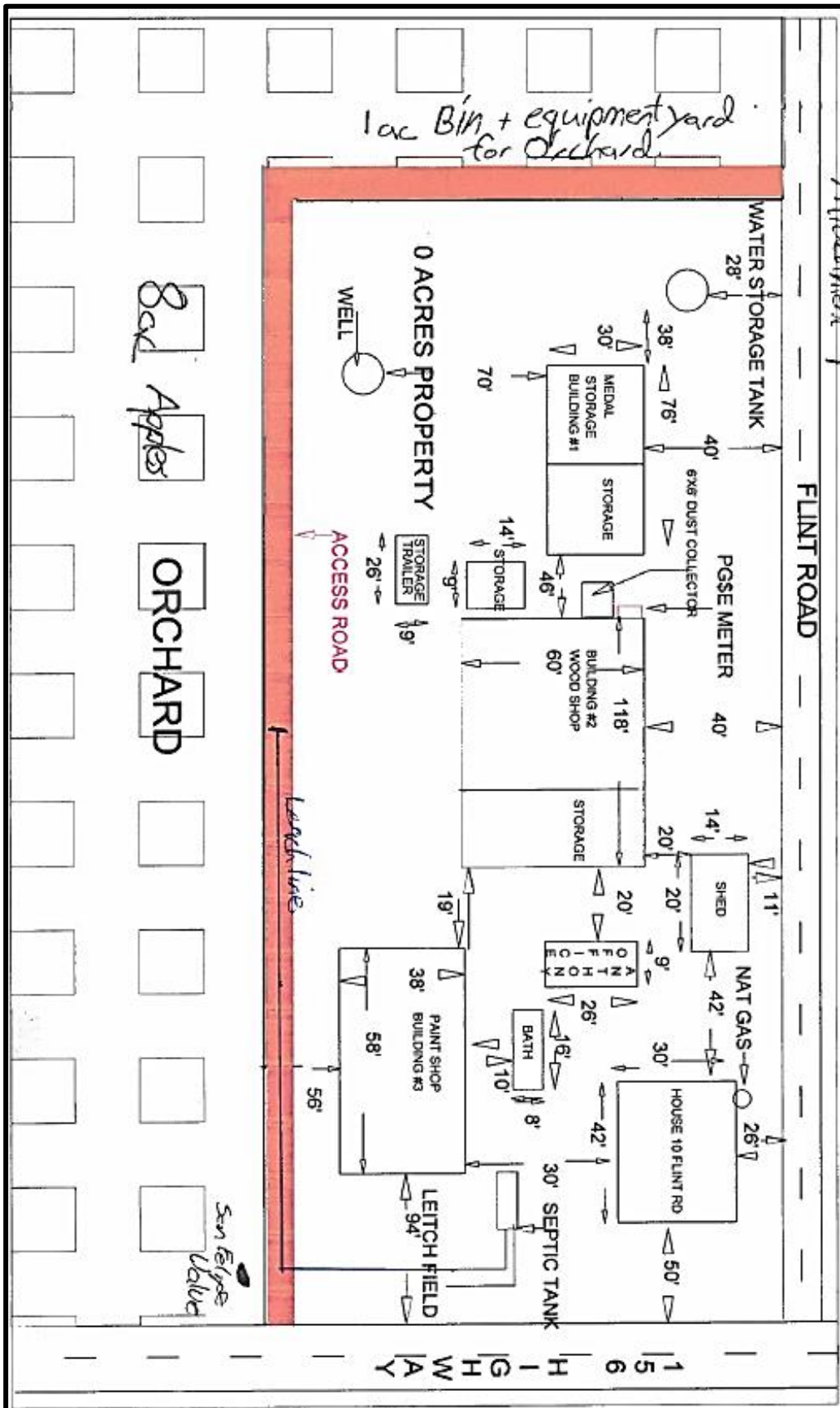
- 28. **Hazardous Materials:** If any hazardous materials are to be stored in any existing or proposed facility/building/structure, a Hazardous Materials Business Plan (HMBP) must be completed and submitted to this department. The HMBP must be submitted no later than 30 days of CUP approval. [Environmental Health]
- 29. **Sewage Disposal and Septic System Documentation:** The applicant shall contact a licensed third-party septic system installer to locate and document the existing septic system on the property. A detailed scale plot plan must be created, showing the location of the existing septic system, including the tank size, length of leach lines, and the location of the secondary/repair leach line area. The plot plan must also indicate the location of all existing structures, dwellings, water systems, watercourses, and property lines. This documentation must be submitted to the County for review and approval prior to the issuance of any building or grading permits. [Environmental Health]

**Building Department:**

- 30. **Building Permit Updates for Commercial Facilities:** The applicant shall obtain all necessary building permits and ensure that existing facilities, including but not limited to the three structures used for the business operations, are brought up to code and adequately modified to meet the requirements for commercial use. This includes, but is not limited to, ensuring compliance with fire safety regulations, accessibility standards, sanitation and hygiene requirements, and any other applicable building codes. The project applicants shall work closely with the building department to obtain the necessary permits and complete any required upgrades or modifications within a year of approval of permit. [Building]

**Code Enforcement:**

- 31. **Payment of Code Enforcement Fees:** All code enforcement fees associated with violation (ENF23-00412) be paid in full within 30 days of CUP approval [Code Enforcement]



**Site Plan: Proposed layout of the woodworking workshop and agricultural equipment repair services business area at 10 Flint Road**

**PHOTOGRAPH ADDENDUM**

Client	Anthony Botelho				
Property Address	Flint/San Juan Road				
City	Hollister	County	San Benito	State	Ca. Zip Code 95023
Client	Anthony Botelho				



*Bld 1*  
40 x 80 cold storage building  
Height to peak 20' elevation  
Tenant using 1/2 building,  
balance of building is storage  
Tenants is using this as storage



*Bld 2*  
120 x 60 packing house  
Height to peak 30' elevation  
Tenant is using 100' x 60'  
balance of building is storage



*Bld 3*  
40 x 40 storage building  
Height to peak 15' elevation  
Tenant uses this building  
for finish works

**Buildings 1, 2, and 3: Woodworking Workshop and Repair Services Spaces**

# County of San Benito Planning Commission

## NOTICE OF PUBLIC HEARING

### COUNTY OF SAN BENITO PLANNING COMMISSION

**MEETING OF AUGUST 21ST, 2024, at 6:00 p.m.**

**NOTICE IS HEREBY FURTHER GIVEN** that the Planning Commission will hold a Public Hearing on the following items in the San Benito County Board of Supervisors Chambers located at 481 Fourth Street, Hollister, California, on **Wednesday, August 21st, 2024, at 6:00 p.m.** or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon.

The public may join this meeting using Zoom by visiting the web address <https://zoom.us/join> or dialing one of the following telephone numbers: +1 408 638 0968 US (San Jose) or +1 669 900 6833 US (San Jose). To access the meeting, please enter the Webinar ID **842 6449 5650** AND Webinar Password **928233**.

Agenda Packet can be viewed at [www.cosb.us/](http://www.cosb.us/) under "Events" or [https://cosb.granicus.com/ViewPublisher.php?view\\_id=1](https://cosb.granicus.com/ViewPublisher.php?view_id=1) under "Upcoming Events" by the Friday before the meeting.

#### **PLN220004 (Minor Subdivision at 1175 Comstock Road):**

OWNER: Frank Edwin Russell Trust. APPLICANT: Kelley Engineering & Surveying. LOCATION: 1175 Comstock Road (7 miles from downtown Hollister) in unincorporated San Benito County. APN: 017-030-015. REQUEST: To subdivide an existing 38.93-acre parcel into four parcels: one of 23.57 acres and three of 5.00 acres each. The 23.57-acre lot would contain the existing three dwellings, driveways, a septic system, and two wells. The proposed plan includes building envelopes for each of the 5.00-acre lots, each of which being proposed to have a new residence and potential accessory dwelling unit. The new residential units will connect to new wells and new septic systems when developed. GENERAL PLAN DESIGNATION: Agriculture (A). ZONING DISTRICT: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Initial Study/Mitigated Negative Declaration. PLANNER: Jonathan Olivas ([jolivas@sanbenitocountyca.gov](mailto:jolivas@sanbenitocountyca.gov))

#### **PLN240016 (Minor Subdivision at Shore and Lake Roads):**

OWNER: Brigantino D&D Family Ltd Partnership. APPLICANT: Kelley Engineering & Surveying. LOCATION: South of Shore Road between its Frazer Lake Road intersection and Tequisquita Slough (9 miles northwest of Downtown Hollister) in unincorporated San Benito County. APN: 013-060-018. REQUEST: To subdivide an existing 251.94-acre parcel into two separate parcels, each measuring 228.48 acres and 20.00 acres respectively with a 3.46-acre road dedication. The two parcels are undeveloped agricultural land. This project proposes no construction. GENERAL PLAN LAND USE DESIGNATION: Agricultural (A). ZONING DISTRICT: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Categorically Exempt under State CEQA Guidelines §15061 (Review for Exemption, subparagraph (b) (3)) and §15301 (Existing Facilities, subparagraph c). PLANNER: Jonathan Olivas ([jolivas@sanbenitocountyca.gov](mailto:jolivas@sanbenitocountyca.gov))

#### **PLN240013 (Botelho Conditional Use Permit):**

OWNER: Anthony Joseph & Susan M. Botelho. APPLICANT: Anthony J. Botelho. LOCATION: 10 Flint Road (at State Route 156 intersection, 2.5 miles east of San Juan Bautista and 4.5 miles west of Hollister) in unincorporated San Benito County. APN: 018-160-027. REQUEST: To operate a woodworking shop that provides custom woodworking and small-scale cabinetry services, as well as an agricultural equipment repair service business. GENERAL PLAN DESIGNATION: Agriculture (A). ZONING DISTRICT: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Categorical Exemptions under State CEQA Guidelines §15301 (Existing Facilities), §15303(C) (New Construction or Conversion of Small Structures), and §15304 (Minor Alterations to Land). PLANNER: Victor Tafoya ([vtafoya@sanbenitocountyca.gov](mailto:vtafoya@sanbenitocountyca.gov))

If you challenge these items in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the County of San Benito at, or prior to, the Public Hearing. Written comments on any of these items may be submitted to Vanessa Delgado, Clerk of the Board, at [vdelgado@sanbenitocountyca.gov](mailto:vdelgado@sanbenitocountyca.gov), or comments can be sent via U.S. mail to: Vanessa Delgado, Clerk of the Board, 481 Fourth Street, 1st Floor, Hollister, CA 95023. Verbal and written comments may also be submitted at the public hearing.

Documents related to these items may be inspected by the public on weekdays between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, at the County Resource Management Agency, 2301 Technology Parkway, Hollister, CA. Please note that the items listed are only the agenda items that require a public hearing. Please call the Project Planner if there are any questions and/or for complete agenda information at 831 637-5313. Si desea información en español por favor llame al 831 637-5313 o visítenos al 2301 Technology Parkway, Hollister, CA.

Dated: August 2nd, 2024  
PUBLISHED: Friday, August 9th, 2024~ Hollister Free Lance (Pub HF 8/9)



**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

**Vincent  
Ringheden**  
District No. 1

**Richard  
Way**  
District No. 2

**Robert  
Scagliotti**  
District No. 3  
- Vice-Chair

**Robert  
Gibson**  
District No. 4  
- Chair

**Celeste Toledo-  
Bocanegra**  
District No. 5

**Item Number: 7.2**

**MEETING DATE:** 09/18/2024

**DEPARTMENT:** RESOURCE MANAGEMENT AGENCY

**AGENDA ITEM PREPARER:** Jonathan Olivas

**SUBJECT:**

**RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING - Hold a public hearing to consider adopting a resolution for PLN240026 to approve a tentative map subdividing an existing 111.68-acre site, currently composed of three parcels, into four separate parcels. Two, measuring 7.61 acres and 23.20 acres, would be located entirely on commercially zoned land. The others, respectively 40.34 acres and 40.53 acres, would be located on agriculturally zoned land. This project proposes no construction at this time. SBC FILE NUMBER: 790**

**AGENDA SECTION:**

PUBLIC HEARING

**BACKGROUND/SUMMARY:**

This project entails the subdivision of an existing 111.68-acre site, currently composed of three parcels, into four separate parcels. Two, measuring 7.61 acres and 23.20 acres, would be located entirely on commercially zoned land with an existing fruit stand on parcel one. The others, respectively 40.34 acres and 40.53 acres, would be located on agriculturally zoned land. This project proposes no construction at this time. This property is the site of the approved use permit reviewed under County Planning file PLN210054. Upon approval, the applicant received permission to develop and improve approximately 26 acres of the property area for approximately 108,425 square feet of commercial and building space.

This was to include a gas station with convenience store, a restaurant, amusement buildings with exhibits, a motel and banquet hall with outdoor pool and outdoor movie screen, and an outdoor event center.

**STRATEGIC PLAN GOALS: 1. Operational Development & Excellence**

No

**STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth**

Yes

**STRATEGIC PLAN GOALS: 3. Technology**

No

**STRATEGIC PLAN GOALS: 4. Community Engagement**

No

**STRATEGIC PLAN GOALS: 5. Health & Safe Community**

No

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission review the staff report and review the attached draft resolution in Attachment B, which includes findings and recommended conditions of approval. Staff further recommends that the Planning Commission make the findings included in the resolution and adopt the resolution to approve the PLN240026 minor subdivision/tentative parcel map, subject to the conditions of approval found in the resolution.

**ATTACHMENTS:**

[Staff Report](#)

[Resolution](#)

[Freelance Notice](#)

# STAFF REPORT

## PROJECT INFORMATION:

Application: PLN240026 (Minor Subdivision)  
Date of Hearing: September 18<sup>th</sup>, 2024  
Applicant: San Benito Engineering  
Owner(s): McDowell Charitable Trust  
Location: 9644 Betabel Road (approximately ½ mile south of US 101–Betabel interchange)  
APN: 013-150-026, 013-150-027, 013-150-030, 013-150-031, 013-150-032, 013-150-033  
General Plan: Rangeland (RG)/Commercial Regional (CR)  
Zoning: Agricultural Rangeland (AR)/Commercial Throughfare (C-1)  
Project Planner: Jonathan Olivas

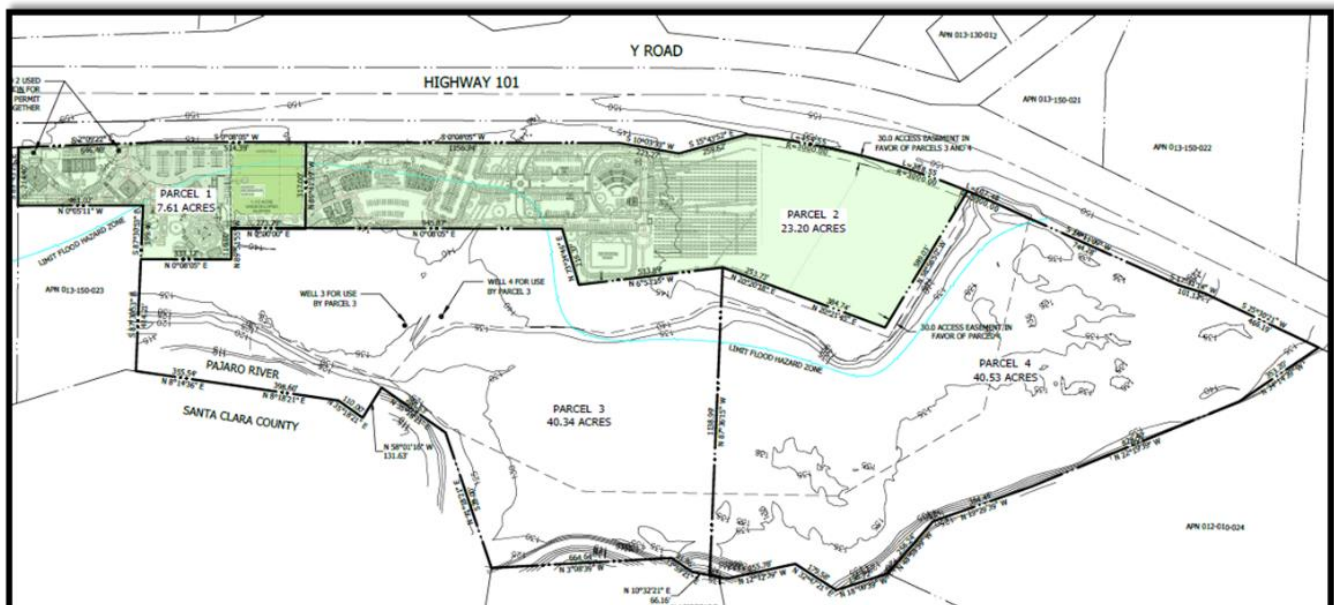
## PROJECT DESCRIPTION

This project entails the subdivision of an existing 111.68-acre site, currently composed of three parcels, into four separate parcels. Two, measuring 7.61 acres and 23.20 acres, would be located entirely on commercially zoned land. The others, respectively 40.34 acres and 40.53 acres, would be located on agriculturally zoned land. This project proposes no construction at this time.

## SITE DESCRIPTION

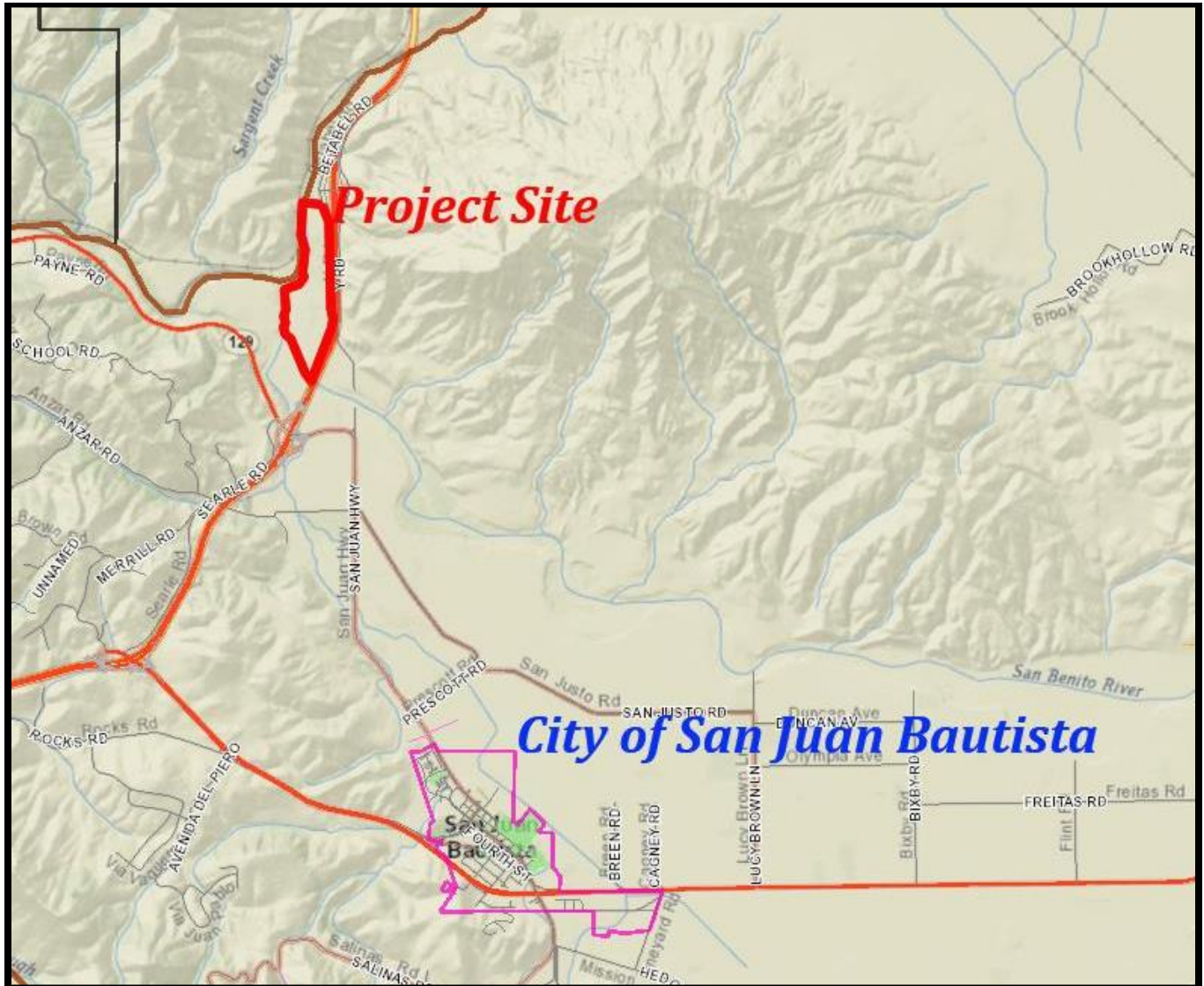
The proposed project is situated at 9644 Betabel Road and contains three parcels together adding to approximately 111.68 acres. The site is located approximately 5 miles north of downtown San Juan Bautista within unincorporated San Benito County. Positioned around a half-mile to the south of the interchange between Betabel Road and US 101, this project occupies a rural area surrounded by agricultural activities.

This property has historically been utilized for agricultural purposes and is presently undeveloped except for an existing fruit stand. Notably, no new construction is proposed as part of this project. The neighboring parcels are predominantly employed for agricultural functions, encompassing grazing and row crops, as well as housing rural residences. One of the contiguous parcels to the northeast is under the Land



Conservation Act (Williamson Act) as agricultural preserves, but the project site itself does not fall within a Williamson Act contract. Properties akin in size to the subject property in the vicinity are commonly dedicated to activities like row and field crops, grazing, and the establishment of rural residences. (See *Figure 1 Vicinity Map*)

This property is the site of the approved use permit reviewed under County Planning file PLN210054. Upon approval, the applicant received permission to develop and improve approximately 26 acres of the property area for approximately 108,425 square feet of commercial and building space. This was to include a gas station with convenience store, a restaurant, amusement buildings with exhibits, a motel and banquet hall with outdoor pool and outdoor movie screen, and an outdoor event center.



**Figure 1. Vicinity Map.** The site lies along Betabel Road near US 101, approximately 5 miles north of San Juan Bautista.

**Legal Lot of Record:** The property currently comprises three legal lots—Parcel One, transferred by grant deed recorded in Volume 19 of San Benito County Official Records (OR) Page 21, filed for record on March 19, 1925 (conveyed from Frank R. Silva to Norman N. Nelson); Parcel Two, transferred by grant



deed recorded in Book 182 OR Page 443 on January 11, 1952 (conveyed from Holmes, Holmes & Mitchell et al to the San Jose Abstract & Title Insurance Co.); and Parcel Three, approved for construction of the currently existing fruit stand under BLD20-00507, issued December 30, 2022, qualifying the parcel as a legal lot in accordance with State Government Code Sections 66499.34 and 66499.35(c) (portions of the Subdivision Map Act)—with said legal lots having been reconfigured through two Lot Line Adjustments (LLAs) recorded in the County Official Records as Document No. 2020-5952 on May 26, 2020 (following County approval under Planning file PLN190061), and as Document No. 2020-10495 on August 26, 2020 (following County approval under Planning file PLN200037).

**Minimum Building Site Allowed:** 40 acres under AR zone and 20,000 square feet under C-1 zone.

**Sewage Disposal:** Septic System.

**Water:** Private wells.

**State Farmland Map Designation:** Prime Farmland, Grazing Land, and Urban and Built-Up Land (Per 2020 FMMP).

**Land Conservation Act (Williamson Act):** Not under Williamson Act Contract.

**Soils:** Metz Sandy Loam, 0 to 2 percent slopes (Grade 1, capability units IIIs-4 (15): soils in this unit are very deep, somewhat excessively drained to well drained and have an available water holding capacity of 4.0 to 5.0 inches.); Metz Gravelly Sandy Loam, 0 to 2 percent slopes (Grade 3, capability units IIIe-4 (14):soils in this unit are very deep, well drained and somewhat excessively drained, moderately coarse textured, and gently sloping to moderately sloping and have an available water holding capacity of 4.0 to 8.0 inches.); Mocho Loam, 0 to 2 percent slopes (Grade 1, capability Units I-1 (14): soils in this unit are very deep, well drained and have a water holding capacity of 7.5 inches to 12.0 inches.); Sorrento Silt Loam, 2 to 9 percent slopes (Grade 1, capability units IIIc-1 (15): soils in this unit are very deep, well drained and have an available water holding capacity of 7.5 inches to 12.0 inches.); Sorrento Silty Clay Loam, 2 to 9 percent slopes (Grade 1, capability units IIIe-5 (15): soils in this unit are moderately deep to very deep, well drained and have an available water holding capacity of 4.0 to 12.0 inches.

**Seismic:** Not located within an Alquist-Priolo Fault Zone.

**FEMA Flood Zone:** The western portion of the project site is located within in a FEMA Flood Zones A & AE (100-year flood zone per FEMA Flood Insurance Rate Map panel 06069C0045D, April 16, 2009).

**Fire Severity:** Non-Wildland/Non-Urban

**Archaeological sensitivity:** Yes.

**Habitat Conservation Plan Study Area Interim Mitigation Fee:** Within fee area.

## PLANNING AND ZONING

The property is designated as Rangeland (RG) and Commercial Regional (CR) under the General Plan, with corresponding zoning designations of Agricultural Rangeland (AR) and Commercial Thoroughfare (C-1). The RG General Plan designation aims to preserve open space and grazing land in remote areas characterized by high fire hazards, limited transportation access, and a lack of public infrastructure. This designation permits agricultural support uses and one principal residential dwelling per lot. The CR General Plan designation is intended to accommodate the location of such commercial uses at key intersections along State Highway 101 and other major State Routes. These uses could include shopping centers, truck and automobile stations, tourist serving commercial uses, and hotels/motels.

The AR zoning designation supports agricultural rangeland purposes, in alignment with the General Plan, allowing for very low-density residential development and farmworker housing to preserve open space and agriculture due to the absence of public infrastructure. The C-1 zoning designation focuses on creating areas that serve as commercial activity hubs for the regional population. This includes accommodating commercial uses at key intersections along US 101 and other major state routes, such as shopping centers, truck and automobile stations, tourist-serving businesses, and hotels/motels. The proposed project, which involves no construction, is consistent with both the zoning and General Plan designations. The proposed

map aligns with the intent of the RG and CR General Plan designations, as well as the AR and C-1 zoning districts. This project is also consistent with other General Plan policy, as detailed in Staff Analysis.

### **ENVIRONMENTAL EVALUATION**

The project qualifies for the §15061(b)(3) exemption due to the clear assurance that the proposed subdivision will not result in a significant impact on the environment. This project as submitted proposes no construction at this time. Consequently, the project proposes no disruptions within areas of ecological, seismic, historical, or any other environmental sensitivity. The applicant's proposal primarily revolves around delineating new property boundaries, establishing four lots replacing the three lots that already exist. The current zoning regulations already allow for nearly the same level of land use as what could occur with or without this subdivision.

This project overlaps with the site of the use permit PLN210054, for which an Environmental Impact Report (EIR) was prepared. The EIR identified mitigation measures for that project's impacts; several of these mitigation measures have been triggered by this project and have been incorporated into the conditions of approval for this subdivision:

- To protect and preserve tribal cultural resources, the applicant shall establish a Tribal Cultural Resources Conservation Easement on 50-80 acres of undeveloped land. This easement will allow the AMTB and Amah Mutsun Land Trust (AMLT) to use the area for cultural, ethnobotanical, restoration, stewardship, research, and educational activities in perpetuity. The easement will also ensure compatibility with the vegetation management plan outlined in Mitigation Measure 3.18-2. (See Attachment B Condition 19.)
- To mitigate traffic-related noise impacts, the project will include repaving Betabel Road from the US 101 interchange to the road's southern terminus with noise-reducing asphalt, such as rubberized or gap-graded asphalt. This repaving is expected to provide 3-4 dB of noise attenuation compared to conventional asphalt overlays. The County will review the construction plans to ensure compliance before issuing construction permits. (See Attachment B Condition 35.)
- To maintain the floodplain's elevation and extent at pre-project conditions, the applicant must provide final grading, building, structure, and drainage plans demonstrating compliance with County storm drainage standards. The project will ensure no increase in offsite floodplain area or elevation through grading, use of an onsite stormwater retention pond, or other measures acceptable to the County. (See Attachment B Condition 20.)
- Prior to grading activities, the applicant must conduct a detailed soil assessment to evaluate potential pesticide/herbicide contamination from past agricultural use. If contaminants are found at levels that pose a health risk, remediation will be required to meet public health standards as set by local, State, and federal agencies. Remediation must be completed before the site's operation. (See Attachment B Condition 29.)
- Before issuing building permits and conducting grading activities, the applicant will perform a Phase I Environmental Site Assessment and, if necessary, a Phase II assessment to identify and address any soil contamination or other hazards. Any identified contamination will be remediated to protect public health, with all necessary measures completed before site operation. (See Attachment B Condition 30.)
- To protect riparian woodland habitat, the project will establish setbacks, implement best management practices, and compensate for any unavoidable loss of riparian habitat. Setbacks will be flagged or fenced, and no project activities will occur within these areas. If riparian habitat cannot be avoided, the applicant will compensate for the loss through restoration, mitigation banking, or conservation easements, and will prepare a Compensatory Mitigation Plan to ensure long-term habitat protection. (See Attachment B Condition 21.)
- To mitigate the conversion of Important Farmland, the applicant must preserve farmland in San Benito County at a 1:1 ratio for each acre converted to nonagricultural use. The preserved land must

have a soils classification or FMMP categorization of equal or greater value than the converted farmland and will be protected through agricultural conservation easements approved by the County. Farmland preserved for habitat mitigation may count toward this requirement if it meets the same or better classification standards. (See Attachment B Condition 22.)

- In the context of safeguarding cultural resources, condition 12 lays out a set of stringent procedures that are mandated in the event of discovering human remains or significant archaeological artifacts during excavation or ground disturbances. All excavation activities must cease within a 200-foot radius of any discovery or suspected related remains, with a visible stake circle of at least 100 feet radius marking the area; staking on adjoining properties requires owner authorization, and timely notification to authorities is required for human or significant remains, granting authorized representatives the right to enter the property and protect cultural resources in line with San Benito County Code and applicable laws.

To comply with San Benito County code, a typical subdivision would involve ground disturbance activities related to road construction, frontage improvements, grading, water access, or other development requirements. These activities fall under CEQA Class 1 Categorical Exemption (State CEQA Guidelines §15301 (Existing Facilities, subparagraph c)). This exemption is applicable to projects that primarily involve the maintenance, repair, or minor alteration of existing infrastructure, such as roads, sidewalks, and bicycle facilities. This exemption further requires that these projects must not expand the existing or former use, such as the addition of extra automobile lanes to roadways. While this project proposes no new construction, County Code Title 23 (Subdivisions) requires road improvements that add no new lanes or expanded use, and therefore the project complies with the aforementioned exemption.

Furthermore, this project also qualifies for Class 4 of Categorical Exemptions §15304 (Minor Alterations to Land, subparagraph a) as the said required improvements above, per County Code Title 23 (Subdivisions), will occur on slopes of less than 10 percent and will involve no removal of healthy, mature, or scenic trees. These improvements are also not within an Alquist-Priolo fault zone nor will they be in any waterway or protected wetland area.

No activity is proposed that would damage scenic resources such as those described in State CEQA Guidelines §15300.2(d). The site is within the US 101 scenic corridor, which is acknowledged by the General Plan Natural and Cultural Resources Element and defined in County Code §25.08.027(B) and which would not be aesthetically changed by the current project.

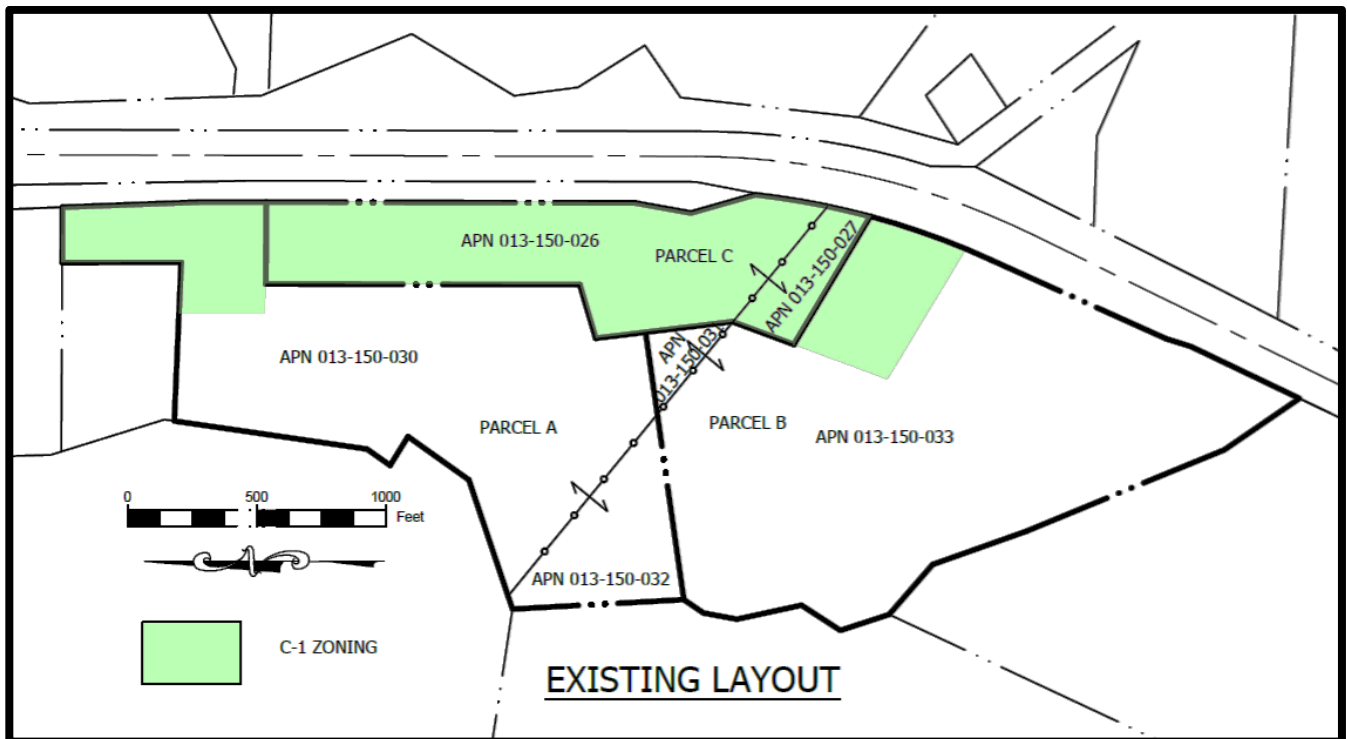
Moreover, this project, adding one lot to a site where three lots currently exist, is anticipated to have an insignificant cumulative impact on the area. The most recent comparable subdivisions are Minor Subdivision 794-87, Minor Subdivision 1042-91, and Minor Subdivision 1227-11, these were approved in 1988, 1995, and 2015 respectively less than a mile away. Minor Subdivision 794-87 involved the creation of lots and easements for four parcels. Minor Subdivision 1042-91 involved the creation of lots and easements for one parcel and a remainder parcel. Minor Subdivision 1227-11 involved the creation of lots and easements for three parcels and a remainder. However, all of these subdivisions accounted for a minimal impact and no construction. Projects of larger size in the vicinity such as Rancho Larios, Rancho Vista (City of San Juan Bautista), and San Juan Oaks have already had their cumulative impacts accounted for in their own respective environmental reviews. Any potential future development, especially those that would lead to increased population density or other significant alterations, will undergo a comprehensive evaluation, and require additional approval from the County.

## STAFF ANALYSIS

This project must align with its zoning and General Plan designation. Additionally, subdivisions must comply with the San Benito County Code Title 23 (Subdivisions) and the California Government Code Section 66410 *et seq.* (Subdivision Map Act).

The project is consistent with several General Plan policies. One such policy is LU-3.2 (Agricultural Integrity and Flexibility), which requires the County to protect existing agricultural resources while supporting the flexibility and economic viability of farming and ranching operations. The proposed Parcel Three, at 40.34 acres, and Parcel Four, at 40.53 acres, will continue to support agricultural activities. These parcel sizes remain viable for irrigated pasture or dry-land farming, consistent with San Benito County Code §19.01.021(D)(1)(a)(2). Another relevant policy is LU-5.6 (Visitor-Oriented Commercial Uses), which encourages commercial activities that highlight local history, boost the economy (e.g., agriculture, wineries, recreation), and promote locally produced agricultural products. Parcels One, sized at 7.61 acres, and Two, at 23.20 acres, align with this policy. Future uses planned for these parcels include a visitor information center, fruit stand, gas station, exhibits on Parcel One, and a motel and event center on Parcel Two. These plans are consistent with the intent of Policy LU-5.6. (See Use Permit PLN210054 for further details on future developments.) Any future development, particularly those involving increased density, will require additional County evaluation. No specific plan has been adopted for this area.

The project proposes the creation of four parcels: Parcel One at 7.61 acres within the C-1 zoning district; Parcel Two at 23.20 acres within the C-1 zoning district; Parcel Three at 40.34 acres within the AR zoning district; and Parcel Four at 40.53 acres within the AR zoning district. This subdivision does not increase density or introduce uses beyond those permitted by current zoning, and no construction is proposed at



**Figure 2. Existing Lot Layout.** The project site is currently composed of three parcels. The project proposes a new lot layout that includes one additional parcel for a resulting total of four parcels. Two of the parcels would have lot lines matching the existing area of C-1 zoning.

this time. The General Plan’s land use designations permit one dwelling per 40 acres within the RG district and 20 dwelling units per acre within the C-1 district. All four parcels meet their respective minimum lot size requirements. The only additional use allowed by the subdivision is one accessory dwelling unit on Parcel Four. However, no construction is proposed. The subdivision does not significantly alter the existing entitlements permitted under current zoning. The proposed lot configuration is consistent with current land use and density standards, demonstrating that the site is suitable for the proposed development density.

The project complies with the General Plan regarding subdivision layout and improvements, as reviewed by the County Resource Management Agency's Planning and Public Works staff. The project demonstrates appropriate access, water service connections, septic systems, and other infrastructure in accordance with General Plan policies PFS-4.1 (Adequate Water Treatment and Delivery Facilities), PFS-5.6 (Septic System Design), and LU-1.10 (Development Site Suitability). Conditions of approval address these elements. The project does not include the use of a community sewer system. Should future development occur, new septic systems will be required, and the applicant must demonstrate the viability of these systems through a soils report. The County Division of Environmental Health has reviewed the proposed subdivision and determined it complies with all existing requirements set by the Central Coast Regional Water Quality Control Board, provided the conditions of project approval are met. Conditions of approval also include a review by the County Environmental Health Division of the septic system, specifically focusing on soil compatibility. Both systems were installed per regulations that required appropriate design to ensure effective operation within the site’s specific soil conditions, further confirming the site’s physical suitability for the proposed development. (See Attachment B CEQA Findings.)

The subdivision's layout and enhancements adhere to the Subdivision Map Act and the San Benito County Subdivision Ordinance's design standards, contingent upon compliance with the stipulated conditions of approval. Qualified personnel from responsible agencies have reviewed the proposed minor subdivision, including its ingress/egress improvements, and have determined the design to be sufficient for fire safety, provided adherence to the recommended conditions of project approval. The project does not involve new construction beyond the existing agricultural use and proposed future commercial uses as detailed earlier in this discussion. The four parcels, largely undeveloped except for an existing fruit stand, meet the minimum 40-acre lot area requirement of the RG zone and the 20,000 square foot lot size of the C-1 zone. This approach preserves the current land use while allowing for future development under existing zoning regulations, ensuring the long-term viability and productivity of agricultural operations, supporting potential commercial growth, and maintaining the continued use and enjoyment of the property for both current and future landowners. Any future development on the project site will undergo additional review as part of the building permit issuance process. The project does not affect any easements for public access through the site, and the project site is not subject to a Land Conservation Act (Williamson Act) contract. (See Attachment B Subdivision Findings.)

The project proposes no new construction at this time. While portions of the project site are identified as exceptional habitat for fish or wildlife, Condition 21 addresses these sensitive areas by requiring the implementation of protective measures for riparian woodland habitat before any project activities occur within 50 feet of these areas. Setbacks will be established, flagged, or fenced, with no activity—including vegetation removal or ground disturbance—permitted within these zones. A qualified biologist will determine the setback distances, with a minimum of 50 feet, and best management practices will be enforced to prevent the spread of invasive species, including regular inspections. The landscaping plan will also be updated to remove invasive species. If the project impacts riparian habitat under California Department of Fish and Wildlife (CDFW) jurisdiction, the applicant will submit a Streambed Alteration Notification and comply with all required mitigation measures, including habitat compensation at a

minimum 1:1 ratio through restoration, mitigation credits, or conservation easements. Additionally, fencing and signage will be installed to prevent trespassing into riparian areas.

To protect sensitive cultural resources, Condition 19 requires the applicant to establish a Tribal Cultural Resources Conservation Easement. This easement, covering approximately 50-80 acres of the undeveloped portion of the property, will be granted to the Amah Mutsun Tribal Band (AMTB) and/or the Amah Mutsun Land Trust (AMLT). The easement aims to protect and preserve tribal cultural resources while allowing AMTB and AMLT to conduct cultural, ethnobotanical, restoration, stewardship, research, and educational activities in perpetuity. The terms of the easement will ensure compatibility with the vegetation management plan outlined in Mitigation Measure 3.18-2. Given these protective measures, the design of the subdivision and proposed improvements are not likely to cause substantial environmental damage or significantly harm fish, wildlife, or their habitat.

While the western portion of the property is located in a floodplain, no construction is currently proposed. Condition 20 (Maintain Floodplain Elevation and Extent to Pre-Project) requires that, before any grading activities, the project applicant must provide final grading, building, structure, and drainage details that demonstrate compliance with storm drainage design standards under County Code of Ordinances Chapter 23.31. This includes ensuring there is no increase in the offsite floodplain area or its elevation. This may be achieved through grading, use of the onsite stormwater retention pond, or other measures acceptable to the County. Additionally, Condition 37 (Existing Drainage Systems) mandates that existing drainage from Highway 101 be protected in place and that natural drainage paths be incorporated into the design of improvements for this project. Apart from the floodplain, the project site is free from other physical hazards, making it suitable for the proposed development.

The subject property is within an area designated by CAL FIRE as a Non-Wildland/Non-Urban fire hazard zone. The County Fire Department, staffed by the City of Hollister Fire Department, generally provides fire suppression and other related emergency services, with additional aid from the California Department of Forestry and Fire Protection (CAL FIRE). The closest fire stations are the Aromas Tri-County Fire Station (CAL FIRE) located at 492 Carpenteria Road in Aromas, 9 miles by road, and the City of Hollister-staffed Fire Station 4 at 24 Polk Street in San Juan Bautista, 5 miles by road. Furthermore, the County Fire Department, comprising personnel contracted from the City of Hollister Fire Department, has evaluated the design of the proposed subdivision. Their assessment resulted in a series of recommendations that have been integrated into the conditions of approval for the project.

### **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission review the staff report and review the attached draft resolution in Attachment B, which includes findings and recommended conditions of approval. Staff further recommends that the Planning Commission make the findings included in the resolution and adopt the resolution to approve the PLN240026 minor subdivision/tentative parcel map, subject to the conditions of approval found in the resolution.

### **ATTACHMENTS**

- A. Site Photos
- B. Planning Commission Resolution 2024-\_\_\_ (draft) including
  - Attachment A California Environmental Quality Act (CEQA) Findings
  - Attachment B Conditions of Approval
  - Attachment C Tentative Map

**Attachment A Site Photos**



*View of the project site looking southwest along Y Road from opposite US 101. (Source: Ascent Environmental 2022)*



*View across US 101 looking northwest from Y Road toward the project site. (Source: Ascent Environmental 2022)*



*View of the project site looking west from Parcel 4 toward the San Benito River. (Source: Ascent Environmental 2022)*



*View of the project site from Parcel 1 facing north toward the neighboring property. (Source: Ascent Environmental 2022)*





*View of the project site looking east from Parcel 2 toward US Highway 101. (Source: Ascent Environmental 2022)*

***BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO***

**Resolution 2024-\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO, STATE OF CALIFORNIA, TO APPROVE COUNTY PLANNING FILE PLN240026, A PROPOSAL FOR A TENTATIVE PARCEL MAP TO SUBDIVIDE AN EXISTING 111.68-ACRE SITE CONTAINING THREE PARCELS INTO FOUR LOTS OF 7.61 ACRES, 23.20 ACRES, 40.34 ACRES, AND 40.53 ACRES.**

**WHEREAS** the subject property is located at 9644 Betabel Road near Hollister, San Benito County (“County”), California (Assessor’s Parcel(s) 013-150-026, 013-150-027, 013-150-030, 013-150-031, 013-150-032, and 013-150-033) and currently contains 111.68 acres with three existing parcels; and

**WHEREAS** San Benito Engineering has filed an application for a minor subdivision/tentative parcel map (illustrated in **Exhibit C**) to subdivide the property into four lots of 7.61 acres, 23.20 acres, 40.34 acres, and 40.53 acres, replacing the three existing lots; and

**WHEREAS** the property currently comprises three legal lots—Parcel One, transferred by grant deed recorded in Volume 19 of San Benito County Official Records (OR) Page 21, filed for record on March 19, 1925 (conveyed from Frank R. Silva to Norman N. Nelson); Parcel Two, transferred by grant deed recorded in Book 182 OR Page 443 on January 11, 1952 (conveyed from Holmes, Holmes & Mitchell et al to the San Jose Abstract & Title Insurance Co.); and Parcel Three, approved for construction of the currently existing fruit stand under BLD20-00507, issued December 30, 2022, qualifying the parcel as a legal lot in accordance with State Government Code Sections 66499.34 and 66499.35(c) (portions of the Subdivision Map Act)—with said legal lots having been reconfigured through two Lot Line Adjustments (LLAs) recorded in the County Official Records as Document No. 2020-5952 on May 26, 2020 (following County approval under Planning file PLN190061), and as Document No. 2020-10495 on August 26, 2020 (following County approval under Planning file PLN200037); and

**WHEREAS** the property is currently undeveloped agricultural land and undeveloped commercially-zoned land; and

**WHEREAS** the property currently has a General Plan land use designation of Rangeland (RG) and Commercial Regional (CR) and portions under the separate zoning designations of Agricultural Rangeland (AR) and Commercial Throughfare (C-1); and

**WHEREAS** the purpose of the underlying the RG General Plan designation aims to preserve open space and grazing land in remote, high fire hazard areas with limited transportation access and no public infrastructure, allowing only agricultural support uses and one principal residential dwelling per lot; and

**WHEREAS** the purpose of the underlying CR General Plan designation is to provide areas that function as destinations for commercial activity serving the regional population, with said designation intending to accommodate the location of such commercial uses at key intersections along State Highway 101 and other major State Routes, such uses potentially including shopping centers, truck and automobile stations, tourist serving commercial uses, and hotels/motels; and

**WHEREAS** the intent of the AR zoning designation is to provide for areas within the county to be used for agricultural rangeland purposes as set forth in the general plan, with very low-density

residential development and farmworker housing being permitted due to the lack of public infrastructure and for the preservation of open space and agriculture; and

**WHEREAS** the intent of the C-1 zoning is to provide areas that function as destinations for commercial activity serving the regional population, with this designation intending to accommodate the location of such commercial uses at key intersections along US Highway 101 and major State Routes and with such uses potentially including shopping centers, truck and automobile stations, tourist-serving commercial uses, and hotels/motels; and

**WHEREAS** the aforementioned designations allow the continuation of the current agricultural operations and with a minimum building site of five acres, with the proposed lots within the AR designation being 40.34 acres and 40.53 acres respectively; and

**WHEREAS** the aforementioned designations allow the continuation of the proposed future commercial uses and with a minimum building site of 20,000 square feet, with two of the four proposed lots being coterminous with the site's C-1 zoning designation and containing 7.61 acres and 23.20 acres respectively; and

**WHEREAS** the applicant and owner have demonstrated adequate street access, road improvements, existing accessory structures, structures, and wells; and

**WHEREAS** the Planning Commission has determined the project qualifies for an exemption from the California Environmental Quality Act (CEQA) under State CEQA Guidelines §15061(b)(3) (the "common sense exemption"), Class 1 of Categorical Exemptions §15301 (Existing Facilities, subparagraph c), and Class 4 of Categorical Exemptions §15304 (Minor Alterations to Land, subparagraph a); and

**WHEREAS** the Planning Commission of the County of San Benito reviewed the minor subdivision application at its regular meeting held on September 18<sup>th</sup>, 2024; and

**WHEREAS** the Planning Commission of the County of San Benito reviewed all written and oral information presented to them by County staff and the public at the public hearing; and

**WHEREAS** at the conclusion of the public testimony, the Planning Commission closed the public hearing, deliberated, and considered the merits of the proposal,

**NOW THEREFORE BE IT RESOLVED** that, based on the evidence in the record, the Planning Commission of the County of San Benito hereby finds as stated in **Exhibit A**.

**BE IT FURTHER RESOLVED** by the Planning Commission of the County of San Benito that, based on the foregoing findings and evidence in the record, the Planning Commission hereby approves County Planning file PLN240026 and its minor subdivision/tentative parcel map subject to the conditions of approval found in **Exhibit B** and as illustrated in **Exhibit C**.

**PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 18<sup>th</sup> DAY OF SEPTEMBER 2024 BY THE FOLLOWING VOTE:**

AYES:

NOES:

ABSENT:

ABSTAIN:

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Robert Gibson, Vice Chair  
San Benito County Planning Commission

ATTEST:

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M. Abraham Prado, Director, Planning and Building  
Resource Management Agency San Benito County

### California Environmental Quality Act (CEQA) Finding:

**Finding:** The project qualifies for a “common sense” exemption under Article 5 of the California Environmental Quality Act Guidelines Section 15061 (Review for Exemption, subparagraph (b)(3)) and Section 15301 (Existing Facilities, subparagraph c), and Class 4 of Categorical Exemptions §15304 (Minor Alterations to Land, subparagraph a);

**Evidence:** *The project qualifies for the §15061(b)(3) exemption due to the clear assurance that the proposed subdivision will not result in a significant impact on the environment. This project only proposes to adjust lot lines and add one additional lot only, and no construction is proposed as part of this subdivision. Consequently, the project proposes no disruptions within areas of ecological, seismic, historical, or any other environmental sensitivity. The current zoning regulations already allow for nearly the same level of land use as what could occur with or without this subdivision.*

*In addition, the prior Environmental Impact Report (EIR) associated with the Use Permit PLN210054 identified mitigation measures for the impacts associated with that project. Several of these mitigation measures have been triggered by this project and have been incorporated into the conditions of approval for this subdivision. They are discussed in the following paragraphs below:*

- *To protect and preserve tribal cultural resources, the applicant shall establish a Tribal Cultural Resources Conservation Easement on 50-80 acres of undeveloped land. This easement will allow the AMTB and Amah Mutsun Land Trust (AMLT) to use the area for cultural, ethnobotanical, restoration, stewardship, research, and educational activities in perpetuity. The easement will also ensure compatibility with the vegetation management plan outlined in PLN210054 Mitigation Measure 3.18-2. (See Condition 19)*
- *To mitigate traffic-related noise impacts, the project will include repaving Betabel Road from the US 101 interchange to the road's southern terminus with noise-reducing asphalt, such as rubberized or gap-graded asphalt. This repaving is expected to provide 3-4 dB of noise attenuation compared to conventional asphalt overlays. The County will review the construction plans to ensure compliance before issuing construction permits. (See Condition 35)*
- *To maintain the floodplain's elevation and extent at pre-project conditions, the applicant must provide final grading, building, structure, and drainage plans demonstrating compliance with County storm drainage standards. (See Condition 20)*
- *Prior to grading activities, the applicant must conduct a detailed soil assessment to evaluate potential pesticide/herbicide contamination from past agricultural use. If contaminants are found at levels that pose a health risk, remediation will be required to meet public health standards as set by local, State, and federal agencies. Remediation must be completed before the site's operation. (See Condition 29)*
- *Before issuing building permits and conducting grading activities, the applicant will perform a Phase I Environmental Site Assessment and, if necessary, a Phase II assessment to identify and address any soil contamination or other hazards. Any identified contamination will be remediated to protect public health, with all necessary measures completed before site operation. (See Condition 30)*
- *To protect riparian woodland habitat, the project will establish setbacks, implement best management practices, and compensate for any unavoidable loss of riparian habitat. Setbacks will be flagged or fenced, and no project activities will occur within these areas. If riparian habitat cannot be avoided, the applicant will compensate for the loss through restoration, mitigation*

banking, or conservation easements, and will prepare a Compensatory Mitigation Plan to ensure long-term habitat protection. (See Condition 21)

- To mitigate the conversion of Important Farmland, including Prime Farmland, the applicant must preserve farmland in San Benito County at a 1:1 ratio for each acre converted to nonagricultural use. The preserved land must have a soils classification or FMMP categorization of equal or greater value than the converted farmland and will be protected through agricultural conservation easements approved by the County. Farmland preserved for habitat mitigation may count toward this requirement if it meets the same or better classification standards. (See Condition 22)
- In the context of safeguarding cultural resources, condition 12 lays out a set of stringent procedures that are mandated in the event of discovering human remains or significant archaeological artifacts during excavation or ground disturbances. All excavation activities must cease within a 200-foot radius of any discovery or suspected related remains, with a visible stake circle of at least 100 feet radius marking the area; staking on adjoining properties requires owner authorization, and timely notification to authorities is required for human or significant remains, granting authorized representatives the right to enter the property and protect cultural resources in line with San Benito County Code and applicable laws.

In addition, to comply with San Benito County Code, a typical subdivision would involve ground disturbance activities related to road construction, frontage improvements, grading, water access, or other development requirements. These activities fall under CEQA Class 1 Categorical Exemption (State CEQA Guidelines §15301, Existing Facilities, subparagraph c). This exemption is applicable to projects that primarily involve the maintenance, repair, or minor alteration of existing infrastructure, such as roads, sidewalks, and bicycle facilities. This exemption further requires that these projects must not expand the existing or former use, such as the addition of extra automobile lanes to roadways. While this project proposes no new construction, County Code Title 23 (Subdivisions) requires road improvements that add no new lanes or expanded use, and therefore the project complies with the aforementioned exemption.

Furthermore, this project also qualifies for Class 4 of Categorical Exemptions §15304 (Minor Alterations to Land, subparagraph a) as the said required improvements above, per County Code Title 23 (Subdivisions), will occur on slopes of less than 10 percent and will involve no removal of healthy, mature, or scenic trees. These improvements are also not within an Alquist-Priolo fault zone nor will they be in any waterway or protected wetland area.

Moreover, this project, adding a single lot to a site with three existing lots, is anticipated to have an insignificant cumulative impact on the area. The most recent comparable subdivisions are Minor Subdivision 794-87, Minor Subdivision 1042-91, and Minor Subdivision 1227-11; these were approved in 1988, 1995, and 2015 respectively less than a mile away. Minor Subdivision 794-87 involved the creation of lots and easements for four parcels. Minor Subdivision 1042-91 involved the creation of lots and easements for one parcel and a remainder parcel. Minor Subdivision 1227-11 involved the creation of lots and easements for three parcels and a remainder. However, all of these subdivisions accounted for a minimal impact and no construction. Projects of larger size in the vicinity such as Rancho Larios, Rancho Vista (City of San Juan Bautista), and San Juan Oaks have already had their cumulative impacts accounted for in their own respective environmental reviews. Any potential future development, especially those that would lead to increased population density or other significant alterations, will undergo a comprehensive evaluation, and require additional approval from the County.

## Subdivision Findings:

**Finding 1:** The proposed map is consistent with the General Plan or any applicable specific plan.

**Evidence:** *The property is designated as Rangeland (RG) and Commercial Regional (CR) under the General Plan, with corresponding zoning designations of Agricultural Rangeland (AR) and Commercial Thoroughfare (C-1). The RG General Plan designation aims to preserve open space and grazing land in remote areas characterized by high fire hazards, limited transportation access, and a lack of public infrastructure. This designation permits agricultural support uses and one principal residential dwelling per lot. The CR General Plan designation is intended to provide areas that function as destinations for commercial activity serving the regional population. This designation intends to accommodate the location of such commercial uses at key intersections along State Highway 101 and other major State Routes. These uses could include shopping centers, truck and automobile stations and tourist serving commercial uses, and hotels/motels.*

*The AR zoning designation supports agricultural rangeland purposes, in alignment with the General Plan, allowing for very low-density residential development and farmworker housing to preserve open space and agriculture due to the absence of public infrastructure. The C-1 zoning designation focuses on creating areas that serve as commercial activity hubs for the regional population. This includes accommodating commercial uses at key intersections along US 101 and other major state routes, such as shopping centers, truck and automobile stations, tourist-serving businesses, and hotels/motels. The proposed project, which involves no construction, is consistent with both the zoning and General Plan designations. In accommodating these land uses with the changes to lot lines, the proposed map aligns with the intent of the RG and CR General Plan designations, as well as the AR and C-1 zoning districts.*

*Additionally, this project aligns with General Plan Policy LU-3.2 (Agricultural Integrity and Flexibility), which mandates that the County protect the integrity of existing agricultural resources while ensuring the flexibility and economic viability of farming and ranching operations. Parcels Three and Four, with proposed sizes of 40.34 and 40.53 acres, respectively, will allow agricultural operations to continue. These parcel sizes remain viable for irrigated pasture or dry-land farming, consistent with San Benito County Code §19.01.021 (D)(1)(a)(2).*

*Parcels One and Two, with sizes of 7.61 and 23.20 acres, respectively, align with General Plan Policy LU-5.6 (Visitor-Oriented Commercial Uses). This policy encourages visitor-oriented commercial activities that promote the local history, economy (e.g., agriculture, wineries, recreation), and market locally produced agricultural products. The proposed future uses for these parcels include a visitor information center, fruit stand, gas station, various exhibits on Parcel One, and a motel and event center on Parcel Two. These plans are consistent with the intent of Policy LU-5.6. (See Use Permit PLN210054 for further information on future developments).*

*Any potential future development, particularly those entailing an increase in density, would necessitate further evaluation by the County. No specific plan has been adopted in this particular area.*

**Finding 2:** The design or improvements of the proposed subdivision is consistent with the General Plan and any applicable specific plan.

**Evidence:** *The project maintains consistency with the General Plan concerning the subdivision's layout and enhancements, which the County Resource Management Agency's Planning and Public Works staff have reviewed. The proposed project has demonstrated appropriate access, connections to water services,*

septic systems, and other infrastructure, all executed in accordance with the guidelines specified in General Plan policies PFS-4.1 (Adequate Water Treatment and Delivery Facilities), PFS-5.6 (Septic System Design), and LU-1.10 (Development Site Suitability). Conditions of approval address these topics.

The layout and enhancements also align with the Subdivision Map Act and the San Benito County Subdivision Ordinance's design standards, contingent upon compliance with the stipulated conditions of approval. No specific plan pertains to the subject property.

**Finding 3:** The site is physically suitable for the type of development.

**Evidence:** The project does not involve new construction beyond the existing agricultural use and the proposed future commercial uses (as detailed in Finding 1). The four parcels, largely undeveloped except for an existing fruit stand, meet the minimum 40-acre lot area requirement of the RG zone and the 20,000-square-foot minimum lot size of the C-1 zone. This approach preserves the current land use while allowing for future development in accordance with existing zoning regulations, ensuring the long-term viability and productivity of agricultural operations, supporting potential commercial growth, and maintaining the continued use and enjoyment of the property for both current and future landowners.

Additionally, the conditions of approval include a review by the County Environmental Health Division of the septic system, specifically focusing on soil compatibility. Both systems were installed in accordance with regulations that required appropriate design to ensure effective operation within the site's specific soil conditions, further confirming the site's physical suitability for the proposed development.

While the western portion of the property is located in a floodplain, no construction is currently proposed. Condition 20 (Maintain Floodplain Elevation and Extent to Pre-Project) requires that, prior to any grading activities, the project applicant must provide final grading, building, structure, and drainage details that demonstrate compliance with storm drainage design standards under County Code of Ordinances Chapter 23.31. This includes ensuring there is no increase in the offsite floodplain area or its elevation. This may be achieved through grading, use of the onsite stormwater retention pond, or other measures acceptable to the County. Additionally, Condition 37 (Existing Drainage Systems) mandates that existing drainage from Highway 101 be protected in place and that natural drainage paths be incorporated into the design of improvements for this project. Apart from the floodplain, the project site is free from other physical hazards, making it suitable for the proposed development.

**Finding 4:** The site is physically suitable for the density of development.

**Evidence:** The project and its four parcels—Parcels One and Two, within the C-1 zoning district and measuring 7.61 acres and 23.20 acres respectively; and Parcels Three and Four, within the AR zoning district and measuring 40.34 acres and 40.53 acres respectively—do not increase density or introduce uses beyond what current zoning allowances permit. The site already contains three parcels, with this project adding one lot and reconfiguring other lot lines, and no construction is proposed at this time. The General Plan's land use designations permit one dwelling per 40 acres within the RG district and 20 dwelling units per acre within the C-1 district. All four parcels comply with their respective minimum lot size requirements.

The only additional use allowed by the subdivision would be one accessory dwelling unit on the proposed Parcel Four. However, this project proposes no construction. The subdivision does not significantly alter the entitlements already permitted under the existing zoning, as the proposed lot configuration aligns with the current land use and density standards. The applicant is only proposing new parcel boundaries,



*without any new development, as the existing zoning already supports nearly the same level of use without the subdivision. This demonstrates that the site is physically suitable for the proposed density of development.*

**Finding 5:** The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

**Evidence:** *The project proposes no new construction at this time. While portions of the project site are identified as exceptional habitat for fish or wildlife, Condition 21 addresses these sensitive areas by requiring the implementation of protective measures for riparian woodland habitat before any project activities occur within 50 feet of these areas. Setbacks will be established, flagged, or fenced, with no activity—including vegetation removal or ground disturbance—permitted within these zones. A qualified biologist will determine the setback distances, with a minimum of 50 feet, and best management practices will be enforced to prevent the spread of invasive species, including regular inspections. The landscaping plan will also be updated to remove invasive species. If the project impacts riparian habitat under CDFW jurisdiction, the applicant will submit a Streambed Alteration Notification and comply with all required mitigation measures, including habitat compensation at a minimum 1:1 ratio through restoration, mitigation credits, or conservation easements. Additionally, fencing and signage will be installed to prevent trespassing into riparian areas.*

*Moreover, to protect sensitive cultural resources, Condition 19, environmental mitigation continuing from the site's prior use permit review, requires the applicant to establish a Tribal Cultural Resources Conservation Easement. This easement, covering approximately 50-80 acres of the undeveloped portion of the property, will be granted to the Amah Mutsun Tribal Band (AMTB) and/or the Amah Mutsun Land Trust (AMLT). The easement aims to protect and preserve tribal cultural resources while allowing AMTB and AMLT to conduct cultural, ethnobotanical, restoration, stewardship, research, and educational activities in perpetuity. The terms of the easement will ensure compatibility with the vegetation management plan outlined in Mitigation Measure 3.18-2. Given these protective measures, the design of the subdivision and proposed improvements are not likely to cause substantial environmental damage or significantly harm fish, wildlife, or their habitat.*

**Finding 6:** The design of the subdivision or the type of improvements is not likely to cause serious public health problems.

**Evidence:** *Although this project proposes no new construction at this time, it has undergone thorough review by relevant agencies to ensure public health is safeguarded. Conditions of approval focus on water quality, including well and septic system use, as well as controlling effects from grading activities, such as water runoff and dust emissions.*

*To further protect public health, the project includes several conditions, many serving as environmental mitigation for the prior use permit remaining in effect on the project site. Condition 29 requires a detailed soil evaluation for pesticide and herbicide contamination prior to grading. Soil sampling must follow the Department of Toxic Substances Control's guidelines, and if harmful substances are found, remediation must be completed to meet health standards before the site becomes operational. Similarly, Condition 30 requires a Phase I Environmental Site Assessment, and potentially a Phase II, to identify and remediate any contamination from previous land use. This remediation must be completed before building permits are issued or grading begins, under the supervision of the San Benito County Environmental Health Division and applicable state agencies.*

*The evidence in the record indicates that the proposed project and improvements are not likely to cause serious public health problems as long as the aforementioned conditions of approval are adhered to. Any future development on the project site will undergo additional review during the building permit issuance process to ensure continued compliance with public health standards.*

**Finding 7:** The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or use of, property within the proposed subdivision.

*Evidence: The project would affect no such easement.*

**Finding 8:** Subject to Section 66474.4 of the Government Code, the land is not subject to a contract entered into pursuant to the California Land Conservation Act of 1965 and the resulting parcels following a subdivision of that land are not too small to sustain their agricultural use.

*Evidence: As confirmed by the office of the County Assessor, the project site is not subject to a Land Conservation Act (Williamson Act) contract.*

**Finding 9:** Subject to Cal. Gov't Code § 66474.6, the discharge of waste from the proposed subdivision into an existing community sewer system would not result in a violation of existing requirements prescribed by the Central Coast Regional Water Quality Control Board pursuant to Cal. Water Code Division 7 (commencing with § 13000).

*Evidence: The project does not include the use of a community sewer system; instead, should any future development occur, new septic systems will be utilized for sewage disposal and the applicant would need to show the viability of these systems via a soils report. The proposed subdivision as submitted has undergone a review by the County Division of Environmental Health and has been determined to be in compliance with all existing requirements set forth by the Central Coast Regional Water Quality Control Board, provided that the conditions of project approval are met.*

**Finding 10:** The design and location of each lot in the subdivision, and the subdivision as a whole, are consistent with any applicable regulations adopted by the State Board of Forestry and Fire Protection pursuant to Public Resources Code §4290 and §4291 (per Government Code §66474.02(a)(1)).

*Evidence: This property is located in a Non-Wildland/Non-Urban fire hazard zone. The County Fire Department, its staff composed of City of Hollister Fire Department personnel under contract with the County, has reviewed the proposed subdivision design and has made recommendations, accordingly, incorporated into conditions of approval.*

**Finding 11:** Structural fire protection and suppression services will be available for the subdivision through CAL FIRE and/or the San Benito County Fire Department (per Government Code §66474.02(a)(2)).

*Evidence: The subject property is within an area designated by CAL FIRE as Non-Wildland/Non-Urban fire hazard zone. The County Fire Department, staffed by the City of Hollister Fire Department, generally gives response for fire suppression and other related emergency services, with additional aid given by the California Department of Forestry and Fire Protection, or CAL FIRE. The closest fire stations are Aromas Tri-County Fire Station (CAL FIRE) located at 492 Carpenteria Road in Aromas 9 miles by road and City of Hollister-staffed Fire Station 4 at 24 Polk Street in San Juan Bautista 5 miles by road.*

**Finding 12:** Ingress and egress for the subdivision meet the regulations regarding road standards for fire equipment access adopted pursuant to Public Resources Code §4290 and any applicable local ordinance.

***Evidence:** Qualified personnel from responsible agencies have reviewed the proposed minor subdivision including its proposed ingress/egress improvements and have determined the design to be sufficient for fire safety, provided adherence to the recommended conditions of project approval.*

**Conditions of Approval:**

1. **Indemnification:** APPLICANT shall defend, indemnify, and hold San Benito County, its agents, officers, and/or employees (hereinafter “COUNTY”) free and harmless from any and all suits, fees, claims, demands, causes of action, proceedings (hereinafter collectively referred to as “Legal Action”), costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorneys’ fees, expert witness fees, and court costs) incurred by COUNTY arising (directly or indirectly) or resulting from the review, processing, consideration, or approval of APPLICANT’S Project or action taken by COUNTY thereon, including Legal Actions based on the negligence of COUNTY. APPLICANT will reimburse COUNTY for any damages, costs, or fees awarded pursuant to any settlement, default judgment, or other judgment taken against the County, whether the result of Applicant’s decision not to defend Legal Action or otherwise. COUNTY retains its discretion to direct counsel regarding whether to defend, settle, appeal, or take other action regarding any Legal Action. APPLICANT shall defend COUNTY'S actions with competent legal counsel of APPLICANT’s choice without charge to COUNTY, subject to COUNTY approval, which shall not be unreasonably withheld. Nothing contained in the foregoing, however, shall be construed to limit the discretion of COUNTY, in the interest of the public welfare, to settle, defend, or appeal, or to decline settlement or to terminate or forego defense or appeal of a Legal Action. Furthermore, in no event shall COUNTY have any obligation or liability to APPLICANT in connection with COUNTY'S defense or prosecution of litigation related to the Project (including, but not limited to, the outcome thereof) or in the event COUNTY elects not to prosecute a case or defend litigation brought against it. If either COUNTY or APPLICANT determines in good faith that common counsel presents a bona fide conflict of interest, then COUNTY may employ separate counsel to represent or defend the COUNTY, and APPLICANT shall pay the reasonable attorneys’ fees and costs of such counsel within thirty (30) days of receiving an itemized billing statement or statements. [Planning]
2. **Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan (illustrated in Exhibit C) and Conditions of Approval as approved by the Planning Commission. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
3. **Conditions of Approval:** Prior to or upon approval of the subdivision by the Planning Commission, Applicant shall sign the statement below certifying that Applicant is in agreement with all Conditions of Approval. [Planning]

*I certify that I understand and agree to comply with all Conditions of Approval imposed by the Planning Commission, or Board of Supervisors as applicable, on this Permit.*

*Applicant Signature:* \_\_\_\_\_

*Date:* \_\_\_\_\_

4. **Compliance Documentation:** Prior to map recordation, the permittee shall submit a summary response in writing to these Conditions of Approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]

5. **Notice of Exemption (California Department of Fish and Wildlife Fees):** The applicant/owner shall be required to file a Notice of Exemption for the project. In accordance with State CEQA Guidelines §15062, the notice shall be provided by the County Resource Management Agency and filed with the County Clerk within five (5) days of approval of the project. An administrative fee of \$50.<sup>00</sup> shall be submitted to the Resource Management Agency Planning staff for the filing of the notice. [Planning, California Department of Fish and Wildlife]
6. **Condition of Approval:** Prior to the recordation of the parcel map, the applicant/owner, County Counsel, and the County Planning Director shall agree to and sign the Condition of Approval form(s). A deposit will be collected from the applicant proportionate to staff time to administer verification of applicant's satisfaction of conditions. If multiple parcel maps are filed, separate agreements with new builders/owners may be required. [Planning]
7. **Staff Review Invoices:** Within 60 days of approval of the tentative map, the applicant shall pay all remaining invoices for reimbursement of County staff time related to the review of the tentative map to be paid in full. Additionally, the project applicant shall be responsible for payment of fees associated with the review and monitoring of the conditions of approval. Payment of these invoices shall be a prerequisite to commencing the Staff verification of compliance with the Conditions of Approval for this project. Failure to comply with this condition shall result in a hold on the tentative map until such time that this condition is complied with or that the tentative map expires, whichever occurs first. [Planning]
8. **Assessment:** Prior to recordation of the parcel map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act; this includes pre-payment of taxes for the current year the final parcel map is recorded. [Planning, Assessor]
9. **Recordation:** The applicant shall submit a parcel map to the County subject to the approval of the County Resource Management Agency and recorded with the County Recorder. The tentative parcel map shall expire two (2) years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a parcel map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]
10. **Easements:** The parcel map shall show all easements for access, utilities, and drainage. All future development shall maintain a ten (10) foot setback from the noted easements. [Public Works, Planning]
11. **Construction Hours:** As required the San Benito County General Plan HS-8.3 (Construction Noise) and San Benito County Code, Title 19, Chapter 19.39 *et seq.* Article IV, Sound Level Restrictions; construction shall be limited to the hours of 7 a.m. to 6 p.m., Monday through Friday, and 8 a.m. to 5 p.m. on Saturday. No construction activities shall be allowed on Sundays and holidays. [Planning]
12. **Cultural Resources:** If, at any time in the preparation for or process of excavation or otherwise disturbing the ground, discovery occurs of any human remains of any age, or any significant artifact or other evidence of an archeological site, the applicant or builder shall:
  - a. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
  - b. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of not less than one hundred feet from the point of

discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals.

- c. Notify the Sheriff–Coroner of the discovery if human and/or questionable remains have been discovered. The Resource Management Agency Director shall also be notified.
  - d. Subject to the legal process, grant all duly authorized representatives of the Coroner and the Resource Management Agency Director permission to enter onto the property and to take all actions consistent with Chapter 19.05 of the San Benito County Code and consistent with §7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with §27460) of Part 3 of Division 2 of Title 3 of the Government Code. [Planning]
13. **Water Treatment:** Use of on-site regenerating water softeners shall be prohibited. [Planning]
14. **Exterior Lighting:** All exterior lighting for new development shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated, and off-site glare is fully controlled. All fixtures shall comply with County Ordinance 748 (along with the requirements of Zone II regulations set within Ordinance 748). [Planning]
15. **Habitat Conservation Plan Impact Fees:** In accordance with County Ordinance 541, which sets fees for the habitat conservation plan financing and kit fox protection measures, the applicant shall contribute, prior to recordation of the parcel map, a habitat conservation plan mitigation fee of \$2400 (\$600 for each lot over 5.1 acres and \$300 per lot 1.1 to 5 acres). [Planning]
16. **Dust Control:** A note shall be placed on the improvement plans for the proposed subdivision to state that the applicant/owner shall incorporate the following requirements into any grading activities occurring as part of this project:
- a. All graded areas shall be watered at least twice daily. If dust is not adequately controlled, then a more frequent watering schedule shall be incorporated. Frequency shall be based on the type of operation, soil, and wind exposure.
  - b. All grading activities during periods of high wind, over 15 mph, are prohibited.
  - c. Haul trucks shall maintain at least two feet of freeboard.
  - d. All trucks hauling dirt, sand, or loose materials shall be covered.
  - e. Inactive storage piles shall be covered.
  - f. Streets shall be swept if visible soil material is carried out from the construction site. [Planning]
17. **Building Permit Requirement:** Prior to issuance of a building permit, the applicant shall produce, including but not limited to, all necessary tests and reports to ensure compliance with all applicable County Code and State Government Code §66410 *et seq.* (the Subdivision Map Act). A note shall be placed on the Parcel Map to this effect. [Planning]
18. **Wildland-Urban Interface:** Any construction on the subject property shall comply with the requirements of California Building Code R337 Materials and Construction Methods for Exterior Wildfire Exposure *et seq.* A note shall be placed on the Parcel Map to this effect. [Planning/Building]
19. **Establish a Tribal Cultural Resources Conservation Easement:** The applicant shall offer a grant of cultural conservation easement to AMTB and/or Amah Mutsun Land Trust (AMLT). The cultural conservation easement shall apply to the undeveloped area of the property of approximately 50-80 acres. The purposes of the cultural conservation easement shall include, but not be limited to,

protection and preservation of tribal cultural resources, and facilitation of AMTB and AMLT's use of the area for cultural, ethnobotanical, restoration, stewardship, research, and education activities, in perpetuity. The cultural conservation easement shall contain terms to ensure its compatibility with the vegetation management plan identified in Mitigation Measure 3.18-2. A note shall be placed on the Parcel Map to this effect. (See EIR PLN210054) [Planning, PLN210054 Mitigation Measure 3.16-1d]

20. **Maintain Floodplain Elevation and Extent to Pre-Project Conditions:** Prior to grading activities, the project applicant shall provide final grading, building, structure, and drainage details that demonstrate compliance with storm drainage design standards under County Code of Ordinances Chapter 23.31 as well as no increase in offsite floodplain area or its elevation. A note shall be placed on the Parcel Map to this effect. [Planning/Public Works, PLN210054 Mitigation Measure 3.10-4]
21. **Setbacks:** A note shall be placed on the Parcel Map that the applicant shall provide Riparian Setbacks, Best Management Practices, and Compensate for Unavoidable Loss of Riparian Habitat. The project applicant shall implement the following protection measures prior to implementation of project activities (e.g., construction, staging) within 50 feet of riparian woodland habitat on the project site:
  - a. Setbacks shall be established around all riparian woodland habitat on the development area and shall be flagged or fenced with brightly visible construction flagging and/or fencing under the direction of the qualified biologist and no project activities (e.g., vegetation removal, ground disturbance, staging) shall occur within these areas. Setback distances shall be determined by a qualified biologist in consultation with the appropriate agency (e.g., CDFW), but will be a minimum of 50 feet. The final siting of all project features, including the livestock corral, will be at least 50 feet from riparian woodland habitat. Foot traffic by personnel shall also be limited in these areas to prevent the introduction of invasive or weedy species or inadvertent crushing of plants and soil compaction. Periodic inspections (e.g., once per week at a minimum) during construction shall be conducted by a qualified biologist to maintain the integrity of exclusion fencing/flagging throughout the period of construction involving ground disturbance.
  - b. Best management practices to limit the introduction and spread of invasive plants to adjacent natural habitat will be implemented, including but not limited to cleaning clothing, footwear, and equipment; inspecting heavy equipment, vehicles, and tools; and staging equipment in areas free of invasive plant infestations.
  - c. Before the building permit is issued, the project applicant shall update its landscaping plan to remove species considered invasive by the California Invasive Plant Council. This shall include removing the Canary Island date palm and common olive tree from the currently proposed landscaping plan.
  - d. If project implementation cannot avoid and thus may adversely affect riparian habitat subject to CDFW jurisdiction under California Fish and Game Code Section 1602, the following measures shall apply:
    - A Streambed Alteration Notification shall be submitted to CDFW, pursuant to Section 1602 of the California Fish and Game Code. If proposed project activities are determined to be subject to CDFW jurisdiction, the project applicant shall abide by the measures to protect fish and wildlife resources required by any executed agreement prior to any vegetation removal or activity that may affect the resource. Measures to protect fish and wildlife resources shall include a combination of the following mitigation.

- The project applicant shall compensate for the loss of riparian habitat and habitat function and value of this habitat by at a ratio sufficient to offset the loss of riparian habitat function (at least 1:1):
  - restoring riparian habitat function and value within the project site;
  - restoring degraded riparian habitat outside of the project site;
  - purchasing riparian habitat credits at a CDFW-approved mitigation bank;
  - or preserving existing riparian habitat of equal or better value to the affected riparian habitat through a conservation easement.
- The project applicant shall prepare and implement a Compensatory Mitigation Plan that shall include the following:
  - For preserving existing riparian habitat outside of the project site in perpetuity, the Compensatory Mitigation Plan shall include a summary of the proposed compensation lands (e.g., the number and type of credits, location of mitigation bank or easement), parties responsible for the long-term management of the land, and the legal and funding mechanism for long-term conservation (e.g., holder of conservation easement or fee title). The project applicant shall provide evidence in the plan that the necessary mitigation has been implemented or that the project applicant has entered into a legal agreement to implement it and that compensatory habitat shall be preserved in perpetuity.
  - For restoring or enhancing riparian habitat within the project site or outside of the project site, the Compensatory Mitigation Plan shall include a description of the proposed habitat improvements, success criteria that demonstrate the performance standard of maintained habitat function has been met, legal and funding mechanisms, and parties responsible for long-term management and monitoring of the restored or enhanced habitat.
  - Compensatory mitigation may be satisfied through compliance with permit conditions, or other authorizations obtained by the project applicant (e.g., Lake and Streambed Alteration Agreement), if these requirements are equally or more effective than the mitigation identified above.
- e. Fencing and signage shall be installed between the development footprint and the riparian woodland habitat associated with the Pajaro River to discourage trespassing into stream and riparian habitat. Fencing design shall be at the discretion of the project applicant and may include permeable, symbolic fencing (e.g., post and cable). [Planning, PLN210054 Mitigation Measure 3.4-3]

22. **Preservation of Important Farmland:** A note shall be placed on the Parcel Map that prior to issuance of a grading permit, stating that important Farmland shall be preserved in San Benito County at a minimum ratio of 1:1 for each acre of Farmland converted to nonagricultural use by the project. Such lands must have an NRCS soils classification or FMMP categorization of the same or greater value than farmland converted by project implementation. Mitigation lands will be protected by agricultural conservation easements containing restrictive encumbrances in a form deemed acceptable to and approved by the County. Farmland preserved for the purpose of habitat mitigation may be counted toward the Farmland mitigation measure if the preserved land has the same or better NRCS or FMMP classification as the farmland being converted to by the project. [Planning, PLN210054 Mitigation Measure 3.2-1]



**San Benito County Water District:**

- 23. **Well Access:** In order to ensure that well ownership is well defined, if well is to be shared between parcels, easements regarding said well shall be executed and reflected on the parcel map. [San Benito County Water District]
- 24. **River Activities:** A note shall be placed on the Parcel Map stating that any activities in the river must be permitted through the Department of Fish and Game. This includes clean up and clearing of debris. [San Benito County Water District, PLN210054]

**Central Coast Regional Water Quality Control Board**

- 25. **Regional Water Quality Control:** Prior to any site development, the operation shall maintain proper satisfaction of permitting requirements by the Central Coast Regional Water Quality Control Board. A note shall be placed on the Parcel Map to this effect. [Central Coast Regional Water Quality Control Board, PLN210054]

**County Division of Environmental Health:**

- 26. **Sewage Disposal:** It is the owner’s responsibility to ensure all existing septic systems meet the required setback from all property lines and to show proof that all properties are feasible for installation of a septic system prior to issuance of a building permit. [Environmental Health]
- 27. **Water:** It is the owner’s responsibility to ensure all water systems meet the required GPM for the number of connections allowed and that the water meets Title 22. The owner shall contact the State Water Resources Control Board Division of Drinking Water regarding permit(s) for this project. [Environmental Health]
- 28. **Hazardous Materials:** If any hazardous materials are to be stored in any existing or proposed facilities/buildings/structures, a Hazardous Materials Business Plan (HMBP) shall be completed and submitted to County Division of Environmental Health. [Environmental Health]
- 29. **Soil Evaluation and Remediation for Pesticide/Herbicide Contamination:** Prior to grading activities on the project site and Betabel Road, project applicant shall include a detailed assessment of soil contamination associated with previous herbicide/pesticide use on the site. Soil sampling shall be conducted in a manner consistent with Department of Toxic Substances Control’s 2008 Interim Guidance for Sampling Agricultural Properties (Third Revision). If substances are detected at concentrations that could pose a health hazard and/or violate local, State, or federal health standards, remediation of the affected areas shall be undertaken to a level that is protective of public health for commercial, lodging, and outdoor event centers consistent with the requirements of the San Benito County Environmental Health Division of the Health Department and applicable State agencies (e.g., Regional Water Quality Control Board and Department of Toxic Substances Control). Remediation shall be completed prior to operation of the site. [Environmental Health, PLN210054 Mitigation Measure 3.9-1a]
- 30. **Contamination:** Onsite Contamination Evaluation and Remediation of Identified Contamination Issues. Prior to approval of building permits and grading activities on the project site and Betabel Road, a Phase 1 Environmental Site Assessment and a Phase II (if required based on the result of the Phase I and to determine the presence of aerially deposited lead in soils or other contaminants) shall be conducted to determine whether onsite and Betabel Road soil conditions and previous building sites contain contamination that present impacts to public health. Remediation measures shall be identified

to address any identified contamination to a level that is protective of public health for commercial, lodging, and outdoor event centers consistent with the requirements of the San Benito County Environmental Health Division of the Health Department and applicable State agencies (e.g., Regional Water Quality Control Board and Department of Toxic Substances Control). Remediation shall be completed prior to operation of the site. [Environmental Health, PLN210054 Mitigation Measure 3.9-1a]

### **San Benito County Fire:**

31. **Fire:** Any and all development on this property shall be required to meet the standards set forth in the latest editions of the California Fire Code, Public Resources Codes 4290 and 4291, Ordinances 822 and 823 of the San Benito County Code and other related codes as they apply to a project of this type and size. [County Fire]

### **Public Works Division:**

32. **Right of Way Dedication/Confirmation:** Applicant shall provide confirmation that 60 feet right of way already exist on Betabel Road, otherwise shall be required to dedicate right-of-way (ROW) to make Betabel Road 60 foot right of way. Applicant is negotiating with the County to acquire Betabel Road from the County. It is the applicant's responsibility to do the research and provide necessary documentations and/or confirmations for the road ownership which includes but not limited to; Caltrans ROW Maps, Caltrans relinquishments to the County, recorded documents/deeds, and all other documentations needed for the negotiations to acquire Betabel Road. A note shall be placed on the Parcel Map to this effect. [§ 23.15.002 Dedication of Streets, Alleys and Other Public Rights-of-Way or Easement] [Public Works, PLN210054]

33. **Improvements:** Proposed project improvements (permanent improvements) which are not part of the required right-of-way improvements shall be built outside of the required 60 foot right of way. A note shall be placed on the Parcel Map to this effect. [Public Works, PLN210054]

34. **Roadway Improvement:** Applicant shall be required to improve the full width of Betabel Road to County Road Standards by constructing full 32-foot asphaltic concrete (AC) on 42-foot aggregate base (AB) roadbed for the whole length of Betabel Road from Highway 101 interchange to the southern project boundary. In case the existing road already have 32-foot AC pavement or more, applicant shall be required to provide AC overlay on the existing 32-foot wide or more AC pavement. Per County's email sent on May 26, 2022, the County Engineer requires that portion of Betabel Road adjacent to the project's property frontage shall be reconstructed with 3-inch AC on 8-inch AB. Although applicant is negotiating with the County to acquire Betabel Road (whether the whole road or portion thereof) from the County and is proposing a lesser requirement but until the County and Applicant will reach an agreement, the above requirements mentioned above remain the same. A note shall be placed on the Parcel Map to this effect. [Public Works, PLN210054]

35. **Repave Betabel Road with Noise-Reducing Asphalt:** To reduce the effects of traffic-related noise impacts, project construction plans shall include repaving Betabel Road from the US 101 interchange crossing north of the Betabel RV Resort to the terminus of Betabel Road south of the project site with noise-reducing asphalt such as rubberized asphalt, gap-graded asphalt, or other materials providing 3-4 dB of traffic noise attenuation over time as compared to conventional asphalt overlays. The County shall review all project construction plans to ensure compliance prior to issuance of construction

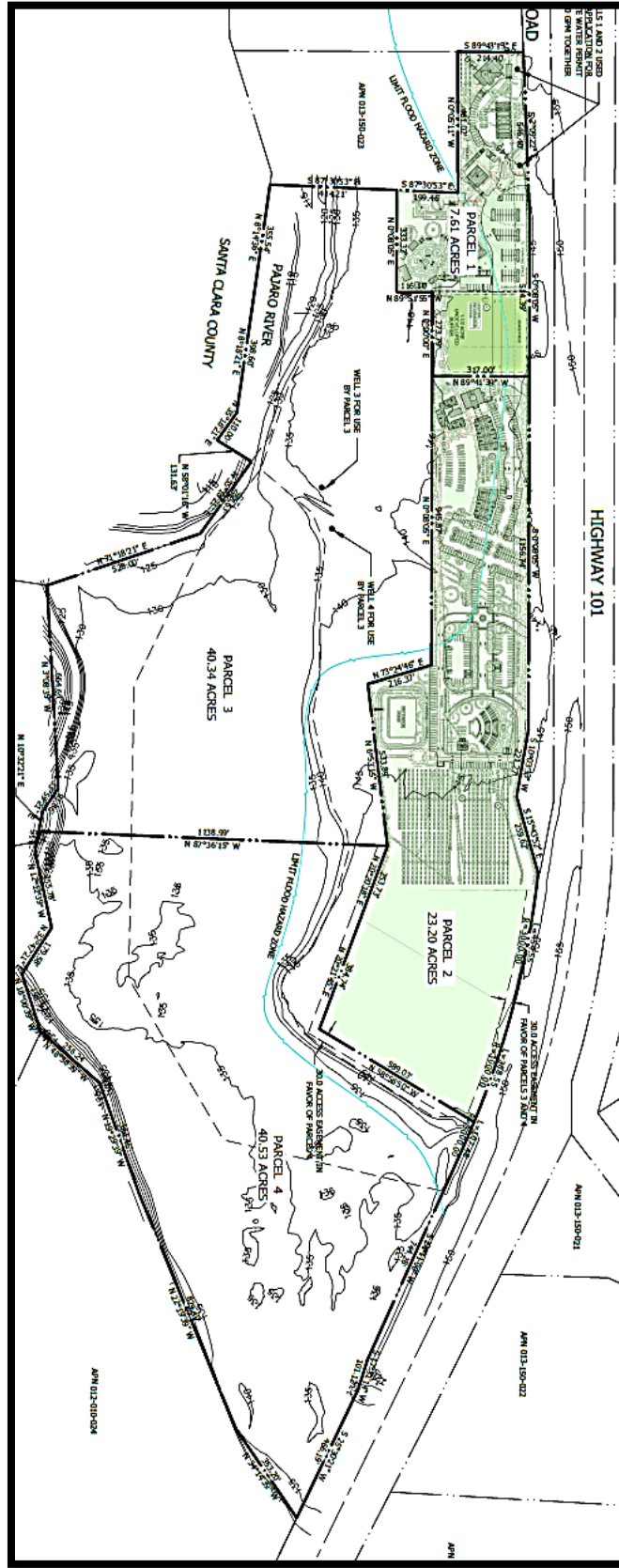
permits. A note shall be placed on the Parcel Map to this effect. [Public Works, PLN210054 Mitigation Measure 3.12-3]

36. **Geotechnical Report:** As part of submission of engineered improvement plans for this project, a design-level geotechnical engineering investigations report shall be submitted for review by the County Engineer, and the same (once reviewed and accepted) shall be the basis of the design of any proposed or required improvements within the property. Applicant may also provide existing Soils Report for the property, if any. Prior to acceptance of any required improvements, a letter of geotechnical compliance shall be submitted to Public Works Department upon completion of site improvements. A note shall be placed on the parcel map to this effect. [§ 23.31.023]
37. **Existing Drainage:** Existing drainage systems from Hwy 101 shall be protected in place and existing/natural drainage paths shall be accommodated in the design of improvements for this project. A note shall be placed on the Parcel Map to this effect. [Public Works, PLN210054]
38. **Drainage:** As part of submission of engineered improvement plans for this project, the applicant shall comply with County Storm Drainage Design Standards (§ 23.31.040-045), hence, shall mitigate concentrated or increased runoff resulting from the impermeable surfaces created by the project. Included in this will be drainage calculations and construction details for the required detention/retention pond. Details and direction of flows of drainage swales and grades shall also be included. Applicant shall ensure that runoff from the proposed improvement(s) shall be directed to existing drainage systems and/or drainage easements and shall not negatively impact neighboring properties. Applicant shall also be required to implement drainage and erosion control measures for the project during construction operations to mitigate storm water runoff, to avoid contamination to natural drainage easements, creeks and/or waterways, hence, erosion control measures shall also be shown on the plans. All drainage improvements must be installed in conjunction with any improvements that would create impermeable surfaces as part of this project. [Public Works]
39. **Floodplain:** A portion of the property is in the floodplain. If proposed improvements are to be built within the floodplain, applicant shall provide proof by means of hydraulic calculations/modeling that the proposed project will not significantly impact neighboring properties. The hydraulic models shall include existing and proposed conditions with enough detail to ascertain the impact of proposed development on the floodplain and neighboring properties. Applicant shall also be required to comply with provisions of the County Code Chapter 19.15 - Flood Damage Prevention, with emphasis of compliance toward §19.15.070. [Public Works]
40. **Underground Utilities:** All proposed utilities within the subdivision and along peripheral streets shall be placed underground except those facilities exempted by Public Utilities Commission regulations, unless waived by the Planning Commission in lieu of a fee for undergrounding. Each unit or lot within the subdivision shall be served by gas, electric, telephone and cable television facilities where available. All necessary utilities must be installed prior to recordation of the Parcel Map. [§ 23.17.003 REQUIRED IMPROVEMENTS, (E); (F)]
41. **Improvement Plans:** Applicant must submit with the Improvement Plans all applicable utility plans approved by the respective utility company. Approved utility plans will be included as part of the final or approved improvement Plan. It is the applicant's responsibility to provide utility easement(s) to each of the utility companies whose services are necessary for the proposed subdivision. Said easement(s) shall be shown on the Parcel Map.
42. **Storm Water Pollution Prevention Plan:** If disturbed area exceeds one (1) acre, the applicant shall be responsible for complying with the California State Water Resources Control Board's Construction

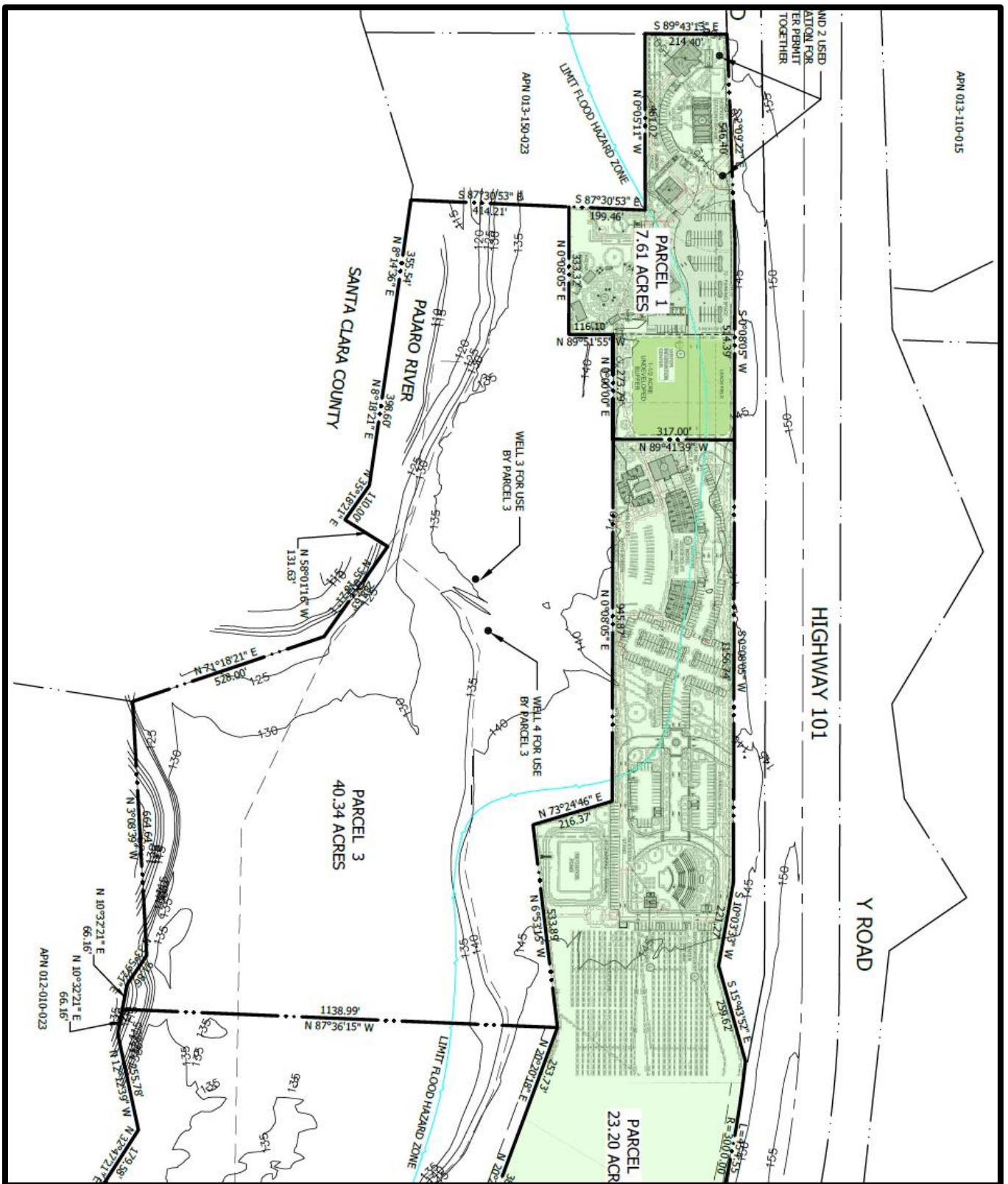
Stormwater General Permit (General Permit) as amended, file a complete Notice of Intent (NOI) package, and develop a Storm Water Pollution Prevention Plan (SWPPP) conforming to the General Permit. A Waste Discharge Identification (WDID) number or Erosivity Waiver shall be provided to the Public Works Division prior to start of any construction activities as part of this project. A note to this effect must be added on the Improvement Plans.

43. **Community Facilities District:** Prior to the recordation of the Parcel Map, the project area shall annex into Mello-Roos Community Facilities District (CFD) No. 2018-1 to fund the project's fair share of project-specific costs, as well as to offset the project's impact on general county costs. The applicant, on behalf of future landowners, shall agree to pay any such taxes/fees as may be determined in the reasonable discretion of the County to fund both project specific and countywide costs, through the CFD process. Applicant shall further pay all costs incurred by the County for the CFD annexation process, including but not limited to any necessary fiscal impact fee study.
44. **Dedication of Parkland:** Prior to recordation of the Parcel Map, pursuant to San Benito County Code of Ordinances Section 23.15.008 (Dedication of Parkland), the subdivider shall dedicate land, pay a fee in lieu thereof or a combination of both, at the option of the County, for park and recreational purposes.
45. **Encroachment Permit:** Pursuant to § 19.27.004 of the County Code, the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County Right-of-Way or any road offered for dedication to the County prior to commencement of any improvements associated with this project.
46. **Warranty Security:** Upon completion of required improvements, applicant shall provide warranty security in an amount not less than 10% of the estimated cost of construction of the improvements to guarantee the improvements against any defective work or labor done or defective materials used in the construction or installation of the improvements throughout the warranty period which shall be the period of one year following completion and acceptance of the improvements. [§ 23.17.009(C)(4)]
47. **As Built Improvement Plans:** Prior to the recordation of the Parcel Map or before release of alternate Bond, one set of "As Built" Improvement Plans on a suitable reproducible media shall be prepared by the applicant's engineer and delivered to the Public Works Department. [§ 23.31.002.(K)(1)]

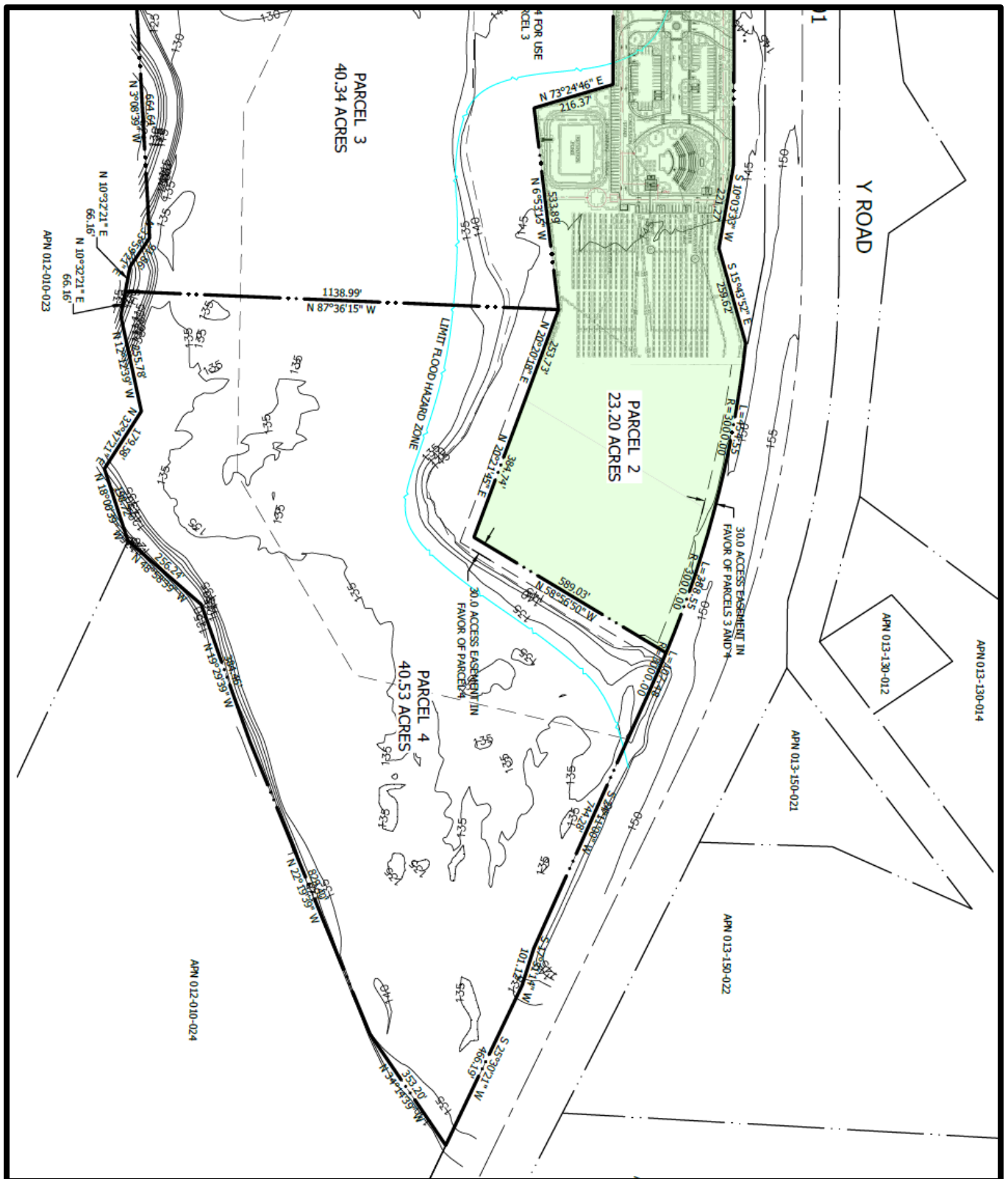
Exhibit C to Planning Commission Resolution (Site Plan)



Site plan as submitted. All depicted development is part of prior-approved conditional use permit PLN210054.



Northern portion of site plan.



Southern portion of site plan.

# Notice of Public Hearing

## COUNTY OF SAN BENITO PLANNING COMMISSION MEETING OF SEPTEMBER 18th, 2024, at 6:00 p.m.

**NOTICE IS HEREBY FURTHER GIVEN** that the Planning Commission will hold a Public Hearing on the following items in the San Benito County Board of Supervisors Chambers located at 481 Fourth Street, Hollister, California, on **Wednesday, September 18th, 2024, at 6:00 p.m.** or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon.

The public may join this meeting using Zoom by visiting the web address <https://zoom.us/join> or dialing one of the following telephone numbers:

+1 408 638 0968 US (San Jose) or  
+1 669 900 6833 US (San Jose).

To access the meeting, please enter the Webinar ID **821 4941 3929** AND Webinar Password **754449**.

Agenda Packet can be viewed at [www.cosb.us/](http://www.cosb.us/) under "Events" or [https://cosb.granicus.com/ViewPublisher.php?view\\_id=1](https://cosb.granicus.com/ViewPublisher.php?view_id=1) under "Upcoming Events" by the Friday before the meeting.

### **PLN240026 (Minor Subdivision at 9644 Betabel Road):**

OWNER: McDowell Charitable Trust. APPLICANT: San Benito Engineering. LOCATION: 9644 Betabel Road (5 miles north-northwest of central San Juan Bautista) in unincorporated San Benito County. APN(s): 013-150-026, 013-150-027, 013-150-030, 013-150-031, 013-150-032, and 013-150-033. REQUEST: This project proposes the subdivision of an existing 111.68-acre parcel into four separate parcels, measuring 7.61 acres, 23.20 acres, 40.34 acres, and 40.53 acres respectively. Parcels One and Two are undeveloped commercial land and Parcels Three and Four are undeveloped agricultural land. GENERAL PLAN LAND USE DESIGNATION(s): Rangeland (RG) and Commercial Throughfare (CT). ZONING DISTRICT: Agricultural Rangeland (AR) and Commercial Throughfare (C-1). ENVIRONMENTAL REVIEW: Categorically Exempt under State CEQA Guidelines Sections 15061 (Review for Exemption, subparagraph (b)(3)), 15301 (Existing Facilities, subparagraph c), and 15304 (Minor Alterations to Land subparagraph (a)). PLANNER: Jonathan Olivas ([jolivas@sanbenitocountyca.gov](mailto:jolivas@sanbenitocountyca.gov)).

### **PLN240037 (Johnson/Weiler/San Benito Holdings Development Agreement):**

OWNER: San Benito Holdings, LLC a California limited liability company, MARK H. JOHNSON, TRUSTEE, AND GREGORY N. WEILER, TRUSTEE (collectively "Owners"). APPLICANT: Dan DeVries. LOCATION: 1720A Searle Road (at Searle Rd and State Route 129), near San Juan Bautista in unincorporated San Benito County. APN: 012-010-030 and -031. REQUEST: In accordance with San Benito County Code Ch. 19.11 (Development Agreements), the San Benito County Planning Commission would consider adopting a resolution recommending that the County Board of Supervisors adopt an ordinance enabling execution of a development agreement between the project developer and the County regarding the Ag Center commercial development (under County Planning file PLN220052, still under review with Planning). Under County Code §19.11.003, County policy requires that development agreements shall result in a public benefit beyond that which would be forthcoming through conditions of development project approvals. GENERAL PLAN LAND USE DESIGNATION: Combining district of Rural (R) and Commercial Thoroughfare (C-1). ZONING DISTRICT: Combining district of Rural (R) and Commercial Thoroughfare (C-1). ENVIRONMENTAL REVIEW: Exempt. PLANNER: Arielle Goodspeed ([agoodspeed@sanbenitocountyca.gov](mailto:agoodspeed@sanbenitocountyca.gov))

If you challenge these items in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the County of San Benito at, or prior to, the Public Hearing. Written comments on any of these items may be submitted to Vanessa Delgado, Clerk of the Board, at [vdelgado@sanbenitocountyca.gov](mailto:vdelgado@sanbenitocountyca.gov), or comments can be sent via U.S. mail to: Vanessa Delgado, Clerk of the Board, 481 Fourth Street, 1st Floor, Hollister, CA 95023. Verbal and written comments may also be submitted at the public hearing.

Documents related to these items may be inspected by the public on weekdays between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, at the County Resource Management Agency, 2301 Technology Parkway, Hollister, CA. Please note that the items listed are only the agenda items that require a public hearing. Please call the Project Planner if there are any questions and/or for complete agenda information at 831 637-5313. Si desea información en español por favor llame al 831 637-5313 o visítenos al 2301 Technology Parkway, Hollister, CA.

Dated: August 30th, 2024

PUBLISHED:  
Friday, September 6th, 2024~  
Hollister Free Lance  
(Pub HF 9/6)





**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

**Vincent  
Ringheden**  
District No. 1

**Richard  
Way**  
District No. 2

**Robert  
Scagliotti**  
District No. 3  
- Vice-Chair

**Robert  
Gibson**  
District No. 4  
- Chair

**Celeste Toledo-  
Bocanegra**  
District No. 5

**Item Number: 7.3**

**MEETING DATE:** 09/18/2024

**DEPARTMENT:** RESOURCE MANAGEMENT AGENCY

**AGENDA ITEM PREPARER:** Arielle Goodspeed

**SUBJECT:**

**RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING - Hold a public hearing to consider adopting a resolution recommending that the County Board of Supervisors adopt an ordinance enabling execution of a development agreement (reviewed under County Planning file PLN240037) between the project developer and the County regarding the Ag Center commercial development (under County Planning file PLN220052, still under review with Planning). Under County Code §19.11.003, County policy requires that development agreements shall result in a public benefit beyond that which would be forthcoming through conditions of development project approvals.**

**SBC FILE NUMBER: 790**

**ORD No.:**

**AGENDA SECTION:**

PUBLIC HEARING

**BACKGROUND/SUMMARY:**

County Planning file PLN240037 considers execution of a development agreement with owners of Assessor's parcels 012-010-030 and -031, located at 1720A Searle Road (at Searle Rd and State Route 129), near San Juan Bautista in unincorporated San Benito County.

In accordance with San Benito County Code Ch. 19.11 (Development Agreements), the San Benito County Planning Commission would consider adopting a resolution recommending that the County Board of Supervisors adopt an ordinance enabling execution of a development agreement between the project developer and the County regarding the Ag Center commercial development (under County Planning file PLN220052, still under review with Planning).

Under County Code §19.11.003, County policy requires that development agreements shall result in a public benefit beyond that which would be forthcoming through conditions of development project

approvals.

The site is located in a General Plan Land Use Element combining district of Rural (R) and Commercial Regional (CR) and in the zoning districts of Rural (R) and Commercial Thoroughfare (C-1).

Detailed review under the California Environmental Quality Act (CEQA) will not be necessary to enter this development agreement. Rights granted to the owner under the agreement are not a project under CEQA as the current action would neither propose any physical alteration of the Subject Property nor any change to the existing land use policies, standards or ordinances of the County. This agreement is also statutorily exempt from further CEQA compliance in that CEQA does not require duplicative environmental analysis to that previously conducted in the approved General Plan's Final EIR and an Addendum prepared for the rezoning proposed under County Planning file PLN200001 and enacted by County Ordinance 1016).

The property is owned by San Benito Holdings, LLC a California limited liability company; Mark H. Johnson, trustee; and Gregory N. Weiler, trustee (collectively "Owners"). Dan DeVries submitted the application for this development agreement.

**STRATEGIC PLAN GOALS: 1. Operational Development & Excellence**

No

**STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth**

Yes

**STRATEGIC PLAN GOALS: 3. Technology**

No

**STRATEGIC PLAN GOALS: 4. Community Engagement**

Yes

**STRATEGIC PLAN GOALS: 5. Health & Safe Community**

Yes

**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission review the staff report and review the attached draft resolution in Attachment B, which includes findings and recommended conditions of approval. Staff further recommends that the Planning Commission make the findings included in the resolution and adopt the resolution to approve the execution of a development agreement between the project developer and the County regarding the Ag Center commercial development (under County Planning file PLN220052, still under review with Planning). Under County Code §19.11.003, County policy requires that development agreements shall result in a public benefit beyond that which would be forthcoming through conditions of development project approvals.

**ATTACHMENTS:**

[Planning Commission Resolution Recommending the Board of Supervisors Enact Ordinance for Entry into Development Agreement](#)

Ordinance for Entry into Development Agreement (draft)  
Freelance Notice

**BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO**

**RESOLUTION 2024-\_\_\_**

A RESOLUTION OF THE SAN BENITO COUNTY PLANNING COMMISSION RECOMMENDING TO THE COUNTY BOARD OF SUPERVISORS ENACTMENT OF AN ORDINANCE FOR ESTABLISHMENT OF A DEVELOPMENT AGREEMENT FOR THE VESTED RIGHT TO DEVELOP THE 21.25-ACRE ASSESSOR'S PARCEL 012-010-031, WITHIN A COMBINING DISTRICT OF RURAL (R) AND COMMERCIAL REGIONAL (CR) UNDER THE COUNTY 2035 GENERAL PLAN AND WITHIN COMMERCIAL THOROUGHFARE (C-1) ZONING, AND THE 126.03-ACRE ASSESSOR'S PARCEL 012-010-030 PARCEL, WITHIN THE RURAL (R) GENERAL PLAN DESIGNATION AND RURAL (R) ZONING, UPON CONSENT BY PROPERTY OWNERS MARK H. JOHNSON, TRUSTEE; GREGORY N. WEILER, TRUSTEE; AND SAN BENITO HOLDINGS, LLC.

**WHEREAS** Daniel J. DeVries ("Applicant") filed an application to approve a Development Agreement ("Development Agreement"), on Assessor's Parcels 012-010-030 and 012-010-031 upon consent by said property's owner, Mark H. Johnson, Trustee, Gregory N. Weiler, Trustee, and San Benito Holdings, LLC. ("Owner"); and

**WHEREAS** the current project, known as County Planning file PLN240037, would authorize the Chair of the County Board of Supervisors to execute a development agreement regarding the San Benito Holdings, LLC San Benito Ag Center project, currently being processed as a Conditional Use Permit under County Planning file PLN220052, said development agreement being attached to a draft ordinance included herewith as **Exhibit B**; and

**WHEREAS** the Legislature adopted Government Code section 65864 *et seq.* ("Development Agreement Statute") in response to the lack of certainty in the approval of development projects, which can result in a waste of resources, and discourage investment in and commitment to planning that would maximize the efficient utilization of resources, and in order to strengthen the public planning process, to encourage private participation in comprehensive, long-range planning, and to reduce the economic costs of development; and

**WHEREAS** the Development Agreement Statute authorizes San Benito County to enter into a binding agreement with any person having a legal or equitable interest in real property located in the County regarding development of that property; and

**WHEREAS** Chapter 19.11 of the County Code ("County Development Agreement Procedures") sets forth procedures and requirements for the consideration of development agreements; and

**WHEREAS**, pursuant to this request, San Benito County and the Applicant have negotiated a development agreement ("Development Agreement," an attachment to the ordinance found in **Exhibit B**), pursuant to the Development Agreement Statute and the County Development Agreement Procedures; and

**WHEREAS**, the San Benito Holdings, LLC project under Planning file PLN220052 involves the improvement of a 16,450 square foot convenience store and food hall, a 12,500 square foot truck service building, a 13,500 cold storage building, proposed standard gas/diesel, compressed natural gas (CNG), and hydrogen fuel and would offer parking with electrical vehicle (EV) chargers and electric auxiliary

power unit (APU) hookups, allowing trucks waiting on a time slot to park and turn off their engine while waiting, and still keep the refrigerated unit cold; and

**WHEREAS**, County, as “Lead Agency” under the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines, has determined that this Agreement is not a Project for purposes of CEQA (Public Resources Code Section 21065) as it neither proposes any physical alteration of the Subject Property nor any change to the existing land use policies, standards or ordinances of the County and this Agreement is also statutorily exempt from further CEQA compliance under Public Resources Code Sections 21083.3 (b) which does not require duplicative environmental analysis to that previously conducted in earlier CEQA review for an approved General Plan, as the maintenance of the status quo of the Entitlements does not provide for any expansion or intensification of environmental impacts beyond those already fully analyzed per CEQA and its Guidelines under the existing Final EIR (analyzing the approved General Plan) and Addendum (analyzing the rezoning proposed under County Planning file PLN200001 and enacted by County Ordinance 1016) previously adopted incident to the Entitlements; and

**WHEREAS**, future development of the subject property shall be subject to all discretionary approvals of the County required under the entitlements, including future CEQA compliance; and

**WHEREAS** the Planning Commission of the County of San Benito reviewed and considered the San Benito Holdings, LLC development agreement along with all written and oral testimony presented at a regularly scheduled public hearing held on September 18, 2024; and

**WHEREAS** notice of the public hearing before the Planning Commission was given pursuant to State Government Code §65090 *et seq.* and §65867, including publication in the Hollister *Free Lance* edition of September 6, 2024; and

**WHEREAS**, at the conclusion of the public testimony, the Planning Commission closed the public hearing, deliberated, and considered the merits the proposed Development Agreement,

**NOW THEREFORE BE IT RESOLVED** that, based on the evidence in the record, the Planning Commission of the County of San Benito hereby adopts, in accordance with San Benito County Code §19.11.008, findings regarding adoption of a development agreement (said findings included in **Exhibit A**), and

**BE IT FURTHER RESOLVED** that, based on the foregoing findings and evidence in the record, the Planning Commission hereby recommends that the Board of Supervisors enact the ordinance attached as **Exhibit B** including therein the aforementioned Development Agreement.

**PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 18<sup>TH</sup> DAY OF SEPTEMBER 2024 BY THE FOLLOWING VOTE:**

AYES:           Commissioner(s)  
NOES:           Commissioner(s)  
ABSENT:        Commissioner(s)  
ABSTAIN:       Commissioner(s)

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Robert Gibson, Chair  
San Benito County Planning Commission

ATTEST:

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M. Abraham Prado, Director of Planning and Building  
Resource Management Agency of San Benito County

## Development Agreement §19.11.008 Findings

**Finding 1:** The development agreement is consistent with the General Plan and any applicable specific or area plans.

**Evidence:** *The 21.25 acres APN 012-010-031 portion of the Subject Property (“Commercial Area”) described as Lot 1 of the Final Parcel Map is now designated as a combining district of Rural (R) and Commercial Regional (CR) in the County General Plan [San Benito County General Plan 2035 Section 3] (“Commercial General Plan Designation”) The 126.03-acre APN 012-010-030 portion of the Subject Property (“126 Acre Parcel”) described as Lot 2 of the Final Parcel Map is now designated as Rural in the County General Plan (“126 Acre Parcel General Plan Designation”). No specific plan is in effect on this site. The proposed improvement of a 16,450 square foot convenience store and food hall, a 12,500 square foot truck service building, a 13,500 cold storage building, proposed standard gas/diesel, compressed natural gas (CNG), hydrogen fuel, parking with electrical vehicle (EV) chargers and electric APU hookups, allowing trucks waiting on a time slot to park and turn off their engine while waiting, and still keep the refrigerated unit cold is consistent with the general plan and would require review and approval of a Conditional Use Permit from the County of San Benito Planning Commission along with environmental review and approval pursuant to CEQA.*

**Finding 2:** The development agreement is compatible with the uses authorized in, and the regulation prescribed for, the zoning district in which the real property is located.

**Evidence:** *The 21.25-acre APN 012-010-031 portion of the Subject Property (“Commercial Area”) described as Lot 1 of the Final Parcel Map is now designated as a combining district of Rural (R) and Commercial Regional (CR) in the County General Plan [San Benito County General Plan 2035 Section 3] (“Commercial General Plan Designation”) with its implementing zoning designation of C-1 Commercial Thoroughfare pursuant to zone change under County Ordinance 1016 adopted December 15, 2020, which became effective January 15, 2021, as described in Section 25.03.006 of the San Benito County Code (“Commercial Zoning”). The 126.03-acre APN 012-010-030 portion of the Subject Property (“126 Acre Parcel”) described as Lot 2 of the Final Parcel Map is now designated as Rural in the County General Plan (“126 Acre Parcel General Plan Designation”) with its implementing zoning designation of R (Rural) District (“Rural Zoning”). The development agreement is compatible with the uses authorized in, and the regulation prescribed for, the zoning district in which the real property is located.*

**Finding 3:** The development agreement is consistent with public health, safety and general welfare and good land use practice.

**Evidence:**

- *The project site is located outside of the Alquist Priolo special study seismic zone as identified by the State of California Department of Geology.*
- *The project site is located outside of the FEMA flood zone.*
- *The project site lies within the high severity wildland urban interface fire hazard severity zone and is therefore a designated State Responsibility Area (SRA) for wildland fire suppression provided by the California Department of Forestry and Fire Protection (CAL FIRE). Structural fire protection and other related emergency services for the project site are the responsibility of the Aromas Fire District. The San Benito County Fire Department is composed of City of Hollister Fire Department personnel. Hollister Fire Department provides additional fire protection support services. Hollister Fire Station 1 is located about 24.4 miles away in Downtown Hollister. The City of Hollister Fire Station 2 is located about 27.7 miles from the project site at 2240 Valley View Road in Hollister (northwest corner of Airline Highway and Union Road), and the City of Hollister-staffed Fire Station 4 at 24 Polk Street in San Juan Bautista is 3.5 miles by road. CAL FIRE also operates a Fire Attack Base at the Hollister Municipal Airport, 29.9 miles from the site.*
- *The project would include improvements for public streets and storm drainage.*

**Exhibit B to Planning Commission Resolution** (Development Agreement Ordinance, continued)

- *Prior to considering approval of the proposed Conditional Use Permit (CUP), the project improvements would be reviewed by Responsible Agencies to ensure that the proposed CUP would not have a negative impact on public health.*
- *The proposed subdivision will be served by an approved water well for domestic water service and an approved septic system for sewage treatment. There is no indication from the Division of Environmental Health that the project as proposed would result in a violation of existing requirements prescribed by the Central Coast Regional Water Quality Control Board pursuant to Division 7 of the Water Code.*
- *The development agreement consideration to the County would be as follows:*
  - *(a) Public Improvements/Public Safety Contribution. Owner shall deposit with the County the amount of \$500,000 to fund County traffic improvements and public safety, at the discretion of the County (“Traffic/Public Safety Contribution”). The Public Safety Contribution shall be paid as follows: \$100,000 on execution of this Agreement ( or later upon resolution of any legal challenge to this Agreement , if any); and in four annual payments of \$100,000 annually commencing on the County’s approval of a certificate of occupancy for improvements to the 21.25 Acre Parcel. The obligation to fund the deferred \$400,000 portion of the Public Safety Contribution shall be the sole responsibility of the owner of the 21.25 Acre Parcel.*
  - *(b) Owner shall dedicate to the County, Land Trust, or another entity as approved by the County a permanent easement for open space over that portion of the Subject Property fronting on California Highway 129 graphically depicted on Exhibit “B” attached hereto. Likewise, Owner shall dedicate (in addition to mitigation measures required as part of any future use permit application) a 50-acre easement over a portion of the 126.03 Acre Parcel depicted on Exhibit “B” providing a corridor for wildlife movement between the 126.03 Acre Parcel and adjacent properties. Such easements shall not restrict use of such areas for roads or the installation and maintenance of underground utilities. Easement shall be recorded within one year of commencing on the County’s approval of this Agreement.*
  - *(c) Architectural Theme. Owner shall develop future improvements on the Commercial Property with the common architectural theme of “Farm” or “Ranch”, which plans shall be approved by the County Planning Commission.*

**Finding 4:** The development agreement will not adversely affect the orderly development of the surrounding community.

**Evidence:** *Future development of the subject property shall be subject to all discretionary approvals of the County of San Benito required under the General Plan and Zoning designations, including CEQA compliance for the review of the Conditional Use Permit for the proposed improvements.*

**Finding 5:** The proposed development project should be encouraged in order to meet important economic, social, environmental or planning goals of the county.

**Evidence:** *It is anticipated that the development of the Commercial Property from its current undeveloped condition pursuant to future discretionary County approvals will provide jobs, industry and much needed tax revenue to the County.*

*The development agreement consideration to the County would be as follows:*

- (a) Public Improvements/Public Safety Contribution. Owner shall deposit with the County the amount of \$500,000 to fund County traffic improvements and public safety, at the discretion of the County (“Traffic/Public Safety Contribution”). The Public Safety Contribution shall be paid as follows: \$100,000 on execution of this Agreement (or later upon resolution of any legal challenge to this Agreement, if any); and in four annual payments of \$100,000 annually commencing on the County’s approval of a certificate of occupancy for improvements to the 21.25 Acre Parcel. The*



**Exhibit B to Planning Commission Resolution** (Development Agreement Ordinance, continued)

*obligation to fund the deferred \$400,000 portion of the Public Safety Contribution shall be the sole responsibility of the owner of the 21.25 Acre Parcel.*

- (b) Open Space Easement/Wildlife Corridor. Owner shall dedicate to the County, Land Trust, or another entity as approved by the County a permanent easement for open space over that portion of the Subject Property fronting on California Highway 129 graphically depicted on Exhibit "B" attached hereto. Likewise, Owner shall dedicate (in addition to mitigation measures required as part of any future use permit application) a 50-acre easement over a portion of the 126.03 Acre Parcel depicted on Exhibit "B" providing a corridor for wildlife movement between the 126.03 Acre Parcel and adjacent properties. Such easements shall not restrict use of such areas for roads or the installation and maintenance of underground utilities. Easement shall be recorded within one year of commencing on the County's approval of this Agreement.*
- (c) Architectural Theme. Owner shall develop future improvements on the Commercial Property with the common architectural theme of "Farm" or "Ranch", which plans shall be approved by the County Planning Commission.*

**Finding 6:** The subject development project and development agreement are consistent with this chapter. **Evidence:** The development agreement would provide a substantial additional public benefit as indicated in Finding 5 above in accordance with County Code §19.11.003 (Eligible Development Projects)

- The Applicant has submitted the application with the explicit consent of the Owner, the one and only holder of fee title interest to the subject property, in accordance with County Code §19.11.004 (Qualification of Applicants).*
- The agreement would last for a term of 15 years, consistent the County Code §19.11.005 (Duration of Development Agreements) maximum of 15 years.*
- The required form and contents are included in the agreement per County Code §19.11.006 (Form and Contents of Development Agreements).*
- The application contained components, including the requisite deposit, sufficient for adherence to County Code §19.11.007 (Applications).*
- The Planning Director has found the application to be appropriately made by a qualified applicant and scheduled the matter for a public hearing before the Planning Commission, by whose recommendation the matter would proceed to a public hearing before the Board of Supervisors, in accordance with County Code §19.11.008 (Review Process). In addition, public notice of the Planning Commission hearing was given more than 10 days in advance by mail and by Hollister Free Lance newspaper publication.*

**BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE SAN BENITO COUNTY BOARD OF SUPERVISORS FOR ESTABLISHMENT OF A DEVELOPMENT AGREEMENT FOR THE VESTED RIGHT TO DEVELOP THE 21.25-ACRE ASSESSOR'S PARCEL 012-010-031, WITHIN A COMBINING DISTRICT OF RURAL (R) AND COMMERCIAL REGIONAL (CR) UNDER THE SAN BENITO COUNTY 2035 GENERAL PLAN AND WITHIN COMMERCIAL THOROUGHFARE (C-1) ZONING, AND THE 126.03-ACRE ASSESSOR'S PARCEL 012-010-030 PARCEL, WITHIN THE RURAL (R) GENERAL PLAN DESIGNATION AND RURAL (R) ZONING, UPON CONSENT BY PROPERTY OWNERS MARK H. JOHNSON, TRUSTEE; GREGORY N. WEILER, TRUSTEE; AND SAN BENITO HOLDINGS, LLC.

1 **The Board of Supervisors of the County of San Benito, State of California, hereby ordains the**  
2 **following:**

3 **SECTION 1.**

- 4 A. San Benito Holdings, LLC a California limited liability company, MARK H. JOHNSON,  
5 TRUSTEE, AND GREGORY N. WEILER, TRUSTEE (collectively "Owners") ("Owner"), is the  
6 owner of the parcels identified as Assessor's Parcels 012-010-030 and 012-010-031 ("Project  
7 Site") which is described in and shown on the attached **Attachment 1**, which is incorporated herein  
8 by reference.
- 9 B. The San Benito Holdings Development Agreement ("Development Agreement") has been  
10 negotiated by the Owner with the County of San Benito ("County"), a political subdivision of the  
11 State of California. The Development Agreement is attached hereto and incorporated herein by  
12 reference as **Attachment 2**.
- 13 C. The Development Agreement is hereby approved. County and Owner enter into the Development  
14 Agreement as of this \_\_\_\_ of \_\_\_\_\_ 2024.
- 15 D. Development of the San Benito Holdings Project on the Project Site shall be governed by the terms  
16 of the Development Agreement. The Project Site is hereby designated to be subject to the  
17 Development Agreement insofar as such development implements the terms of all other County  
18 Approvals and subsequent approvals, as set forth more fully in the Development Agreement. To the  
19 extent any conflict may exist between the provisions reflected in County Code, Title 19,  
20 Chapter 19.11 and the provisions reflected in the Development Agreement, the Board hereby  
21 ordains that, for purposes of the San Benito Holdings Project, the provisions in the San Benito  
22 Holdings Development Agreement shall prevail and hereby amend Chapter 19.11 accordingly.

23 **SECTION 2. Findings**

- 24 A. The Development Agreement was processed in accordance with Government Code Section 65864  
25 *et seq.* and the subject development project and Development Agreement are consistent with San  
26 Benito County Code, Title 19, Chapter 19.11. The Owner has a legal and/or equitable interest in  
27 the Project Site, which is the subject of the Development Agreement, which makes said Owner an  
28 eligible party to said agreement under Government Code §65865 and County Code §19.11.002  
29 and §19.11.004. As set forth more fully in the Development Agreement (**Attachment 2**) and in  
30 accordance with applicable law, the Development Agreement addresses, among other things, the  
31 duration of the Development Agreement; the permitted uses of the Property; the density and

1 intensity of uses; provisions for reservation or dedication of land for public purposes; conditions,  
2 terms, restrictions and requirements for subsequent discretionary actions; provisions for the timing  
3 of construction; terms and conditions relating to applicant financing of the necessary public  
4 facilities and subsequent reimbursement and/or credits over time; standard contract clauses  
5 including those for organizational, introductory, and implementation purposes; an indemnification  
6 clause; specification of the elements of the development project that are intended to vest; an  
7 assignability clause; and any limitations on the applicability of the Development Agreement with  
8 regard to future discretionary review. The Development Agreement application was filed with the  
9 Director of Planning, in accordance with County Code §19.11.007. The complete application  
10 included all the required content under County Code §19.11.007(b), including, without limitation,  
11 the proposed agreement; sufficient documentation to facilitate CEQA review; and the required fee  
12 deposit to facility review by San Benito County. The application is on file at the San Benito County  
13 Resource Management Agency, Building and Planning Division.

- 14 B. The application to consider the San Benito Holdings Development Agreement was filed with the  
15 Director of Planning, in accordance with County Code §19.11.007 on July 9, 2024. The complete  
16 application included all the required content under County Code §19.11.007(b), including, without  
17 limitation, the proposed Development Agreement; sufficient documentation to facilitate CEQA  
18 review; and the required fee deposit to facility review by San Benito County. The application is on  
19 file at the San Benito County Resource Management Agency, Building and Planning Division  
20 (under County Planning file PLN240037).
- 21 C. The San Benito Holdings Development Agreement is consistent with the General Plan and the  
22 remaining portions of the County Code, for the reasons set forth in **Exhibit A to Planning**  
23 **Commission Resolution No. 2024-\_\_\_**, incorporated herein by reference.
- 24 D. The San Benito Holdings Development Agreement is compatible with the uses authorized in, and  
25 the regulations prescribed for, the applicable zoning of the Project Site. The Owner shall have the  
26 vested right to develop the Subject Property (Commercial Parcel and 126.03 Acre Parcel), as  
27 provided in the County General Plan and County Ordinances in effect on the Effective Date.  
28 Subsequent changes to the County General Plan and County ordinances shall not be applicable to  
29 the Subject Property during the Term. Nonetheless development of the Property shall be subject  
30 to all discretionary approvals and their concomitant CEQA compliance required under the General  
31 Plan and Zoning designations described in the Recitals above, as of the date of this Agreement.
- 32 E. The San Benito Holdings Development Agreement is consistent with public health, safety and  
33 general welfare and good land use practice in that it does not modify the requirements for  
34 development of the Property shall be subject to all discretionary approvals.
- 35 F. The San Benito Holdings Development Agreement will not adversely affect the orderly  
36 development of the surrounding community. The Development Agreement implements a prior-  
37 approved zoning, which, upon approval, was found to be consistent with the comprehensive
- 38 G. The development project associated with the San Benito Holdings Development Agreement should  
39 be encouraged in order to meet important economic, social, environmental or planning goals of  
40 San Benito County. With regard to planning goals, the Project was prepared in accordance with  
41 applicable General Plan policies. With regard to economic and social goals, the San Benito  
42 Holdings Development Agreement also imposes obligations on the San Benito Holdings in  
43 connection with payment of a substantial \$500,000 fee and other obligations including an open  
44 space / wildlife corridor easement.

1 H. The subject development project and the San Benito Holdings Development Agreement are  
2 consistent with Chapter 19.11 (Development Agreements). The purpose of Chapter 19.11 is to  
3 strengthen the public planning process, to encourage private participation in comprehensive and  
4 long-range planning and to reduce the economic costs of development by enabling the County and  
5 a developer seeking county approval of a development project to enter into a development  
6 agreement which vests certain development rights and which requires a developer to provide  
7 additional public benefits. The appropriate use of development agreements will reduce uncertainty  
8 in the development review process, will promote long-term stability in the land use planning  
9 process and will result in significant public gain.

10 **SECTION 3. General Provisions**

- 11 A. Severability: If any section, subsection, sentence, clause, or phrase of this ordinance is for any  
12 reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision  
13 shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors  
14 hereby declares that it would have enacted this ordinance and each section, subsection, sentence,  
15 clause or phrase thereof, irrespective of the fact that any one or more sections, subsections,  
16 sentences, clauses or phrases be declared invalid or unconstitutional.
- 17 B. Captions: The titles and headings to the sections hereunder are not part of this ordinance and shall  
18 have no effect upon the construction or interpretation of any part hereof.
- 19 C. Effective Date and Codification: This ordinance shall not be codified. This ordinance shall take  
20 effect thirty (30) days after its adoption. The effective date of the San Benito Holdings  
21 Development Agreement shall be the effective date of this Ordinance, so long as the San Benito  
22 Holdings Development Agreement has been signed by the Owner and County pursuant to  
23 §19.11.008(D) of the San Benito County Code.
- 24 D. Publication: Within fifteen (15) days after its adoption, this ordinance shall be published pursuant  
25 to California Government Code 25124 in its entirety in a newspaper of general circulation which  
26 is printed, published and circulated within the County of San Benito, State of California.
- 27 E. No Duty of Care: This ordinance is not intended to and shall not be construed or given effect in a  
28 manner that imposes upon the County, or any officer or employee thereof, a mandatory duty of  
29 care towards persons or property within the County or outside of the County so as to provide a  
30 basis of civil liability for damages, except as otherwise imposed by law.

1 **SECTION 4: Effective Date and Term.**

2 NOW, THEREFORE, BE IT RESOLVED, that the San Benito County Board of Supervisors hereby adopts  
3 this Ordinance approving the San Benito Holdings Development Agreement and authorizes Chair to  
4 execute same.

PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO  
THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2024 BY THE FOLLOWING VOTE:

AYES: Supervisors:  
NOES: Supervisors:  
ABSENT: Supervisors:  
ABSTAIN: Supervisors:

By: \_\_\_\_\_  
Angela Curro, Chair

**ATTEST:**

Vanessa Delgado, Clerk of the Board

**APPROVED AS TO LEGAL FORM:**

David Prentice, County Counsel

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

5

**Attachment 1 to the Ordinance**  
Project Site Description

Parcels 1 and 2 of Parcel Map PLN200001, as per map recorded in Book 11, page 89, of Parcel Maps in the Official Records of San Benito County, State of California.

**Attachment 2 to the Ordinance**  
Development Agreement

RECORDING REQUESTED BY:

County of San Benito

WHEN RECORDED MAIL TO:

County of San Benito

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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(SPACE ABOVE THIS LINE RESERVED FOR RECORDER’S USE)

Exempt from Recording Fees Pursuant to Government Code Section 27383  
APN: 012-010-030 and 012-010-031

**STATUTORY DEVELOPMENT  
AGREEMENT BY AND BETWEEN  
COUNTY OF SAN BENITO**

**AND**

**SAN BENITO HOLDINGS, LLC, MARK H. JOHNSON, TRUSTEE AND GREGORY N.  
WEILER, TRUSTEE**

This Statutory Development Agreement (“Agreement”) is entered into this \_\_ day of \_\_\_\_\_, 2024, by and between COUNTY OF SAN BENITO, a political subdivision of the State of California (“County”), and San Benito Holdings, LLC a California limited liability company, MARK H. JOHNSON, TRUSTEE, AND GREGORY N. WEILER, TRUSTEE (collectively “Owners”) pursuant to the authority of Sections 65864 et seq. of the California Government Code and County Resolution No. \_\_\_\_\_.

**RECITALS:**

**WHEREAS**, County is a political subdivision of the State of California; and

**WHEREAS**, Owners own approximately 147.28 acres of land the legal description of which is attached hereto and incorporated herein by reference in Exhibit “A” (“Subject Property”); and

**WHEREAS** the County of San Benito (“County”) approved Final Parcel Map PLN200001 on July 22, 2022 and recorded the same in book 11 page 89 of Parcel Maps on such date (“Final Parcel Map”) concurrently with the County’s review of the Zone Change referenced below, whereby the Subject Property was subdivided into two parcels of 21.25 acres and 126.03 acres with a 50-acre remainder parcel; and

**WHEREAS**, the 21.25-acre Assessor’s Parcel Number (APN) 012-010-031 portion of the Subject Property (“Commercial Area”) described as Lot 1 of the Final Parcel Map is now designated as a combining district of Rural (R) and Commercial Regional (CR) in the County General Plan [San Benito County General Plan 2035 Section 3] (“Commercial General Plan Designation”) with its implementing zoning designation of Commercial Thoroughfare (C-1) pursuant to Zone Change under County Ordinance 1016 adopted December 15, 2020, which became effective January 15, 2021, as described in Section 25.03.006 of the San Benito County Code (“Commercial Zoning”); and

**WHEREAS**, the 126.03-acre APN 012-010-030 portion of the Subject Property (“126 Acre Parcel”) described as Lot 2 of the Final Parcel Map is now designated as Rural in the County General Plan (“126 Acre Parcel General Plan Designation”) with its implementing zoning designation of R (Rural) District (“Rural Zoning”); and

**WHEREAS**, the existing Final Parcel Map, depicting the 21.25-acre APN 012-010-031, subject to a combining district of Rural (R) and Commercial Regional (CR) General Plan Designation and in Commercial Zoning, and also depicting the 126.03-acre APN 012-010-030 parcel, subject to a Rural (R) General Plan designation and Rural (R) zoning, provides Owner with those development rights specified in the aforementioned General Plan and Zoning designation as of the date of this Agreement (“Entitlements” or “Project”); and

**WHEREAS**, based upon the Entitlements, Owner has actively processed a development application through the County for 2 years and expended in excess of \$500,000.00 in planning and environmental review of the development of the Commercial Property and environmental mitigation over the 126.03-acre Parcel in accordance with the California Environmental Quality Act, including over \$250,000.00 paid to the County; and

**WHEREAS**, it is anticipated that the development of the Commercial Property from its current undeveloped condition pursuant to future discretionary County approvals will provide jobs, industry and much needed tax revenue to the County (which will be quantified in applications for future discretionary approvals required under the Entitlements) [Note that based upon the Owners experience from similar developments, annual tax revenues to the County year one can be approximated at \$1,746,000 (\$180,000 in Property Tax and \$1,566,000 in County Sales Tax)];

**WHEREAS**, in consideration of the substantial efforts and financial expenditures of the Owner in reliance on the Entitlements and to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Sections 65864 *et seq.* of the California Government Code (“Development Agreement Statute”), which authorizes local jurisdictions to enter into property development agreements with any person(s) or entity(ies) having a legal or equitable interest in real property for the development of such real property in order to establish certain vested development rights in the real property;

**WHEREAS**, this Agreement is intended to provide clarity and assurances to Owner that a future physical project may proceed subject to the policies, rules, regulations, and conditions of



approval applicable to the project as they exist as of the date of this Agreement, regardless of any subsequent changes to the County’s general plan, ordinances, policies, rules, and regulations after the date of this Agreement for the term hereof; and

**WHEREAS**, this Agreement will eliminate uncertainty in planning for, and securing orderly development of, the Subject Property, assure installation of necessary improvements, and ensure attainment of the maximum effective utilization of resources within the County at the least economic cost to its citizens; and

**WHEREAS**, based on the foregoing recitals, County has determined that this Agreement is appropriate under the Development Agreement Statute and County Resolution No. \_\_\_\_\_; and

**WHEREAS**, the development of the Property will provide a substantial financial contribution to the County in the form of property tax increment, sales tax revenue, employment and, dedication to the public of an open space easement/wildlife corridor, and tax increment to be derived from the development of the Commercial Property;

**WHEREAS**, this Agreement is voluntarily entered into in consideration of the benefits to and the rights created in favor of each of the parties hereto and in reliance upon the various representations and warranties contained herein; and

**WHEREAS**, this Agreement does not change any existing ordinance policy or standard of the County; and

**WHEREAS**, this Agreement does not provide for any physical alteration of the Subject Property; and

**WHEREAS**, County, as “Lead Agency” under the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines, has determined that the rights granted to Owner hereunder as more fully described in this Agreement are not a Project for purposes of CEQA (Public Resources Code Section 21065) as it neither proposes any physical alteration of the Subject Property nor any change to the existing land use policies, standards or ordinances of the County and this Agreement is also statutorily exempt from further CEQA compliance under Public Resources Code Sections 21083.3 (b) which does not require duplicative environmental analysis to that previously conducted in earlier CEQA review for an approved General Plan, as the maintenance of the status quo of the Entitlements does not provide for any expansion or intensification of environmental impacts beyond those already fully analyzed per CEQA and its Guidelines under the existing Final EIR (analyzing the approved General Plan) and Addendum (analyzing the rezoning proposed under County Planning file PLN200001 and enacted by County Ordinance 1016) previously adopted incident to the Entitlements,

**NOW, THEREFORE**, pursuant to the authority contained in the Development Agreement Statute and San Benito County Resolution No. \_\_\_\_\_, and in consideration of the mutual covenants and promises of the parties contained herein, **the Parties agree as follows:**

## **AGREEMENT:**

### **Section 1. Incorporation of Recitals and Exhibits**

The foregoing Recitals and attached Exhibits are true and correct and are incorporated into this Agreement by this reference as though fully set forth herein.

### **Section 2. Effective Date**

This Agreement shall become effective on the effective date (“Effective Date”) of the ordinance enacting this Agreement (“Enacting Ordinance”).

### **Section 3. Term**

The parties agree that the Term of this Agreement shall be for a term of fifteen (15) years commencing on the Effective Date, subject to any termination provisions described in this Agreement (“Term”).

### **Section 4. Project – Status Quo**

The County agrees that the Owner shall have the vested right to develop the Subject Property (Commercial Parcel and 126.03 Acre Parcel), as provided in the County General Plan and County Ordinances in effect on the Effective Date. Subsequent changes to the County General Plan and County ordinances shall not be applicable to the Subject Property during the Term. Nonetheless development of the Property shall be subject to all discretionary approvals and their concomitant CEQA compliance required under the General Plan and Zoning designations described in the Recitals above, as of the date of this Agreement.

### **Section 5. Consideration To The County**

(a) Public Improvements/Public Safety Contribution. Owner shall deposit with the County the amount of \$500,000 to fund County traffic improvements and public safety, at the discretion of the County (“Traffic/Public Safety Contribution”). The Public Safety Contribution shall be paid as follows: \$100,000 on execution of this Agreement (or later upon resolution of any legal challenge to this Agreement, if any); and in four annual payments of \$100,000 annually commencing on the County’s approval of a certificate of occupancy for improvements to the 21.25 Acre Parcel. The obligation to fund the deferred \$400,000 portion of the Public Safety Contribution shall be the sole responsibility of the owner of the 21.25 Acre Parcel.

(b) Open Space Easement/Wildlife Corridor. Owner shall dedicate to the County, Land Trust, or another entity as approved by the County a permanent easement for open space over that portion of the Subject Property fronting on California Highway 129 graphically depicted on Exhibit “B” attached hereto. Likewise, Owner shall dedicate (in addition to mitigation measures required as part of any future use permit application) a 50-acre easement over a portion of the 126.03 Acre Parcel depicted on Exhibit “B” providing a corridor for wildlife movement between the 126.03 Acre Parcel and adjacent properties. Such easements shall not restrict use of such areas for roads or the installation and maintenance of underground utilities. Easement shall be recorded within one year of commencing on the County’s approval of this Agreement.

(c) Architectural Theme. Owner shall develop future improvements on the Commercial Property with the common architectural theme of “Farm” or “Ranch”, which plans are subject to review and approval by the County Planning Commission.

**Section 6. Project Site**

The “Project Site” is the 21.25-acre Commercial Property and the 126.03 Acre Parcel.

**Section 7. Termination**

This Agreement shall be terminated and of no further effect upon the occurrence of any of the following events:

- (a) The expiration of the Term of this Agreement; or
- (b) Entry of a final judgment or issuance of a final order by a court of competent jurisdiction directing County to set aside, withdraw, or abrogate County’s approval of this Agreement or any material part of the Entitlements; or
- (c) The effective date of County’s election to terminate this Agreement in response to a material uncured default by Developer, pursuant to the terms of this Agreement; or
- (d) The effective date of Developer’s election to terminate this Agreement for any reason.

If County lawfully terminates this Agreement because of Developer’s default, then County shall retain any and all benefits, including without limitation any money, improvements, structures, easements or dedications received by County pursuant to any term or condition of this Agreement.

**Section 8. Future Development by Owner.**

Any future development of the Subject Property shall be subject to all discretionary approvals of the County required under the Entitlements, including future CEQA compliance consistent thereto, for uses consistent with the Entitlement and Applicable Law as described in Section 10(a) below and all conditions of approval imposed by the County incident to such approvals.

**Section 9. Processing Fees**

Notwithstanding anything else herein, Owner shall pay all applicable fees pursuant to the San Benito Ordinance and established Fee Schedule in the amounts set forth in the schedule of fees in effect at the time such fees are due and payable during the development process. Without limiting the forgoing such fees will include grading permit fees, building permit fees and other similar fees.

## **Section 10. Applicable Rules, Regulations and Policies**

(a) Except as otherwise provided in this Agreement, Owner shall have the vested right to develop the Project and Project Site pursuant to the Entitlements and the rules, regulations, and policies governing use, density, design, improvement, construction, maximum height and size of proposed buildings, in effect on the Effective Date of this Agreement including the (I) the Commercial General Plan Designation for the Commercial Parcel, and the 126.03 Acre Parcel General Plan Designation for the 126.03 Acre Parcel; and (II) the Commercial Zoning for the Commercial Parcel and the Rural Zoning for the 126.03 Acre Parcel (collectively, “Applicable Law”). It is the intent of County and Owner that the vesting of development rights of Developer shall include the permitted land uses, density and intensity of use of the Project Site, timing or phasing of development, zoning, and the location and size of public improvements and other terms and conditions of development of the Project or Project Site as set forth in the Entitlements and this Agreement. The Entitlements associated with this Project shall not expire prior to the end of the Term.

(b) In accordance with Government Code Section 65866, nothing herein shall be construed to limit County’s authority in subsequent actions applicable to the Property, to apply new rules, regulations and policies to the Project or Project Site which do not conflict with the Applicable Law or this Agreement, nor to limit County’s police power to implement, based upon appropriate and adequate findings, specific emergency measures necessary to protect against real and actual threats to the health, safety and welfare of the general public. Nor shall this Development Agreement prevent the County from denying or conditionally approving any subsequent development project application on the basis of these existing rules, regulations, and policies of the Entitlements and Applicable Law.

(c) Notwithstanding anything to the contrary contained in this Agreement, County shall apply to the Project or Project Site, at any time during the term of this Agreement, the codes then in effect, only to the extent consistent with Applicable Law.

(d) As provided in California Government Code Section 65869.5, this Agreement shall not preclude the application to the Project or Project Site of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations (“Changes in the Law”). In the event Changes in the Law prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with the Changes in the Law, and County and Developer shall take such action as may be required pursuant to this Agreement.

## **Section 11. Revisions**

Owner initiated revisions to the Entitlements related to the Project or Project Site may be approved by the Planning Commission and not require an amendment to this Agreement, provided that Planning Commission finds and determines that the proposed change or modification is consistent with the development standards and guidelines set forth in this Agreement and Applicable Law.

**Section 12. Nexus/Reasonable Relationship Challenges**

Owner consents to, and waives any rights it may have now or in the future to challenge the legal validity of, the conditions or requirements set forth in this Agreement including, without limitation, any claim that they constitute an abuse of the police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax.

**Section 13. Covenants Binding**

All of the terms, provisions, and obligations contained in this Agreement shall be binding upon and inure to the benefit of County and Owner and successor owners of the Subject Property. Notwithstanding anything set forth in this Agreement to the contrary, during the term hereof, the Project and Project Site shall be subject to this Agreement, and any development of any portion of the Project and Project Site shall be subject to and in accordance with the terms of this Agreement.

**Section 14. Periodic Review**

Planning Commission shall conduct a review of this Agreement as required under SBCC 19.11.012 and as set forth as follows:

(a) Review. Planning Commission shall review the extent of good faith compliance by Owner with the terms of this Agreement annually commencing on the first anniversary of the Effective Date of this Agreement.

(b) Notice. County shall notify Owner in writing of the date of review at least thirty (30) days prior thereto.

(c) Cooperation. Owner agrees to reasonably cooperate with County's review process.

(d) Failure to Conduct Review. County's failure to conduct an annual review of this Agreement shall not constitute a breach of this Agreement.

(e) Certificate of Compliance. If, at the conclusion of a periodic or special review, Owner is found to be in compliance with this Agreement, County shall issue a Certificate of Compliance ("Certificate") to Owner stating that after the most recent periodic or special review, and based upon the information known or made known to County that: (i) this Agreement remains in effect and (ii) Owner is not in default. County shall not be bound by a Certificate if a default existed at the time of the periodic or special review but was concealed from or otherwise not known to County, regardless of whether or not the Certificate is relied upon by assignees or other transferees or Owner.

**Section 15. Relationship of Parties**

It is specifically understood and agreed by and among the parties hereto that the Project is a private development and that neither party is acting as the agent of the other in any respect hereunder. County and Owner also hereby renounce the existence of any form of joint venture or

partnership among them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making County and Owner joint venturers or partners.

**Section 16. No Third Party Beneficiaries**

The only parties to this Agreement are Owner and County. There are no third-party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit, or be enforceable by any other person whatsoever.

**Section 17. Assignment of Rights**

The rights and obligations of Owner shall be conclusively deemed to be assigned and assumed by successor owners of the Subject Property, or any portion thereof, which shall include owners of fee simple title or the lessee under any ground lease with a term greater than twenty (20) years.

Owner shall have the right to expressly assign or delegate all or any portion of its rights, duties and obligations under this Agreement to subsequent fee owners of the Subject Property, (a) by giving prior written notice to County, to any entity in which Owner, or its principal shareholders, retain a majority ownership interest so long as such assignee expressly assumes the obligations of Owner hereunder, and (b) with the prior written consent of the County, which shall not be unreasonably withheld, to any other subsequent fee owner. Except as provided above, Owner may not assign all or any portion of its rights hereunder nor delegate all or any portion of its duties and obligations hereunder. When a permitted assignment has taken place pursuant to this Section 18, the assignor shall have no further duties, obligations or rights thereafter under this Agreement with respect to the portion of the Subject Property which is being transferred (except in relation to matters which occurred prior to the date of such transfer).

**Section 18. Singular and Plural; Gender; and Person**

Except where the context requires otherwise, the singular of any word shall include the plural and vice versa; pronouns inferring the masculine gender shall include the feminine gender and neuter, and vice versa; and a reference to “person” shall include, in addition to a natural person, any governmental entity and any partnership, corporation, joint venture or any other form of business entity.

**Section 19. Time Is of the Essence**

Time is of the essence of this Agreement and of each and every term and condition hereof.

**Section 20. Waiver**

All waivers must be in writing to be effective or binding upon the waiving party, and no waiver shall be implied from any omission by a party to take any action with respect to an Event of Default as defined in this Agreement. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party shall not constitute waiver of such party’s right to demand strict compliance and specific performance by the other party in the future.

In addition, no express written waiver of any Event of Default shall affect any other Event of Default, or cover any period of time other than as specified in such express waiver.

### **Section 21. Amendments**

This Agreement may be amended from time to time by mutual consent of the original parties or their successors in interest, with County's costs payable by Developer in accordance with the provisions of Government Code Sections 65867 and 65868 and County's adopted procedures and requirements for the consideration of amendments to development agreements. Minor revisions, as described above, shall not require an amendment to this Agreement.

### **Section 22. Ambiguities or Uncertainties**

The parties hereto have mutually negotiated the terms and conditions of this Agreement and each party received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions contained herein. As such, this Agreement is a product of the joint drafting efforts of both parties and neither party shall be deemed to have solely or independently prepared or framed this Agreement. Therefore, any ambiguities or uncertainties are not to be construed against or in favor of either party.

### **Section 23. Hold Harmless**

Owner hereby agrees to, and shall defend, indemnify and hold harmless County, County council, commissions, boards, subcommittees and County's elected and appointed officials, commissioners, board members, officers, agents, consultants and employees ("County Parties") from, any and all claims, costs and liability for any damages, personal injury or death, which may arise, directly or indirectly, from Owner or Owner's officers', agents', consultants', employees', contractors', or subcontractors' negligent, willful or reckless conduct performed under or with respect to this Agreement. Owner shall have no obligations under this Section 24 (except in relation to matters which occurred prior to the date of such transfer) with respect to the portion of the Subject Property transferred, after it has transferred its fee interest in the Subject Property.

### **Section 24. Indemnification**

Owner shall defend, indemnify and hold harmless County, County council, commissions, boards, subcommittees and County's elected and appointed officials, commissioners, board members, officers, agents, consultants and employees ("County Parties") from and against any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which any or all of them may suffer, incur, be responsible for, or pay out as a result of or in connection with any challenge to the legality, validity or adequacy of any of the following items: (i) this Agreement and the concurrent and subsequent permits, licenses and entitlements approved by County; (ii) any environmental determination made by County in connection with the Project, Project Site or this Agreement; and (iii) any proceedings or other actions undertaken by County in connection with the adoption or approval of any of the above. In the event of any administrative, legal, equitable action or other proceeding instituted by any third party (including without limitation a governmental entity or official) challenging the legality, validity or adequacy of any of the above items or any portion thereof, the Parties shall mutually cooperate with each other in defense of said

action or proceeding. Notwithstanding the above, County, at its sole option, may tender the complete defense of any third-party challenge as described herein. In the event County elects to contract with special counsel to provide for such a defense, County shall meet and confer with Owner regarding the selection of counsel, and Owner shall pay all costs related to retention of such counsel by County. Owner shall have no obligations under this Section 25 (except in relation to matters which occurred prior to the date of such transfer) with respect to the portion of the Subject Property transferred, after it has transferred its fee interest in the Subject Property. Further, in the event of a third party challenge to the validity of this Agreement, Owner shall have the right to not oppose such challenge and the parties shall take such action necessary to rescind the Agreement.

#### **Section 25. Delays in Performance**

In addition to any other provisions of this Agreement with respect to delay, Owner and County shall be excused for performance of their obligations hereunder during any period of delay caused by acts of God; major acts of terrorism occurring in the United States of America or major pandemic, riots, strikes, picketing, or other major labor disputes; severe shortage of materials or supplies; damage to or prevention of work in process by reason of severe fire, floods, earthquake, or other severe casualties. A party wishing to invoke this section must notify the other party in writing of that intention within thirty (30) days of the date on which it knew or should have known of the commencement of any such cause for delay and must specify the reasons for invoking this section.

#### **Section 26. Events of Default**

A default under this Agreement shall be deemed to have occurred upon the happening of one or more of the following events or conditions: (i) a warranty, representation, or statement made or furnished by Developer expressly in this Agreement to County or by County to Developer is false or proves to have been false in any material respect when it was made, or (ii) a finding by County made following a periodic review of the Agreement under the procedure provided in this Agreement, based on substantial evidence, that Owner has not complied in good faith with one or more of the terms or conditions of this Agreement, or (iii) Developer's failure to perform any of its material obligations under this Agreement (each an "Event of Default"). Upon the occurrence of an Event of Default by Developer or County, the non-defaulting party shall provide the other party ninety (90) calendar days written notice specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured ("Notice of Default"). Subject to any extensions of time by mutual consent of the parties in writing, and subject to the provisions of Section 26 of this Agreement, the failure or unreasonable delay by either party to perform any material term or provision of this Agreement for a period of thirty (30) days after the receipt of a written notice of default from the other party shall constitute a default under this Agreement. If the nature of the alleged default is such that it cannot reasonably be cured within such thirty (30) calendar day period, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure within such period. Any Notice of Default given hereunder shall specify in detail the nature of the alleged Event of Default and the manner in which such Event of Default may be satisfactorily cured in accordance with the terms and conditions of this Agreement. During the time periods herein specified for cure of an Event of Default, the party charged therewith shall not be considered to be in default for purposes of



termination of this Agreement, institution of legal proceedings with respect thereto, or whether any further building permits shall be issued with respect to the Project Site.

**Section 27. Existing Law**

Copies of the land use provisions of the General Plan and County Zoning ordinance existing as of the Effective Date are attached hereto as Exhibit “C” and incorporated herein by this reference.

**Section 28. Applicable Law**

This Agreement shall be construed and enforced in accordance with the laws of the State of California.

**Section 29. Venue**

In the event that suit is brought by either party to this Agreement, the parties agree that venue shall be exclusively vested in the State courts of the County of San Benito, California.

**Section 30. No Damages Relief**

Notwithstanding anything else in this Agreement to the contrary, the parties acknowledge that neither would have entered into this Agreement had either been exposed to damage claims for any breach hereof. As such, the parties agree that in no event shall either party be entitled to recover monetary damages of any kind whatsoever (other than the recovery of costs and attorney’s fees pursuant to the terms of this Agreement or applicable law) against the other for breach of this Agreement. Notwithstanding the preceding, injunctive relief shall be authorized to preserve Owner’s rights hereunder and to prevent a violation thereof.

**Section 31. Legal Action; Attorneys’ Fees**

Either party may, in addition to any other rights or remedies, institute legal action to cure, correct or remedy a default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation hereof, or enforce by specific performance the obligations and rights of the parties hereto. The prevailing party in any such action shall be entitled to its reasonable attorneys’ fees and costs to be paid by the losing party.

**Section 32. Notices**

Any notice or communication required hereunder among County and Owner shall be in writing and may be given either personally or by registered mail, return-receipt requested. Notice, by personal delivery, shall be deemed to have been given and received on the actual receipt by any of the addressees designated below as the party to whom notices are to be sent. Notice by registered mail shall be deemed to have been received when delivered by the US Mail service to the recipient. Any party hereto may at any time, upon written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

To County:

County of San Benito

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To Owners:

San Benito Holdings LLC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Mark H. Johnson / Gregory N. Weiler  
920 Egan Avenue  
Pacific Grove, CA 93950

**Section 33. Partial Invalidity Due to Governmental Action**

In the event state or federal laws or regulations enacted after the Effective Date, or formal action of any governmental entity other than County, prevent compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by County, the parties agree that the provisions of this Agreement shall be modified, extended or suspended only to the minimum extent necessary to comply with such laws or regulations.

**Section 34. Entire Agreement**

This Agreement and the exhibits attached hereto contain all the representations and the entire agreement between the parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement and the exhibits attached hereto, any prior correspondence, memoranda, warranties, representations and agreements unless otherwise provided in this Agreement, are superseded in total by this Agreement and the exhibits attached hereto.

**Section 35. Severability**

If any term, provision, covenant or condition of this Agreement is repealed by referendum or is held by a court of competent jurisdiction or an authorized government enforcement agency to be invalid, void or unenforceable, the remaining provisions, if any, of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

With respect to obligations of the Owner which apply separately to either the Commercial Parcel or 126.03 Acre Parcel (for example dedications of a portion of the 126.03 acre parcel or future conditions imposed on the development of the 21.25 Acre Parcel) , only the fee simple owner of the parcel subject to a site specific obligation shall be responsible for the performance of such obligation(s).

**Section 36. Authority to Execute Agreement**

The person or persons executing this Agreement on behalf of Developer and County warrant and represent that they have the authority to execute this Agreement and the authority to bind Developer and County, as applicable, to the performance of their respective obligations hereunder.

**Section 37. Counterparts**

This Agreement may be executed in duplicate counterpart originals, each of which is deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

**Section 38. Recordation**

In order to comply with Section 65868.5 of the Development Agreement Statute, the parties do hereby direct the County Clerk to cause a copy of this Agreement to be recorded with the San Benito County Recorder's Office within ten (10) days after the Enacting Ordinance takes effect.

*[SIGNATURES ON FOLLOWING PAGE]*

[Signature Page to Statutory Development Agreement]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the dates written above.

**COUNTY OF SAN BENITO**

**OWNER**

APPROVED:

APPROVED:

\_\_\_\_\_

SAN BENITO HOLDINGS , LLC

By:

\_\_\_\_\_  
BY: Ravinder Gruel, Manager

ATTEST:

\_\_\_\_\_  
Mark H. Johnson, Trustee

\_\_\_\_\_

By: \_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Gregory N. Weiler, Trustee

APPROVED AS TO FORM:

\_\_\_\_\_

By:

Exhibit "A"

Legal Description of Subject Property

Parcels 1 and 2 of Parcel Map PLN200001, as per map recorded in Book 11, page 89, of Parcel Maps in the Official Records of San Benito County, State of California.

Exhibit "B"

Depiction of Project Site / Commercial Area/ Open Space -Wildlife Corridor

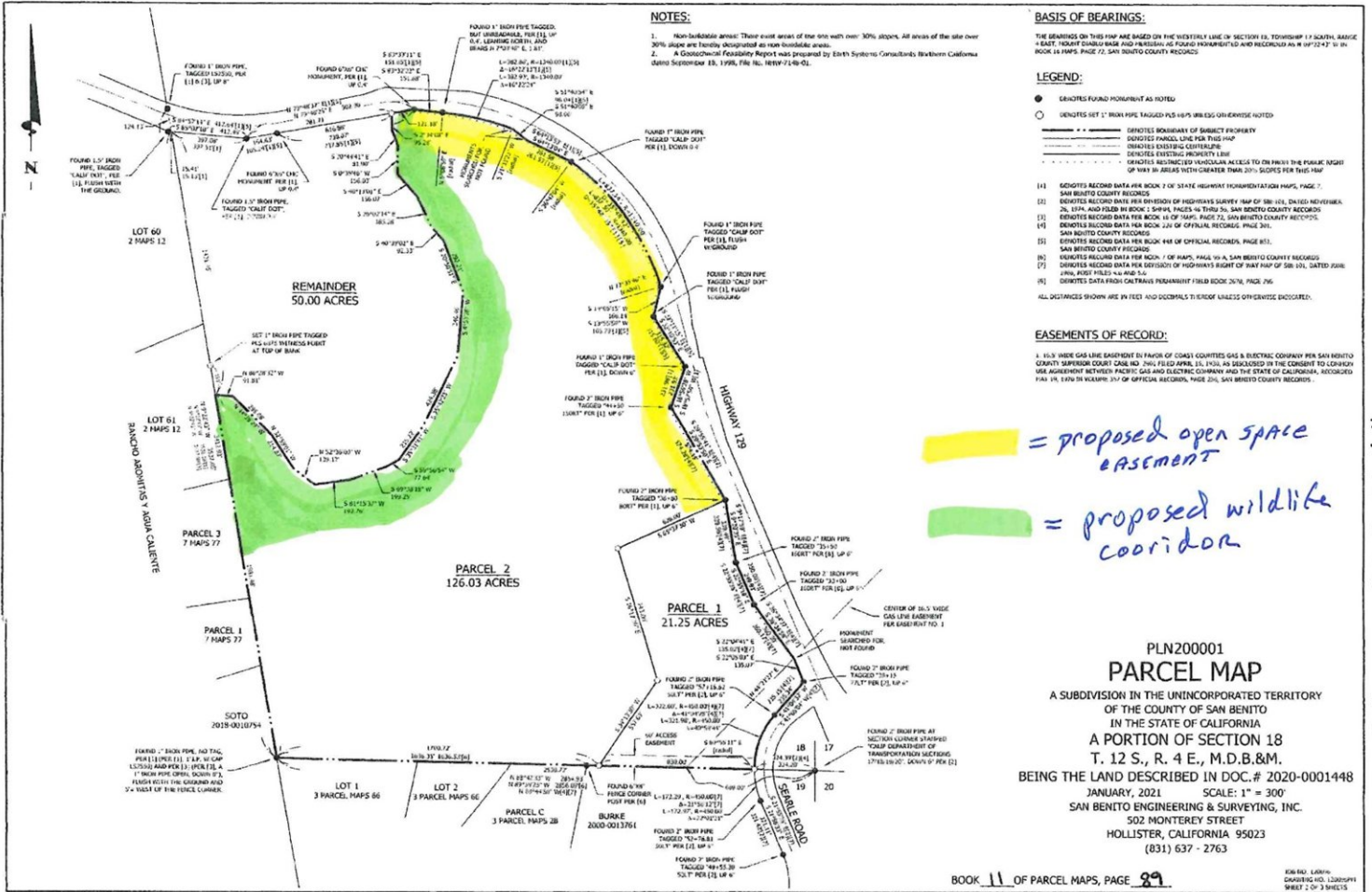


Exhibit “C”

Copy of Land Use Provisions of the General Plan and County Zoning Ordinance  
Existing as of the Effective Date:

<b>Table 3-1 Land Use Designations and Standards</b>	
Land Use Description	Development Standard(s)
<p><b>Rangeland (RG)</b>                      The purpose of this designation is to maintain open space and grazing land on hills, mountains, and remote areas of the county. This designation is applied to areas that have minimal transportation access, high to very high fire hazard, and no public infrastructure (e.g., sewer, water, drainage). Most of these areas are located within remote parts of the county. This designation allows support uses that directly support agricultural operations and one principal residential dwelling unit per lot. Secondary dwellings are allowed for relative, caretaker/employee, and farm worker housing.</p>	<p><u>Maximum Density:</u>                      1 dwelling unit per 40 acres</p> <p><u>Maximum FAR:</u>                      0.1</p>
<p><b>Rangeland Management Area (RGMA)</b>                      The purpose of this designation is to maintain open space and grazing land on hills, mountains, and remote areas of the county that are managed by a local, regional, state and/or federal agency. This designation is applied to areas that have minimal transportation access, high to very high fire hazard, and no public infrastructure (e.g., sewer, water, drainage). Most of these areas are located within remote parts of the county. This designation allows support uses that directly support agricultural operations.</p>	<p><u>Maximum FAR:</u>                      0.1</p>
<p><b>Agriculture (A)</b>                      The purpose of this designation is to maintain the productivity of agricultural land, especially prime farmland, in the county. This designation is applied to agriculturally productive lands of various types, including crop land, vineyards, and grazing lands. This designation allows agricultural support uses, such as processing, wineries, and other necessary public utility and safety facilities and one principal residential dwelling unit per lot. Secondary dwellings are allowed for relative, caretaker/employee, and farm worker housing. These areas typically have transportation access, but little to no public infrastructure.</p>	<p><u>Maximum Density:</u>                      1 dwelling unit per 5 acres</p> <p><u>Maximum FAR:</u>                      0.5</p>
<p><b>Parks (P)</b>                      This designation applies to the land within San Benito County that is presently owned by Federal, State, or County agencies and used as active or passive parkland. The uses allowed within the Federal and State parks are dictated by those agencies. Permissible uses within the Parks, Public category are public recreation facilities such as public golf courses, community park, neighborhood park, local park, community center, campgrounds, recreation corridors, and trails.</p>	<p><u>Maximum FAR:</u>                      0.1</p>
<p><b>Rural (R)</b>                      The purpose of this designation is to allow very low-density residential development in areas that are not primarily suited for agricultural uses, but due to the lack of public infrastructure (e.g., water, sewer, drainage) or for geographical reasons are unsuited for higher density residential designations.</p>	<p><u>Maximum Density:</u>                      1 dwelling unit per 5 acres</p>

**Table 3-1  
Land Use Designations and Standards**

Land Use Description	Development Standard(s)
<p><b>Commercial Thoroughfare (CT)</b> The purpose of this designation is to provide commercial services for motorists near highway interchanges, along thoroughfares, and near Federal, State, and regional parks, and other tourist attractions to capture pass-through traffic, and to allow for commercial uses that serve the agricultural and rural unincorporated community. These uses could include small shopping centers, truck and automobile stations, and tourist-serving commercial uses.</p>	<p><u>Maximum FAR:</u> 0.8</p>
<p><b>Commercial Regional (CR)</b> The purpose of this designation is to provide areas that function as destinations for commercial activity serving the regional population. This designation intends to accommodate the location of such commercial uses at key intersections along Interstate 101 and other major State Routes. These uses could include shopping centers, truck and automobile stations, tourist-serving commercial uses, and hotels/motels.</p>	<p><u>Maximum FAR:</u> 0.8</p>
<p><b>Industrial Light (IL)</b> The purpose of this designation is to allow light industrial development near existing transportation systems (e.g., highways, rail, air). This includes: warehouses, contractor yards, nurseries, lumber yards, auto repair shops, light manufacturing and/or assembly, and research and development operations that do not cause significant environmental hazards or create major pollution.</p>	<p><u>Maximum FAR:</u> 0.8</p>
<p><b>Industrial Heavy (IH)</b> The purpose of this designation is to provide areas for heavy industrial activities that are not suitable for urban areas because of their size, noise, dust, traffic, or safety concerns. This could include large-scale manufacturing operations, mining and aggregate production facilities, recycling transfer centers, chemical and explosives manufacturing, or other similar uses.</p>	<p><u>Maximum FAR:</u> 0.8</p>
<p><b>Public/Quasi-Public (PQP)</b> The purpose of this designation is to provide for public and quasi-public uses, including public utility facilities and services. This designation applies to the following uses: schools, landfills, recycling, resource recovery, government lands (non-parkland), sewage treatment plants, fire stations, sheriff stations/substations, jails, religious meeting areas, libraries, energy generation and distribution, water distribution, and public meeting halls, and other similar uses related to the operation of County government services.</p>	<p><u>Maximum FAR:</u> 1.0</p>



**§ 25.03.004 AGRICULTURAL AND RURAL DISTRICTS.**

(A) (1) The intent of the agricultural zones is to maintain the productivity of agricultural land, especially prime farmland, as well as maintain open space and grazing in more remote areas of the county. The rural zones are intended to serve as a transitional area between agricultural to rural areas and rural to urban areas. Single-family dwellings, accessory dwellings and farm worker housing are allowed in these zones, as appropriate for the level of available infrastructure.

(2) These zones implement the agriculture land use designation of the general plan.

(B) *Agricultural Rangeland (AR) District — Intent.* The intent of this district is to provide for areas within the county to be used for agricultural rangeland purposes as set forth in the general plan. Very low-density residential development and farmworker housing are permitted due to the lack of public infrastructure and for the preservation of open space and agriculture.

(C) *Agricultural Productive (AP) District — Intent.* The intent of the AP district is to provide for areas within the county to be used for agricultural production of any type as set forth in the general plan, including agriculture support uses, vineyards, wineries and winery supporting land uses. Low-density residential uses, and the preservation of prime farmland. Low-density and farmworker housing are also permitted.

(D) *Rural (R) District — Intent.* The intent of this district is to allow very low-density residential development in areas within the county that are not primarily suited for agricultural uses, and lack infrastructure needed for higher density development. The R zone is intended to provide areas for mixtures of housing and small-scale agricultural uses.

(E) *Rural Transitional (RT) District — Intent.* The RT district is intended to provide a buffer of rural development between areas of residential development and agricultural areas in order to minimize the conversion of agricultural lands to urban uses.

(F) *AR, AP, R, and RT permitted uses.* The following table designates uses are permitted, administratively permitted, conditionally permitted, or prohibited in an AR, AP, R, and RT districts. These uses apply to every lot and building site in the AR, AP, R, and RT zoning districts, except where modified by a combining zone.

**Table 25.03-B**

**Land Uses - Agricultural Zones**

P = Permitted Use A = Administrative Use Permit Required C = Conditional Use Permit Required "—" = Use Not Allowed <i>Some new structures require review, per § 25.02.001 of this code</i>					
<b>Land Use Classification</b>	<b>Agricultural Range land (AR)</b>	<b>Agricultural Productive (AP)</b>	<b>Rural (R)</b>	<b>Rural Transition (RT)</b>	<b>Notes and Additional Regulations</b>
<b>Agricultural Uses<sup>1</sup></b> See note 1 to this table for all agricultural uses.					
Commercial agriculture (see Glossary)	P	P	P	—	
Commercial composting	C	C	C	—	
Commercial mushroom growing	C	C	C	—	
Crowing fowl (6-10)	A	A	A	—	
Crowing fowl (11+)	C	C	C	—	
Indoor commercial production of plants	C	C	C	C	
Commercial livestock farm or ranch involving poultry or small or large livestock able to roam and/or feed over a large area	P	P	P	—	
Commercial livestock farm or ranch involving concentrations of poultry or small or large livestock animals in a central location, such as a chicken ranch, dairy, feed lot and similar uses	A	C	C	—	

Manufacturing of commercial cannabis or hemp (mixed light, including nurseries and distribution)	C	C	C	—	
<b>Industrial Uses<sup>1</sup></b> See note 1 to this table for all Industrial uses.					
Abattoir (slaughterhouse)	C	C	C	—	
Agricultural processing of products grown onsite	P	P	P	—	
Agricultural processing of products not grown onsite	C	C	C	—	

<i>Land Use Classification</i>	<i>Agricultural Rangeland (AR)</i>	<i>Agricultural Productive (AP)</i>	<i>Rural (R)</i>	<i>Rural Transition (RT)</i>	<i>Notes and Additional Regulations</i>
<i>Land Use Classification</i>	<i>Agricultural Rangeland (AR)</i>	<i>Agricultural Productive (AP)</i>	<i>Rural (R)</i>	<i>Rural Transition (RT)</i>	<i>Notes and Additional Regulations</i>
Cannery	—	—	—	—	
Pallet and agricultural bin manufacturing	C	C	C	—	
Off-site truck parking in service of agricultural operations	C	C	C	—	
<b>Residential Uses<sup>1</sup></b> See note 1 to this table for all Residential uses.					
Single-family dwelling	P	P	P	P	Per the density requirements of the General Plan
Tiny homes	P	P	P	P	See § 25.08.029 for tiny homes standards
Accessory dwelling unit	P	P	P	P	See § 25.08.002 for accessory dwelling unit standards
Group home (small)	P	P	P	P	
Group home (large)	C	C	C	C	
Permanent agricultural employee housing, not exceeding 12 dwelling units (including mobile homes and RVs, or spaces for mobile homes and RVs), or 36 beds in group quarters	P	P	P	P	See Note 2
Permanent agricultural employee housing exceeding 12 dwelling units or 36 beds in group quarters	C	C	—	—	See Note 2
Labor supply employee housing	P	P	P	P	See Note 2
Seasonal agricultural employee housing	P	P	P	P	See Note 2

Temporary agricultural employee housing	P	P	P	P	See Note 2
Senior/congregate care	P	P	P	P	
Transitional and supportive housing	P	P	P	P	

<i>Land Use Classification</i>	<i>Agricultural Rangeland (AR)</i>	<i>Agricultural Productive (AP)</i>	<i>Rural (R)</i>	<i>Rural Transition (RT)</i>	<i>Notes and Additional Regulations</i>
<i>Land Use Classification</i>	<i>Agricultural Rangeland (AR)</i>	<i>Agricultural Productive (AP)</i>	<i>Rural (R)</i>	<i>Rural Transition (RT)</i>	<i>Notes and Additional Regulations</i>
<b>Recreational Uses</b>					
Commercial outdoor recreational uses, including but not limited to RV parks, hunting clubs and riding clubs and golf courses	C	C	C	C	
Private outdoor camping facilities, including cabins and tent camping	C	C	C	C	
<b>Other/Institutional/Utility</b>					
Aircraft landing field/helipad	C	C	C	C	
Assembly uses, including places of worship, private clubs, fraternity/sorority houses, senior centers	C	C	C	C	
Bus stops, park and ride lots, transit stops	P	P	P	P	
Cemetery (includes columbarium)	C	C	C	C	
Day care, small family	P	P	P	P	
Day care, large family	A	A	A	A	
Day care center	C	C	C	C	
Educational institution, private	C	C	C	C	Public schools are not regulated by this title
Hobby kennels	A	A	A	—	See "Animal Keeping" in Chapter 25.08
Hospital	C	C	C	C	
Kennels, including, without limitation, kennels for hybrid animals	C	—	—	—	See "Animal Keeping" in Chapter 25.08
Library or museum not operated by a governmental entity	A	A	A	A	Publicly operated libraries and museums are not regulated by this title

<i>Land Use Classification</i>	<i>Agricultural Rangeland (AR)</i>	<i>Agricultural Productive (AP)</i>	<i>Rural (R)</i>	<i>Rural Transition (RT)</i>	<i>Notes and Additional Regulations</i>
<i>Land Use Classification</i>	<i>Agricultural Rangeland (AR)</i>	<i>Agricultural Productive (AP)</i>	<i>Rural (R)</i>	<i>Rural Transition (RT)</i>	<i>Notes and Additional Regulations</i>
Microwave, radio and television transmission and/or relay structures	C	C	C	C	Facilities regulated by the PUC are not regulated by this title
Private enterprise performing governmental functions	C	C	C	C	
Radio frequency emission measuring facilities (if privately operated)	C	C	C	C	Publicly operated radio frequency emission measuring facility not regulated by this title
Railway stations, multi-modal transit centers	C	C	C	C	
Renewable energy generation facilities, commercial	C	C	C	—	See § 25.08.016 for development standards
Renewable energy generation facilities, commercial and private non-commercial	A	A	A	—	See § 25.08.016 for development standards
Surface mining, including concrete and asphalt batch plants and concrete and asphalt recycling plants	C	C	C	C	Must comply with Surface Mining Ordinance, Title 19 of the County Code
Veterinary hospitals and pet clinics	C	C	C	—	
Accessory/incidental uses	Regulated as a use per this table. Administrative use permit or conditional use permit required if shown in the table above.				
Wireless telecommunication facilities	See the Wireless Telecommunication regulations in Title 7 of the County Code				
Similar uses	See "Interpretations" in Chapter 25.01				
Note 1: All agricultural, cannabis, industrial and residential uses in agricultural zones can be a primary use, if consistent with the general plan land use designation for the property.					
Note 2: Farmworker housing provided by an employer must comply with all provisions of Cal. Health and Safety Code § 17008(a). Farmworker housing provided by someone other than an agricultural employer must comply with all provisions of Cal. Health and Safety Code § 17008(b).					

(G) *Agricultural and rural district development standards.* Table 25.03-C establishes the basic development standards for the agricultural and rural zones. Development standards for specific uses are provided in Chapter 25.08. The regulations in this section apply to every lot and building site in the AR, AP, R, and RT zoning districts, except where modified by a combining zone.

**Table 25.03-C**

**Development Standards - Agricultural Zones**

<i>Development Standard</i>	<i>Agricultural Rangeland (AR)</i>	<i>Agricultural Productive (AP)</i>	<i>Rural (R)</i>	<i>Rural Transition (RT)</i>
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<i>Development Standard</i>	<i>Agricultural Rangeland (AR)</i>	<i>Agricultural Productive (AP)</i>	<i>Rural (R)</i>	<i>Rural Transition (RT)</i>
<b>Lot and Density Standards</b>				
Maximum density <sup>1</sup>	1 dwelling unit per 40 acres <sup>1</sup>	1 dwelling unit per 5 acres <sup>1</sup>	1 dwelling unit per 5 acres <sup>1</sup>	1 dwelling unit per 2.5 acres <sup>1</sup>
Minimum lot size	40 acres	5 acres	5 acres	2.5 acres
<b>Setbacks and Height Limits</b>				
Front setback	30 feet	25 feet	25 feet <sup>2</sup>	25 feet <sup>2</sup>
Side, interior setback	32 feet	32 feet	32 feet <sup>2</sup>	32 feet <sup>2</sup>
Rear setback	35 feet	35 feet required	35 feet <sup>2</sup>	35 feet <sup>2</sup>
Distance between buildings	Subject to requirements of California Building Code			
Maximum building height (feet)	35	35	35	35
Development standards for accessory structures are provided in §§25.07.006, 25.07.007, and 25.07.008.				
1. Accessory dwelling units do not count toward density. See §25.08.002.				
2. R & RT zones - in state responsibility area, a vegetation clearance easement may be required for defensible space for firefighting, see County Fire Department.				

(Ord. 1043 § 3 (part), 2022)

**§ 25.03.006 COMMERCIAL DISTRICTS.**

(A) The intent of the C-1 and C-2 districts is to provide for commercial development that is compatible with other land uses and will conveniently and effectively serve the needs of the people. The objective is to encourage commercial services to meet the needs of rural citizens as well as the needs of the weekend or recreational uses.

(B) *Commercial Thoroughfare (C-1) District — Intent.* The C-1 district implements the commercial thoroughfare land use designation of the general plan, which seeks to:

“... provide commercial services for motorists near highway interchanges, along thoroughfares, and near Federal, State, and regional parks, and other tourist attractions to capture pass-through traffic, and to allow for commercial uses that serve the agricultural and rural unincorporated community. These uses could include small shopping centers, truck and automobile stations, and tourist-serving commercial uses.”

The purpose of this designation is to provide areas that function as destinations for commercial activity serving the regional population. This designation intends to accommodate the location of such commercial uses at key intersections along Interstate 101 and other major State Routes. These uses could include shopping centers, truck and automobile stations, tourist-serving commercial uses, and hotels/motels.”

(1) The C-1 zoning district allows the establishment of businesses offering accommodations, supplies or services especially to motorists, and for certain uses such as commercial amusement and specialized automotive and related sales and service establishments which serve persons coming to them from large trading areas by automobile.

(2) These uses ordinarily do not seek locations in shopping centers, and therefore, must be provided at independent locations. The C-1 district, when appropriate, will be located along major thoroughfares. Special development standards are incorporated in the district regulations in order to provide for orderly development and to minimize traffic hazards.

(3) The following regulations apply to every lot and building site in a C-1 district, except where modified by a combining zone.

(C) *Neighborhood Commercial (C-2) District — Intent.* The C-2 district implements the commercial neighborhood land use designation of the general plan, which seeks to:

“... provide convenience goods within or near communities or other concentrations of population. This designation intends to reduce unnecessary vehicular trips to commercial centers in the cities of Hollister and San Juan Bautista and outlying cities in other counties, encouraging a focus on local businesses, with a destination retailer or restaurant. This designation also allows mixed-use developments that could include residential, retail, and office uses.”

(1) The C-2 zoning district is specifically intended to establish and provide centers for convenient shopping to residential neighborhoods.

(2) The following regulations apply to every lot and building site in a C-2 district, except where modified by a combining

Rangeland grazing of small or large livestock	P	P	—	—	
Non-commercial raising of poultry or other animals	P	P	P	P	See "Animal Keeping" standards in Chapter 25.08 for limits on number of animals.
Future Farmers of America (FFA) or 4-H projects, conducted by residents of the premises.	P	P	—	—	
Wholesale plant nursery	P	P	P	P	

<i>Land Use Classification</i>	<i>Agricultural Rangeland (AR)</i>	<i>Agricultural Productive (AP)</i>	<i>Rural (R)</i>	<i>Rural Transition (RT)</i>	<i>Notes and Additional Regulations</i>
<b>Commercial Uses</b>					
<i>Land Use Classification</i>	<i>Agricultural Rangeland (AR)</i>	<i>Agricultural Productive (AP)</i>	<i>Rural (R)</i>	<i>Rural Transition (RT)</i>	<i>Notes and Additional Regulations</i>
<b>Commercial Uses</b>					
Bed and breakfast establishments	C	C	C	—	
Hotel or motel	C	C	C	—	
Winery	A	A	A	—	
Sale of agricultural products, including products not produced in San Benito County	A	A	A	A	Sale of other products, including pre-packaged and prepared food, allowed as an accessory use.
Sale of agricultural products produced in San Benito County	P	P	P	P	Sale of other products, including pre-packaged and prepared food, allowed as an accessory use.
<b>Commercial Cannabis/Hemp Uses<sup>1</sup></b> See note 1 to this table for all cannabis uses.					
Indoor or outdoor cultivation of commercial cannabis; transport of crops to offsite locations (not including "distribution" as defined in Title 7, Chapter 7.02 of the County Code	C	C	C	—	Subject to additional requirements of Title 7, Chapter 7.02 of the County Code
Laboratory testing of commercial cannabis or hemp and/or cannabis or hemp products	C	C	C	—	

zone.

(D) C-1 and C-2 permitted uses. The table below designates uses are permitted, administratively permitted, conditionally permitted, or prohibited in C-1 and C-2 districts.

**Table 25.03-F**

**Land Use Regulations - Commercial Zones**

*P* = Permitted Use *A* = Administrative Use Permit Required *C* = Conditional Use Permit Required *—* = Use Not Allowed All new structures require review, per Chapter 25.02 of this code			
<i>Land Use Classification</i>	<i>Commercial Thoroughfare (C-1)</i>	<i>Neighborhood Commercial (C-2)</i>	<i>Additional Regulations</i>
<b>Agricultural Uses</b>			
Commercial agriculture as defined in Glossary	P	P	
Future Farmers of America/4-H projects	—	P	Must be conducted by occupants of premises. Projects involving crowing fowl require crowing fowl affidavit
Hobby/personal agriculture	—	P	
Grazing	P	P	
Plant nursery, wholesale only	P	P	
Small livestock farming	P	P	One adult animal per acre (see Chapter 25.08)
<b>Residential Uses</b>			
Single-family dwelling	—	C	One per lot or parcel
Tiny homes	—	C	See § 25.08.029 for tiny homes standards
Accessory dwelling unit	—	P	Per accessory dwelling unit regulations in § 25.08.002
Caretaker unit	P	P	
Duplex or two-family dwelling	—	C	
Multiple-family dwellings, condominiums and apartments	—	C	Per general plan density
Transitional and supportive housing	—	P	

<i>Land Use Classification</i>	<i>Commercial Thoroughfare (C-1)</i>	<i>Neighborhood Commercial (C-2)</i>	<i>Additional Regulations</i>
<b>Commercial Uses</b>			
Alcohol sale for on-site or off-site consumption	P	P	
Automotive/vehicle related uses (see Glossary)	A	—	
Automobile service stations and car washes (full service and self service)	C	C	

Commercial entertainment and amusement establishments	C	—	
Custom clothing retail and tailoring services	—	P	
Drive-through restaurants	C	—	
Drugstore/pharmacy	—	A	
Eating and drinking establishments, including nightclubs	C	—	
Farm equipment sales with accessory repairs and services	A	—	
Sale of fruit and vegetable in a roadside stand	A	—	
Greenhouse, plant nursery, including sales of garden hardware	A	—	
Home improvement stores	C	—	
House trailer sales and rentals	A	—	
Mobile home parks	—	C	
Motels and hotels	C	—	
Outdoor display and sale of merchandise, permanent	A	A	
Outdoor display and sale of merchandise, temporary	Requires temporary use permit		
Outdoor storage of materials	—	—	
Restaurant	P	P	

<i>Land Use Classification</i>	<i>Commercial Thoroughfare (C-1)</i>	<i>Neighborhood Commercial (C-2)</i>	<i>Additional Regulations</i>
<i>Land Use Classification</i>	<i>Commercial Thoroughfare (C-1)</i>	<i>Neighborhood Commercial (C-2)</i>	<i>Additional Regulations</i>
Retail business establishments, small scale	P	P	
Retail business establishments, large scale	C	—	
Secondhand sales (auction shop, merchandise liquidator, surplus or salvage outlet or store, secondhand store or close-out store or other business of a similar type or nature)	C	—	
Trailer rentals (U-Haul type)	A	—	
Truck stops/travel plazas	C	—	
<b>Personal Service Uses</b>			
Bank	P	P	
Personal services, excluding massage parlors	P	P	
Retail clothes cleaning, dry cleaning, or laundry, including self-service laundromat	P	P	



Office, business or professional (including medical/dental)	P	P	
Veterinary hospitals and pet clinics	C	—	
Undertaking establishments, funeral homes, mortuaries	C	—	
<b>Other Uses</b>			
Assembly uses, including places of worship, private clubs, fraternity/sorority houses, senior centers	—	C	
Bus stops, park and ride lots, transit stops	P	P	
Day care, small family	P	P	
Day care, large family	A	A	
Day care center	C	C	
Educational institution, private	—	C	Public schools are not regulated by this title

<i>Land Use Classification</i>	<i>Commercial Thoroughfare (C-1)</i>	<i>Neighborhood Commercial (C-2)</i>	<i>Additional Regulations</i>
<i>Land Use Classification</i>	<i>Commercial Thoroughfare (C-1)</i>	<i>Neighborhood Commercial (C-2)</i>	<i>Additional Regulations</i>
Hospital	—	C	
Library or museum or information center not operated by a governmental entity	—	C	Publicly operated libraries and museums are not regulated by this title
Microwave, radio and television transmission and/or relay structures	C	C	Facilities regulated by the PUC are not regulated by this title
Outdoor recreation and/or education	C	—	
Private enterprise performing governmental functions	—	C	
Privately operated swimming pool	—	C	Publicly operated pools are not regulated by this title
Recreation trailer parks	C	C	
Recycling collection facilities	P	P	Minor development plan review required. In C-1, limited to 200SF of outside storage. No outside storage in C-2
Recycling equipment to briquette, shred, transform or otherwise process recyclable materials	C	C	See Chapter 25.08
Recycling processing facilities	—	—	
Unmanned aircraft takeoff and landing facilities	C	—	
Railway stations, multi-modal transit centers	C	C	
Accessory/incidental uses	Regulated as a use per this table. Administrative use permit or conditional use permit required if shown in the table above.		

*Similar uses	See "Interpretations" in Chapter 25.01
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(E) *Commercial district development standards.* The table below establishes the basic development standards for the C-1 and C-2 zones.

**Table 25.03-G**

**Development Standards - Commercial Zones**

	<i>Commercial Thoroughfare (C-1)</i>	<i>Neighborhood Commercial (C-2)</i>
	<i>Commercial Thoroughfare (C-1)</i>	<i>Neighborhood Commercial (C-2)</i>
<b>Density and Lot Requirements</b>		
Density (units/acre)	N/A	20 dwelling units per acre
Minimum lot size (square feet)	20,000	20,000
<b>Building Form and Location</b>		
Floor area ratio (FAR)	0.8	0.8
Maximum height (feet)	35	35 feet or more as determined by the Planning Commission as part of development plan review
Maximum lot coverage	40%	50%
Front setback	10 feet or as determined by the Planning Commission as part of development plan review	10 feet or as determined by the Planning Commission as part of development plan review
Side setback (each side) <sup>1, 2</sup>	0 unless required by Planning Commission, then a minimum of 10 feet, or 10 feet when adjacent to a residential zone	Same as most restrictive adjacent zone
Rear setback <sup>1, 2</sup>	0 unless required by the Planning Commission, then a minimum of 10 feet, or 10 feet when adjacent to a residential zone	Same as most restrictive adjacent zone
1. In C-1 zone - in state responsibility area, a vegetation clearance easement may be required for defensible space for firefighting, see County Fire Department.		
2. In C-1 zone - a commercial use abutting a residential use shall provide a ten-foot screened and landscaped setback buffer. Walls shall be not less than five feet nor more than eight feet in height.		

(Ord. 1043 § 3 (part), 2022)

# Notice of Public Hearing

## COUNTY OF SAN BENITO PLANNING COMMISSION MEETING OF SEPTEMBER 18th, 2024, at 6:00 p.m.

**NOTICE IS HEREBY FURTHER GIVEN** that the Planning Commission will hold a Public Hearing on the following items in the San Benito County Board of Supervisors Chambers located at 481 Fourth Street, Hollister, California, on **Wednesday, September 18th, 2024, at 6:00 p.m.** or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon.

The public may join this meeting using Zoom by visiting the web address <https://zoom.us/join> or dialing one of the following telephone numbers:

+1 408 638 0968 US (San Jose) or  
+1 669 900 6833 US (San Jose).

To access the meeting, please enter the Webinar ID **821 4941 3929** AND Webinar Password **754449**.

Agenda Packet can be viewed at [www.cosb.us/](http://www.cosb.us/) under "Events" or [https://cosb.granicus.com/ViewPublisher.php?view\\_id=1](https://cosb.granicus.com/ViewPublisher.php?view_id=1) under "Upcoming Events" by the Friday before the meeting.

### **PLN240026 (Minor Subdivision at 9644 Betabel Road):**

OWNER: McDowell Charitable Trust. APPLICANT: San Benito Engineering. LOCATION: 9644 Betabel Road (5 miles north-northwest of central San Juan Bautista) in unincorporated San Benito County. APN(s): 013-150-026, 013-150-027, 013-150-030, 013-150-031, 013-150-032, and 013-150-033. REQUEST: This project proposes the subdivision of an existing 111.68-acre parcel into four separate parcels, measuring 7.61 acres, 23.20 acres, 40.34 acres, and 40.53 acres respectively. Parcels One and Two are undeveloped commercial land and Parcels Three and Four are undeveloped agricultural land. GENERAL PLAN LAND USE DESIGNATION(s): Rangeland (RG) and Commercial Throughfare (CT). ZONING DISTRICT: Agricultural Rangeland (AR) and Commercial Throughfare (C-1). ENVIRONMENTAL REVIEW: Categorically Exempt under State CEQA Guidelines Sections 15061 (Review for Exemption, subparagraph (b)(3)), 15301 (Existing Facilities, subparagraph c), and 15304 (Minor Alterations to Land subparagraph (a)). PLANNER: Jonathan Olivas ([jolivas@sanbenitocountyca.gov](mailto:jolivas@sanbenitocountyca.gov)).

### **PLN240037 (Johnson/Weiler/San Benito Holdings Development Agreement):**

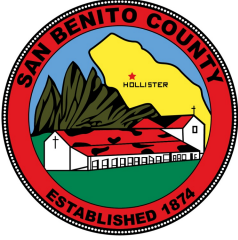
OWNER: San Benito Holdings, LLC a California limited liability company, MARK H. JOHNSON, TRUSTEE, AND GREGORY N. WEILER, TRUSTEE (collectively "Owners"). APPLICANT: Dan DeVries. LOCATION: 1720A Searle Road (at Searle Rd and State Route 129), near San Juan Bautista in unincorporated San Benito County. APN: 012-010-030 and -031. REQUEST: In accordance with San Benito County Code Ch. 19.11 (Development Agreements), the San Benito County Planning Commission would consider adopting a resolution recommending that the County Board of Supervisors adopt an ordinance enabling execution of a development agreement between the project developer and the County regarding the Ag Center commercial development (under County Planning file PLN220052, still under review with Planning). Under County Code §19.11.003, County policy requires that development agreements shall result in a public benefit beyond that which would be forthcoming through conditions of development project approvals. GENERAL PLAN LAND USE DESIGNATION: Combining district of Rural (R) and Commercial Thoroughfare (C-1). ZONING DISTRICT: Combining district of Rural (R) and Commercial Thoroughfare (C-1). ENVIRONMENTAL REVIEW: Exempt. PLANNER: Arielle Goodspeed ([agoodspeed@sanbenitocountyca.gov](mailto:agoodspeed@sanbenitocountyca.gov))

If you challenge these items in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the County of San Benito at, or prior to, the Public Hearing. Written comments on any of these items may be submitted to Vanessa Delgado, Clerk of the Board, at [vdelgado@sanbenitocountyca.gov](mailto:vdelgado@sanbenitocountyca.gov), or comments can be sent via U.S. mail to: Vanessa Delgado, Clerk of the Board, 481 Fourth Street, 1st Floor, Hollister, CA 95023. Verbal and written comments may also be submitted at the public hearing.

Documents related to these items may be inspected by the public on weekdays between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, at the County Resource Management Agency, 2301 Technology Parkway, Hollister, CA. Please note that the items listed are only the agenda items that require a public hearing. Please call the Project Planner if there are any questions and/or for complete agenda information at 831 637-5313. Si desea información en español por favor llame al 831 637-5313 o visítenos al 2301 Technology Parkway, Hollister, CA.

Dated: August 30th, 2024

PUBLISHED:  
Friday, September 6th, 2024~  
Hollister Free Lance  
(Pub HF 9/6)



**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

**Vincent Ringheden**  
District No. 1

**Richard Way**  
District No. 2

**Robert Scagliotti**  
District No. 3  
- Vice-Chair

**Robert Gibson**  
District No. 4  
- Chair

**Celeste Toledo-Bocanegra**  
District No. 5

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**Item Number: 8.1**

**MEETING DATE:** 09/18/2024

**DEPARTMENT:** RESOURCE MANAGEMENT AGENCY

**AGENDA ITEM PREPARER:** Arielle Goodspeed

**SUBJECT:**

**RESOURCE MANAGEMENT AGENCY- A.PRADO, PLANNING AND BUILDING DIRECTOR - Review, discuss and make recommendations on ordinance amendments for §3.05.051 Planning Commission Meetings; Duties; Operation.**

**SBC FILE NUMBER: 790**

**ORDINANCE NO.:**

**AGENDA SECTION:**

REGULAR AGENDA

**BACKGROUND/SUMMARY:**

In February of 2024 the Planning Commission requested that staff bring amendments to §3.05.051 Planning Commission Meetings; Duties; Operations.

On March 20th, 2024 staff presented a discussion item during a Regular Planning Commission meeting to get input from the Commission regarding specific amendments to the text.

On April 17th, 2024 staff presented an amended ordinance and resolution to the Planning Commission which was adopted and recommended for approval to the Board of Supervisors through Resolution 2024-08.

On May 21st, 2024 staff presented an amended ordinance and resolution to the Board of Supervisors which the Board tabled and directed staff to have joint meetings with Planning Commissioners and Board of Supervisors on the ordinance and return back to the Board.

**STRATEGIC PLAN GOALS: 1. Operational Development & Excellence**

Yes

**STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth**

Yes

**STRATEGIC PLAN GOALS: 3. Technology**

No

**STRATEGIC PLAN GOALS: 4. Community Engagement**

Yes

**STRATEGIC PLAN GOALS: 5. Health & Safe Community**

No

**STAFF RECOMMENDATION:**

Staff recommends the Planning Commission review the recommended amendments to §3.05.051 Planning Commission Meetings; Duties; Operations; and provide recommendations on the revisions to the Ordinance entitled "An Ordinance of the Board of Supervisors of the County of San Benito to Amend Section 3.05.051 of Article III of Chapter 3.05 of Title 3 of the San Benito County Code, Regarding Planning Commission Meetings; Duties; Operations" and provide staff direction to return with ordinance for adoption.

**ATTACHMENTS:**

[\\_03.05.051\\_Planning\\_Commission\\_Meetings\\_\\_Duties\\_\\_Operations\\_DRAFT\\_AMENDMENTS.](#)

### § 3.05.051 MEETINGS; DUTIES; OPERATION.

(A) The Planning Commission shall hold at least one regular meeting each month and it shall adopt rules of procedure for the transaction of business. The Commission shall cause records to be kept of its proceedings, resolutions, transactions, findings and determinations. The records of the Planning Commission shall be available to the public.

(B) (1) It shall be the duty of the Planning Commission to make a recommendation to the Board of Supervisors regarding any proposed Affordable Housing Plan, master or general plan, or amendment thereto, for the physical development of the county.

(2) Additionally, the Planning Commission shall perform those planning and zoning duties specified by state law or county ordinance, including, but not limited to, the duties related to legislative matters and the duties related to quasi-judicial matters and appeals thereof.

(3) The Planning Commission shall have such further duties and responsibilities as maybe assigned to it from time to time by the Board of Supervisors.

(4) It may contract for services, subject to the provisions of law, provided that all expenditures of the Commission shall be within amounts appropriated by the Board of Supervisors. It shall serve in an advisory capacity to the Board of Supervisors and shall perform such other functions as the Board of Supervisors may request or provide.

(C) The San Benito County Planning Department shall assist and advise the Planning Commission as directed by the Board of Supervisors or the Planning Commission. The assistance and advice shall include, but not be limited to, the provision of staff and resources to enable the Commission to function, operate and transact such business as may be addressed to or initiated by the Commission.

~~(D) The Planning Commission shall review the annual Planning Department budget and make recommendations to the Board of Supervisors.~~

~~(E) The Planning Commission shall periodically review the county capital improvement projects for consistency with the General Plan and related elements.~~

~~(F) The Planning Commission shall communicate with other advisory bodies concerned with planning matters within the County of San Benito. (Varied recommendations to leave or remove this item.)~~

~~(G) The Planning Commission shall develop such specific plans as may be necessary or desirable.~~

~~(H) The Planning Commission shall advise with and recommend to the proper officials of the County the approval, disapproval, or modification of all maps or plats of land subdivision in accordance with the Subdivision Map Act of the State or as may be provided by county code.~~

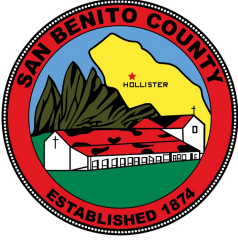
~~(I) The Planning Commission shall make recommendations concerning proposed public works and for the clearance and rebuilding of blighted or substandard areas within the County and public improvement in general. (Varied recommendations to leave or remove this item.)~~

~~(J) The Planning Commissioners shall may make recommendations to the appropriate county staff concerning projects or properties to be cited investigated for code violations or make recommendations to be issued a stop work order. Or The Planning Commission shall may make recommendations to the appropriate county staff concerning projects or properties to be cited for code violations or make recommendations to be issued a stop work order. OR The Planning Commissioners shall may make recommendations to the~~

appropriate county staff concerning projects or properties to be cited investigated for code violations or make recommendations to be issued a stop work order. (Varied recommendations on how to edit the language on this item.)

(K) The Planning Commission shall review and recommend impact fees.

(L) The Planning Commission shall negotiate and make recommendations to the Board of Supervisors regarding development agreements.



**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

**Vincent  
Ringheden**  
District No. 1

**Richard  
Way**  
District No. 2

**Robert  
Scagliotti**  
District No. 3  
- Vice-Chair

**Robert  
Gibson**  
District No. 4  
- Chair

**Celeste Toledo-  
Bocanegra**  
District No. 5

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**Item Number: 8.2**

**MEETING DATE:** 09/18/2024

**DEPARTMENT:** RESOURCE MANAGEMENT AGENCY

**AGENDA ITEM PREPARER:** Robin Leland

**SUBJECT:**

**RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING AND BUILDING -  
Receive information from Code Enforcement Officer Robin Leland regarding Title 1 Code  
Enforcement update.**  
**SBC FILE NUMBER: 790.2**

**AGENDA SECTION:**

REGULAR AGENDA

**BACKGROUND/SUMMARY:**

Receive information from Code Enforcement Officer Robin Leland regarding Title 1 Code Enforcement update.

**STRATEGIC PLAN GOALS: 1. Operational Development & Excellence**

Yes

**STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth**

No

**STRATEGIC PLAN GOALS: 3. Technology**

No

**STRATEGIC PLAN GOALS: 4. Community Engagement**

Yes



**STRATEGIC PLAN GOALS: 5. Health & Safe Community**

Yes

**STAFF RECOMMENDATION:**

Staff recommend participating in the discussion.

**ATTACHMENTS:**

[Title 1 Code Presentation](#)

[Title 1 Code Revisions - Redlined.pdf](#)



# San Benito County Code of Ordinances Title 1: Code Enforcement

September 18, 2024

Presented By: Robin Leland, Code Enforcement Officer III

# Purpose

- To present our codes as they currently read and explain how they relate to the current code enforcement process.
- Propose opportunities in the code where clarification or improvements can be made to increase code enforcement efficiency and effectiveness.
- Explain the legal and situational limitations of code enforcement.



## Penalties (SBCC §1.03.002)

- ▶ Misdemeanors – Every violation of a county ordinance specified as a misdemeanor is punishable by imprisonment in the county jail not exceeding six months or by a fine not exceeding \$1,000, or by both the fine and imprisonment.
  - *Punishment is defined by the State Penal Code and cannot be changed.*

*Proposal:  
Explore the possibility of further defining specific, egregious, violations of our code as misdemeanors.*

# Penalties (SBCC §1.03.002)

- ▶ Infractions – Every violation of a county ordinance is considered an infraction unless otherwise determined to be a misdemeanor.
  - Fines for *each* infraction are as follows:
    - 1<sup>st</sup> offense - \$100
    - 2<sup>nd</sup> offense (w/in 1 year) - \$200
    - 3<sup>rd</sup> and subsequent (w/in 1 year) - \$500
    - *Each separate day or portion thereof where a violation continues to exist constitutes a separate offense.*

*Proposal to potentially bring to BOS:*

*Increase fine amounts to the following:*

- *1<sup>st</sup> - \$250*
- *2<sup>nd</sup> - \$500*
- *3<sup>rd</sup> - \$1,000*

# Public Nuisance Abatement Procedures & Remedies

- ▶ Due Process
- ▶ Administrative Abatement
- ▶ Alternative Public Nuisance Abatement Procedures
- ▶ Civil Actions



# Due Process

- ▶ The U.S. Constitution guarantees procedural due process before a government entity may deprive a person of a protected life, liberty, or property interest.
- ▶ A Person must be given notice, the opportunity to be heard, and afforded a decision by a neutral decision-maker.
- ▶ Adherence to these requirements is accomplished within the Code Enforcement process by:
  - Proper service of all notices, informing the violator of the code violation
  - Opportunity to request an Administrative Hearing to receive a judgment from a neutral decision-maker

# Notice

- ▶ Notice of Violation (NOV) (SBCC §1.03.006)
  - The County notifies the Property Owner in writing that they are maintaining their property in violation of the County Code and that the violation constitutes a public nuisance.
  - Notice alerts the property owner of the County's intention to record an NOV against the property and provides an opportunity to cure.
  - Notifies owners that fines and fees will accrue daily if not remedied.
  - The NOV and associated fines and fees may be recorded against the property as a notice or as a lien.



# Hearing

- ▶ The property owner may request a hearing to dispute the existence of a violation, or that the violation does not need to be abated.
- ▶ The Board of Supervisors, or designated Hearing Officer, holds a hearing where the property owner and county staff present evidence.

# County Enforcement Mechanisms

- ▶ Civil Action
- ▶ Administrative Abatement
- ▶ Alternative Public Nuisance Abatement Procedures and Remedies

# Civil Action (SBCC §1.03.003)

- ▶ County Counsel may bring a civil action to the Superior Court to enjoin (i.e., stop with an injunction) or abate (i.e., remove with an order to abate) a public nuisance (§1.03.003)
  - The county may seek to recover all costs and expenses to bring the civil action post judgement.
- ▶ Receiverships – The Superior Court appoints a Receiver to manage the property and restore it into compliance with County and state codes. The Receiver then sells the property and uses the proceeds to pay the outstanding fines and the costs for the abatement of the property.
  - Ability to offset costs is dependent on value of the subject property.
  - This is being developed by County Counsel currently.
- ▶ Going forward, these should be pursued with County Counsel to determine which cases to potentially bring forward to the BOS.
  - Very fact specific
  - Cost considerations

# Administrative Abatement (SBCC §1.03.005)

1. Enforcing Officer can give written notice to Property Owner that their property is being maintained in violation of County Code and constitutes a “public nuisance.” (1.03.005(A))
  2. Notice is to direct the Property Owner to either abate the public nuisance or appear before the BOS to show cause as to why the County should not abate the nuisance (at Property Owner’s expense). (1.03.005(A))
  3. BOS holds a hearing where Property Owner and County Staff present evidence. If BOS finds (a) that a public nuisance exists and (b) that there is “sufficient cause” to abate the nuisance, it may pass a Resolution directing abatement by the County. (1.03.005(C))
  4. Abatement is then to be done by the County, with costs to be sought thereafter. (1.03.005(c))
- ▶ Going forward, these should be pursued with County Counsel to determine which cases to potentially bring forward for the BOS to consider.
    - Very fact specific
    - Staff time and cost considerations

# Alternative Public Nuisance Abatement Procedures and Remedies (SBCC § 1.06)

1. These are alternative procedures, passed by the Board more recently in 2021.
  2. Can be used for any use of land or premises maintained contrary to County Code, and also for any condition that constitutes “visual blight” to a “reasonable person,” including the accumulation of junk, abandoned or unused equipment, abandoned, dismantled, or inoperative vehicles. (1.06.030(5), (7))
  3. Enforcing Officer may issue a notice to abate, record the notice, and abate the public nuisance. (1.06.040(B)(2))
- 
1. These procedures need to be further developed w/ County Counsel regarding particulars of how to carry out.
  2. Consider hiring a Hearing Officer to hear administrative appeals.

# Closing

- ▶ Questions?
- ▶ Comments?
- ▶ Changes the Planning Commission would like to see with respect to land use and zoning parts of the code?

## CHAPTER 1.01: RULES OF CONSTRUCTION

### Section

- 1.01.001 How code designated and cited
- 1.01.002 Definitions and rules of construction
- 1.01.003 Effect of repeal of ordinances
- 1.01.004 Catchlines of sections
- 1.01.005 Provisions considered as continuations of existing ordinances
- 1.01.006 Severability of parts of code
- 1.01.007 General penalty; continuing violations
- 1.01.008 Authority to require prisoners to labor on public works and the like

### Statutory reference:

Authority of counties to enforce regulations not in conflict with the general law, see Constitution Art. XI, § 11

### § 1.01.001 HOW CODE DESIGNATED AND CITED.

The ordinances embraced in the following chapters and sections shall constitute and be designated “The Code of San Benito County, California”, and may be so cited. It may also be cited as the “San Benito County Code”.

(1966 Code, § 1-1)

### § 1.01.002 DEFINITIONS AND RULES OF CONSTRUCTION.

For the purposes of this code, the following words and phrases shall have the meanings respectively ascribed to them by this section.

**BOARD OF SUPERVISORS.** The Board of Supervisors of San Benito County.

**CODE.** The Code of San Benito County, California.

**COMPUTATION OF TIME.** The time in which any act provided by law is to be done is computed by excluding the first day and including the last day, unless the last day is a holiday and then it is also excluded.

**COUNTY.** The County of San Benito.

**DAY.** A period of time between any midnight and the midnight following.

DAYTIME, NIGHTTIME. DAYTIME is the period of time between sunrise and sunset. NIGHTTIME is the period of time between sunset and sunrise.

GENDER. The masculine gender includes the feminine and neuter.

HIGHWAYS. The whole of all public ways, roads, alleys, courts and streets and sidewalks between the property lines forming the exterior lateral boundaries thereof, and those parts of public squares and places which form traveled parts of highways.

IN THE COUNTY. All territory over which the county now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

JOINT AUTHORITY. All words giving a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of them, unless it is otherwise expressed in the act giving the authority.

MONTH. A calendar month, unless otherwise expressed.

NUMBER. The singular number includes the plural, and the plural, the singular.

OATH. Affirmation.

OFFICERS, DEPARTMENTS AND THE LIKE. Officers, departments, boards, commissions and employees referred to shall mean officers, departments, boards, commissions and employees of the County of San Benito unless the context clearly indicates otherwise.

OFFICIAL TIME. Whenever certain hours are named herein, they shall mean Pacific Standard Time or Daylight Saving Time as may be in current use in the county.

OWNER. Applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint or tenant by the entirety of the whole or a part of the building or land.

PERSON. Any person, firm, association, organization, partnership, limited liability company, business trust, corporation, or company.

PERSONAL PROPERTY. Every species of property, except real property, as herein defined.

PRECEDING, FOLLOWING. Next before and next after, respectively.

PROCESS. Includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

PROPERTY. Real and personal property.

REAL PROPERTY. Lands, tenements and hereditaments.

SHALL, MAY. SHALL is mandatory and MAY is permissive.

SIGNATURE or SUBSCRIPTION BY MARK. Includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his or her own name near the signer's or subscriber's name; but a SIGNATURE



or SUBSCRIPTION BY MARK can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

STATE. The State of California.

TENANT or OCCUPANT. Applied to a building or land, shall include any person holding a written or an oral lease of or who occupies, the whole or a part of the building or land, either alone or with others.

TENSES. The present tense includes the past and future tenses, and the future includes the present.

WEEK. A week consists of seven consecutive days.

WRITING. Any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.

YEAR. A period of 365 days; "half year," 182 days; "quarter of a year," 91 days. The added day of a leap year, and the day immediately preceding, if they occur in any such period, shall be reckoned together as one day.

(1966 Code, § 1-2)

Statutory reference:

"Computation of time", see Cal. Gov't Code § 6800

"Day", see Cal. Gov't Code § 6806

"Daytime", see Cal. Gov't Code § 6807

"Gender", see Cal. Gov't Code § 12

"Joint authority", see Cal. Civil Code § 12

"Month", see Cal. Gov't Code § 6804

"Number", see Cal. Gov't Code § 13

"Oath", see Cal. Gov't Code § 15

"Person", see Cal. Gov't Code § 17

"Personal property", see Cal. Civil Code §§ 14, 663

"Process", see Cal. Gov't Code § 22

"Property", see Cal. Civil Code § 14

"Real property", see Cal. Civil Code §§ 14, 658

“Shall, may”, see Cal. Gov’t Code § 14

“Signature, subscription by mark”, see Cal. Gov’t Code § 16

“Tenses”, see Cal. Gov’t Code § 11

“Week”, see Cal. Gov’t Code § 6805

“Writing”, see Cal. Gov’t Code § 8

“Year”, see Cal. Gov’t Code § 6803

#### § 1.01.003 EFFECT OF REPEAL OF ORDINANCES.

(A) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(B) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

(1966 Code, § 1-3)

#### § 1.01.004 CATCHLINES OF SECTIONS.

The catchlines of the several sections of this code are intended as mere catchwords to indicate the contents of the section and shall not be deemed, or taken to be, titles of the section, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of the sections, including the catchlines, are amended or re-enacted.

(1966 Code, § 1-4)

#### § 1.01.005 PROVISIONS CONSIDERED AS CONTINUATIONS OF EXISTING ORDINANCES.

The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments.

(1966 Code, § 1-5)

#### § 1.01.006 SEVERABILITY OF PARTS OF CODE.

It is hereby declared to be the intention of the Board of Supervisors that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the

valid judgment or decree of a court of competent jurisdiction, the unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

(1966 Code, § 1-6)

#### § 1.01.007 GENERAL PENALTY; CONTINUING VIOLATIONS.

(A) Whenever in this code or in any other ordinance of the county or in any rule or regulation promulgated pursuant thereto, any act is prohibited or made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided for, the violation of any such provision of this code or any other ordinance, rule or regulation of the county shall be punishable by a fine not exceeding \$1,000 or imprisonment for a term not exceeding six months, or by both the fine and imprisonment or as otherwise established by Cal. Penal Code § 19 then in effect.

(B) Every day any violation of this code or any other ordinance, rule or regulation of the county shall continue shall constitute a separate offense.

(1966 Code, § 1-7) (Ord. 570, § 5)

Statutory reference:

Establishing a penalty of a fine not exceeding ~~\$500~~ \$1,000, or six months' imprisonment, or both for commission of a misdemeanor, see Cal. Penal Code § 19

#### § 1.01.008 AUTHORITY TO REQUIRE PRISONERS TO LABOR ON PUBLIC WORKS AND THE LIKE.

All persons confined in the county jail under judgment of conviction of misdemeanors may be required to work upon the public grounds and public property either of the county or of the cities within the county, or in such other places as may be deemed advisable.

(1966 Code, § 1-8) (Ord. 4, § 1)

Statutory reference:

Authority of county to provide for working of prisoners, see Cal. Gov't Code § 25359

Working of prisoners confined in county jail, see Cal. Penal Code §§ 4017, 4018

## CHAPTER 1.03: CODE ENFORCEMENT

### Section

- 1.03.001 Purpose
- 1.03.002 Criminal penalties
- 1.03.003 Civil actions
- 1.03.004 Treble costs
- 1.03.005 Administrative abatement
- 1.03.006 Notice of violation
- 1.03.007 Denial of permits, licenses or other entitlements
- 1.03.008 Appeal
- 1.03.009 Investigation fee
- 1.03.010 Reinspection fee
- 1.03.011 Powers and duties of Enforcing Officers
- 1.03.012 Remedies cumulative
- 1.03.013 Administrative policies and procedures
- 1.03.014 Expedited administrative abatement of code violations
- 1.03.015 Responsibility of property owner
- 1.03.016 Recovery of attorneys' fees

### § 1.03.001 PURPOSE.

(A) The purpose of this chapter is to provide a comprehensive and uniform code enforcement program in order to insure compliance with all county ordinances that incorporate the remedies specified by this chapter.

(B) The Board of Supervisors finds that fair and effective code enforcement is needed to protect the health and safety of the residents of San Benito County and to preserve a healthy economic climate in the county. The Board further recognizes that there are scarce financial resources available to counties. The Board determines that these resources must be managed to economically enforce code compliance. The Board concludes that first resort to administrative remedies conserves the financial resources of all parties when compared to the high costs of litigation. Additionally, administrative remedies often result in faster resolution of violations. Finally, the Board desires to create a variety of enforcement remedies so as to maximize efforts to insure code compliance.

(1966 Code, § 19-1) (Ord. 567, § 1(part))

§ 1.03.002 CRIMINAL PENALTIES.

(A) Misdemeanors. Every violation of a county ordinance determined to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months or by fine not exceeding \$1,000, or by both the fine and imprisonment.

(B) Infractions. Every violation of a county ordinance determined to be an infraction is punishable by a fine not exceeding ~~\$100~~ \$500 for a first violation; a fine not exceeding ~~\$200~~ \$1,000 for a second violation of the same ordinance within one year; and a fine not exceeding ~~\$500~~ \$2,500 for each additional violation of the same ordinance within one year.

(C) Continuing violation. Each separate day or portion thereof that any person violates or continues to violate a county ordinance shall be deemed to constitute a separate offense and, upon conviction thereof, shall be punished as provided herein.

(D) Citations. Those county employees designated as "Enforcing Officers" are authorized pursuant to Cal. Penal Code § 836.5 and Cal. Penal Code Chapter 5C (commencing with § 853.5) of Title 3 of Part 2 to issue citations for violations of any county ordinance. The following employees are designated "Enforcing Officers": Code Enforcement Officer, Building Official, Building Inspector, Health Officer or designate.

(1966 Code, § 19-2) (Ord. 567, § 1(part))

§ 1.03.003 CIVIL ACTIONS.

(A) The county counsel may bring a civil action to enjoin or abate a public nuisance or a violation of a county ordinance.

(B) In any civil action brought to enjoin or abate a public nuisance or violation of a county ordinance, the county may recover all costs and expenses, including, but not limited to, costs of investigation and discovery. In addition, the prevailing party may recover its attorney's fees. Recovery of attorneys' fees to the prevailing party shall be limited to those individual actions or proceedings in which the county elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fee. In no action shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the county in the action or proceeding.

(1) Except as provided in division (B)(2) below, any person who creates or maintains a public nuisance or who violates, or fails to comply with, any ordinance of San Benito County shall be liable for a civil penalty not to exceed \$2,500 for the creation or maintenance of a public nuisance or for each violation or failure to comply. It shall be a separate offense for each and every day during any portion of which any person knowingly and intentionally commits, continues or permits a public nuisance or a violation of any provision of any ordinance of San Benito County.

(2) Any person who constructs a dwelling unit or converts a structure for human habitation without any permit required by any provision of a San Benito County ordinance shall be liable for a civil penalty in the amount of any rent received from any person occupying the illegal structure, or, in the alternative, in the amount of the reasonable rental value of the structure from the date of its construction or conversion.

(1966 Code, § 19-3) (Ord. 567, § 1(part); Ord. 625, § 1; Ord. 882, § 1)

#### § 1.03.004 TREBLE COSTS.

Pursuant to Cal. Gov't Code § 25845.5, upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property is responsible for a condition that may be abated as a public nuisance, except for conditions abated pursuant to Cal. Health and Safety Code § 17980, the county may recover treble the costs of abatement.

(1966 Code, § 19-4) (Ord. 567, § 1(part))

#### § 1.03.005 ADMINISTRATIVE ABATEMENT.

(A) Notice to abate. Whenever the Enforcing Officer determines that any property within the county is being maintained contrary to the provisions of a county ordinance and constitutes a public nuisance, he or she may mail a written notice to the owner of the property and to any person known to the Enforcing Officer or the Board of Supervisors to be in possession of the property. The notice shall state the conditions which constitute the public nuisance and shall direct that the person abate the conditions or appear before the Board of Supervisors at a stated time and place and show cause why the conditions should not be abated by the county at the person's expense.

(B) Manner of giving notice. Service of the notice to abate shall be made personally or by depositing a true copy thereof in the U.S. Mail, postage prepaid, addressed to the owner and/or occupier of the subject property at their last known address. Service is deemed complete at the time of such deposit. The failure of any owner or occupier to receive such notice shall not affect in any manner the validity of the proceedings hereunder.

(C) Hearing. At the time fixed in the notice, the Board of Supervisors shall hear and consider all relevant evidence from the owner and/or occupier of the subject property, county personnel, and other interested persons relative to the alleged public nuisance and to the abatement thereof. If the Board of Supervisors finds that such public nuisance does exist and that there is sufficient cause to abate the same, it may, by resolution, direct that the nuisance be abated by the county at the expense of the owner and/or occupier, the expense to be specially assessed against the parcel, and a lien imposed, in the event of nonpayment by the owner or occupier.

(D) Abatement by county. In all cases where the Enforcing Officer or Board of Supervisors has determined to proceed with abatement, then on the day following the date

fixed for the hearing, the county shall acquire jurisdiction to abate such conditions at the expense of the owner and/or occupier.

(E) Costs of abatement. The Enforcing Officer shall keep an itemized account of all expenses incurred by the county in abating the nuisance. The Enforcing Officer shall mail a statement of the expenses to the owner and/or occupier of the property with a demand for payment within five days. If payment is not received by the conclusion of the fifth day, the county shall conspicuously post on the affected property and shall also mail to the owner and/or occupier of the property a statement showing the expenses of abatement, together with a notice of the time and place when the statement will be submitted to the Board of Supervisors for approval and confirmation and at which time the Board of Supervisors shall consider objections or protestations to the costs of abatement.

(F) Hearing on statement of expenses. At the time fixed for the hearing on the statement of expenses, the Board of Supervisors shall consider the statement and protests or objections raised by the owner or occupier. The Board of Supervisors may revise, correct or modify the statement as it considers just and thereafter shall confirm the statement by motion or resolution.

(G) Special assessment. In the event the owner or occupier of the subject property does not pay the expenses of abatement within ten days after the Board of Supervisors confirms the costs of abatement, the costs shall become a special assessment against the property. The assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to the special assessment.

(H) Notice of abatement lien. At the time the expenses of abatement become a special assessment against the property, the county shall record a notice of abatement lien with the County Recorder as is authorized by the Government Code and this section. A notice of abatement lien shall be filed which states the identity of the record owner or possessor of the property, the date upon which the abatement of the nuisance was ordered, a description of the real property subject to the lien, the amount of the abatement costs incurred to date and, if applicable, the date upon which the abatement was complete. If the abatement has not yet been completed, the notice shall so state and shall also indicate that the lien is a partial lien and that additional abatement costs will be incurred in the future. It is the intent of the Board of Supervisors that abatement costs incurred after the filing of the notice of abatement lien relate back to the date upon which the lien was recorded for purposes of priority; provided that, after all abatement costs have been incurred and the abatement is complete, the Enforcing Officer, or his or her designee, shall cause a final notice of abatement lien to be recorded. The supplemental notice shall contain all the information required for the original notice and shall also refer to the recordation date and recorder's document number of the original notice.

(I) Summary abatement of immediate dangers. Whenever any condition on or use of property constitutes an immediate threat to public health or safety, the County

Administrative Officer or the Board of Supervisors shall have the authority to summarily abate the nuisance, without notice to the owner or persons known to be in possession of the parcel. The expenses of such abatement shall be assessed against the property as provided herein.

(1966 Code, § 19-5) (Ord. 567, § 1(part); Ord. 882, §§ 2-5)

#### § 1.03.006 NOTICE OF VIOLATION.

(A) Notice of intention to record notice of violation. Except as otherwise provided by law, an enforcing officer who has knowledge that a violation of a county ordinance exists with respect to any real property may cause to be mailed to the then current owner of record, a notice of intention to record a notice of violation. The notice shall identify the property owner and shall contain a description of the property and of the violation. The notice shall describe the action necessary to abate the violation and the time limit within which such abatement shall be completed. The notice shall also specify a time, date, and place for an administrative hearing with a hearing officer. Hearing officer means the person with experience in considering written and oral evidence, making findings, and issuing determinations who is appointed by San Benito County to conduct hearings under this section. Additional procedural rules for the conduct of the administrative hearing and the appointment of hearing officers may be adopted by resolution of the Board of Supervisors. If for any reason a hearing officer is unavailable to conduct hearings, the Board of Supervisors shall conduct the hearings. Should the Board of Supervisors conduct hearings, the decision of the Board of Supervisors shall be final and there shall be no appeal under the procedures set forth in § 1.03.008 below.

(B) Notice of violation; clearance letter. If the owner fails to inform the hearing officer of his or her objection to recording the notice of violation and the violation has not been abated within the time limit set for compliance, the Enforcing Officer shall record the notice of violation with the County Recorder. If the owner abates the violation within the time limit set for compliance or if, after the owner has presented evidence, it is determined that there has been no violation, the Enforcing Officer shall mail a clearance letter to the then current owner of record. If, however, after the owner has presented evidence, it is determined that a violation does exist, the Enforcing Officer shall record the notice of violation with the County Recorder.

(C) Appeal. Any owner of real property aggrieved by a decision of the hearing officer under this section may appeal the decision to the Board of Supervisors in accordance with the procedures set forth in § 1.03.008 below. The filing of an appeal shall not stay the recording of the notice of violation.

(D) Notice of removal of notice of violation. If it is determined, upon appeal, that there has been no violation or if all work necessary to abate the violation has been completed to the satisfaction of the Enforcing Officer, the Enforcing Officer shall record a notice of removal of notice of violation with the County Recorder.



(1966 Code, § 19-6) (Ord. 567, § 1(part); Ord. 816, §§ 1, 2, 3)

§ 1.03.007 DENIAL OF PERMITS, LICENSES OR OTHER ENTITLEMENTS.

(A) Denial of permits, licenses or other entitlements; written notice. Except as otherwise provided by law, no board, commission, officer or employee of the county shall issue or grant approval of any permits, licenses or other entitlements regarding any real property with respect to which there exists a violation of a county ordinance. The authority to deny the permit, license or other entitlement shall apply whether the applicant therefor was the owner of record at the time of violation or whether the applicant therefor is either the current owner of record or a vendee of the current owner of record pursuant to a contract of sale of the real property with or without actual or constructive knowledge of the violation at the time of the acquisition of his or her interest in the real property. Written notice of the refusal to issue or grant approval of any permit, license or other entitlement shall be mailed to the applicant and shall describe the violation and the action necessary to abate the violation.

(B) Appeal. Any applicant aggrieved by a decision of a county board, commission, officer or employee to refuse to issue or grant approval of any permits, licenses or other entitlements pursuant to this section may appeal the decision to the Board of Supervisors in accordance with the procedures set forth in § 1.03.008 below.

(1966 Code, § 19-7) (Ord. 567, § 1(part))

§ 1.03.008 APPEAL.

(A) Any person aggrieved by a decision made under the provisions of §§ 1.03.006 and 1.03.007 above, may, within ten days of the date of the decision, file an appeal in writing with the Clerk of the Board, accompanied by an appeal application fee which shall be set from time to time by the Board. The appeal shall be on a form provided by the Clerk of the Board and shall set forth with particularity the specific grounds upon which the appeal is made. Any grounds not set forth in the written appeal shall be deemed waived and the appellant shall thereafter be precluded from raising them.

(B) The Clerk of the Board shall set the appeal for hearing before the Board of Supervisors within 30 days after the date of filing of the appeal. Upon hearing the appeal, the Board of Supervisors shall consider the record and may sustain, modify, reject or overrule, in whole or in part, the decision appealed from. The decision of the Board of Supervisors shall be expressed in the form of a written resolution concurred in by a majority of all of the members of the Board.

(1966 Code, § 19-8) (Ord. 567, § 1(part))

§ 1.03.009 INVESTIGATION FEE.

Except as otherwise provided by law, whenever any work or use for which a permit is required by a county ordinance has been commenced without first obtaining the permit, a special investigation shall be made before the permit may be issued. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee.

(1966 Code, § 19-9) (Ord. 567, § 1(part))

#### § 1.03.010 REINSPECTION FEE.

(A) Purpose of fee. The purpose of this section is to implement a comprehensive and uniform cost recovery program by establishing guidelines for the administration and collection of the building inspection reinspection fees when the Code Enforcement Officer is required to reinspect property numerous times. The building inspection reinspection fee will be charged when violators fail to correct violations after the initial and compliance inspections. This fee is designed to recover some of the costs involved in the code enforcement program. In many investigations, the violator does not make the required corrections by a specified date and county staff must return numerous times before the violation is abated. This is especially true in cases involving multiple violations when the Code Enforcement Officer often returns seven or eight times before complete compliance is achieved.

(B) Notification process.

(1) The normal code enforcement process for violations not involving an imminent threat to health or safety is begun by making contact with the property owner, in person or by phone. This is known as the informal resolution process. The amount of time given to abate the violations is based on type of violation. ~~is normally no longer than two weeks.~~ If the informal resolution process is not effective in remedying the violation, the formal resolution process is started by a follow-up inspection along with a formal letter of violation specifying the violation and mandatory abatement as well as scheduling a compliance inspection. ~~normally one to two weeks after the formal letter.~~ The property owner is advised that all corrections must be made within the time specified in the written letter of violation. If inspections are needed beyond the initial formal process, including the first compliance inspection, a reinspection fee of \$250 shall be charged for each reinspection that does not verify compliance.

(2) The initial formal written letter of violation shall contain the following notation:

“All corrections or repairs must be completed prior to the first scheduled compliance inspection after service of this written letter of violation. If corrections or repairs are not completed and if additional reinspections are required to verify compliance, a ~~\$100~~ \$250 reinspection fee will be charged for each subsequent reinspection that does not verify compliance with county ordinances.”

(3) Code enforcement staff will reinspect the location for compliance when requested by the property owner or his, her or its agent, or at the time specified on a written notice of

violation. The reinspection fee shall not be charged for inspections conducted more frequently than every two weeks unless the property owner requests more frequent inspection. Fees will not be charged for court ordered inspections.

(C) Legal surcharge. A legal surcharge fee of \$125, in addition to other fees, is applicable and shall be paid for each violation.

(D) Billing procedures.

(1) Upon completion of any reinspection for which fees are to be assessed, the Code Enforcement Officer shall complete the “charges to be billed form” and submit the form along with the case report to the Planning Director for review and approval.

(2) The “charges to be billed” form will be reviewed for accuracy and completeness by the Planning Director.

(3) Upon approval by the Planning Director, the “charges to be billed” form will be sent to the violator.

(1966 Code, § 19-10) (Ord. 625, § 2)

#### § 1.03.011 POWERS AND DUTIES OF ENFORCING OFFICERS.

(A) Limitation of duty; liability. Nothing in this chapter or in any other county ordinance is intended, or shall be deemed or construed, to impose liability upon the county, or any of its officers, agents or employees, for any injury to persons or damage to property alleged to result from any act or omission by the county or any of its officers, agents or employees, beyond the liability imposed by the laws of the state and of the United States. Nothing in this chapter or in any county ordinance is intended, or shall be deemed or construed, to impose a mandatory duty upon the county, or any of its officers, agents or employees, for the purpose of determining entitlement to equitable relief or liability for any injury to persons or damage to property alleged to result from the failure of the county or any of its officers, agents or employees to discharge a mandatory duty imposed by any county ordinance.

(B) Right of entry. Whenever necessary to make any inspection to enforce any county ordinance, or whenever an Enforcing Officer has reasonable cause to believe that there exists a violation of a county ordinance with respect to any structure or premises, the Enforcing Officer may enter the structure or premises, at all reasonable times, to conduct the inspection or to perform any other duty imposed by county ordinance. If the structure or premises is occupied, the Enforcing Officer shall first request entry. If the structure or premises is unoccupied, the Enforcing Officer shall make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Enforcing Officer shall have recourse to every remedy provided by law to secure entry including, but not limited to, inspection warrants.

(1966 Code, § 19-11) (Ord. 567, § 1(part); Ord. 625, § 3)

#### § 1.03.012 REMEDIES CUMULATIVE.

Except as otherwise provided by law, the remedies provided in this chapter are cumulative and not exclusive. Nothing in this chapter is intended, or shall be deemed or construed, to limit or impair the ability of the county, or any of its officers, agents or employees, to take any administrative or judicial action, otherwise authorized by law, to abate any public nuisance.

(1966 Code, § 19-12) (Ord. 567, § 1(part); Ord. 625, § 4)

#### § 1.03.013 ADMINISTRATIVE POLICIES AND PROCEDURES.

The Board of Supervisors from time to time may, by resolution, promulgate administrative policies and procedures consistent with this chapter.

(1966 Code, § 19-13) (Ord. 567, § 1(part); Ord. 625, § 5)

#### § 1.03.014 EXPEDITED ADMINISTRATIVE ABATEMENT OF CODE VIOLATIONS.

(A) Stop activities order. Whenever the Planning Director determines by a preponderance of the evidence that a person is violating a code governed by this chapter and that the code violation creates a substantial and imminent risk of serious harm to persons or property, the Planning Director may order the immediate cessation of any activities constituting the code violation.

(B) Consent to stop activities order. All permits, discretionary or ministerial, issued under the authority of any chapter of the San Benito County Code adopting this chapter are conditioned that the permittee consent to the stop activities order specified in this section. The acceptance of any such permit and commencement of activities thereunder shall indicate a permittee's consent to the issuance of a stop activities order upon a determination by the Planning Director as specified in division (A). The consent to the issuance of a stop activities order shall include, without limitation, consent to cease activities from the time of issuance of a stop activities order until the expedited administrative review, not later than 48 hours after the issuance of the stop activities order and consent to cease activities following the expedited administrative review until any appeal may be heard by the Planning Commission or the Board of Supervisors, as the case may be.

(C) Procedure.

(1) Voluntary cessation of activities. Before issuing a stop activities order, the Planning Director shall inform the person conducting the activities in question that the activities constitute a violation of a San Benito County ordinance and request the person voluntarily stop. If the person does stop voluntarily, the Planning Director shall set a date and time for

an expedited administrative review to occur no later than 40 hours after the request to cease activities. At the expedited administrative review, the person may dispute the Planning Director's determination of a code violation. Notice of the cessation of the activities and of the expedited administrative review shall be sent in accordance with division (D) herein. The notice shall refer to the voluntary cessation of activities.

(2) Issuance of a stop activities order. If the person does not voluntarily stop activities constituting a violation of a San Benito County ordinance, the Planning Director shall give a stop activities order to the person conducting the activities. The person shall comply with the order to cease activities. Additionally, the Planning Director shall post the order at a conspicuous place on the premises and mail a copy of the order to a permittee, if any exists, and to an owner of the subject property, if different than the actor or permittee. The order shall be given as specified in division (D) herein.

(D) Notice of stop activities order. The stop activities order shall specify the ordinance violated, the activities which constitute the violation, the date and time of an expedited administrative review to occur within 48 hours after the issuance of the order and the person issuing the order. The notice shall be delivered personally to any person conducting the activities, if the person is available, and mailed to any permittee, if any exists, or any owner of the subject property if the owner is different than the actor or permittee. The stop work order shall also specify the penalties for violating the stop activities order.

(E) Expedited administrative review.

(1) No later than 48 hours after the Planning Director issues a stop activities order, the Planning Director shall conduct an expedited administrative review of the stop activities order. If the actor, permittee or the owner of the subject property objects to the issuance of the stop activities order, the actor, permittee and/or owner shall appear at the expedited administrative review and may present any relevant evidence in opposition to the issuance of the order. The persons contesting the issuance of the order shall have the burden of proof to demonstrate that the stop activities order should be rescinded.

(2) The contesting parties shall present evidence first. Following the presentation of evidence by the contesting parties, the Planning Department shall present its evidence in support of the stop activities order. The contesting parties shall be allowed a brief rebuttal to present evidence in response to the Planning Department's evidence.

(3) The formal rules of evidence do not apply to the expedited administrative review. Any relevant evidence upon which a reasonable person may rely in the conduct of serious affairs shall be admissible. Any party shall have the right to question a witness called by any other party.

(4) Following the conclusion of the expedited administrative review, the Planning Director shall consider the evidence presented and shall render a decision within 48 hours after the close of the review. The Planning Director may uphold the stop activities order, vacate the order, issue a new order or condition the activities of the permittee in order to insure compliance with the ordinances of San Benito County so as to eliminate the

substantial and eminent risk of harm to persons or properties resulting from the activities of the permittee, actor or property owner.

(5) If any person to whom notice of the order was given fails to appear at the hearing, it shall be conclusively presumed that the absent party waives that party's right to object to and contest the stop activities order.

(F) Appeal.

(1) The decision of the Planning Director following the expedited administrative review may be appealed by the permittee or by any interested party. The appeal shall be made to the Planning Commission and the application for the appeal shall be filed no later than ten days after the Planning Director's decision following the expedited administrative review. The appeal shall be heard at the first regular meeting of the Planning Commission in which the appeal may be scheduled following the filing of the appeal. Any decision of the Planning Commission may be appealed to the Board of Supervisors within ten days of the Planning Commission decision by filing an appeal with the Clerk of the Board.

(2) Appeals to the Planning Commission and Board shall be de novo hearings. The appellant shall have the burden of presenting evidence justifying the relief sought by appellant. The body hearing the appeal may affirm, reverse or modify the decision made previously in the matter. Any decision by Board of Supervisors shall be the final decision. Pending a decision on appeal, the appealed decision shall remain in effect.

(G) Violation of order. Conducting, engaging in or allowing any activities in violation of any stop activities order shall be a violation of this chapter. Any person who conducts, engages in or allows any activities in violation of a stop activities order shall be liable for a civil penalty not to exceed \$2,500 for each day or portion thereof that activities occur. The civil penalty specified in this division shall be a separate remedy from the underlying code violation.

(1966 Code, § 19-14) (Ord. 625, § 6)

### § 1.03.015 RESPONSIBILITY OF PROPERTY OWNER.

In addition to other provisions of this Code, in any action to abate a nuisance, whether by administrative proceedings, judicial proceedings, or summary abatement, the owner of the parcel upon which the nuisance is found to exist shall be liable for all costs of abatement incurred by the county, including, but not limited to, administrative costs, and any and all costs incurred in the physical abatement of the nuisance. Recovery of costs as allowed by Cal. Govt. Code § 25845 shall be in addition to and shall not limit any prevailing party's right to recover costs pursuant to §§ 1032 and 1033.5 of the Code of Civil Procedure or any other provision of law.

(Ord. 882, § 6)

#### § 1.03.016 RECOVERY OF ATTORNEYS' FEES.

In any action, administrative proceeding, or special proceeding to abate a nuisance, the prevailing party may recover its attorneys' fees. Recovery of attorneys' fees to the prevailing party shall be limited to those individual actions or proceedings in which the county elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the county in the action or proceeding.

(Ord. 882, § 7)

#### CHAPTER 1.04: ADMINISTRATIVE CITATIONS

##### Section

1.04.001 Applicability

1.04.002 Definitions

1.04.003 Administrative citation

1.04.004 Service of administrative citation

1.04.005 Amount of fines

1.04.006 Payment of fine

1.04.007 Request for hearing

1.04.008 Advance deposit or hardship waiver

1.04.009 Hearing officer

1.04.010 Hearing procedure

1.04.011 Hearing officer's decision

1.04.012 Late payment charges

1.04.013 Recovery of administrative citation fines, late payment charges and collection costs

1.04.014 Right to judicial review

1.04.015 Service

#### § 1.04.001 APPLICABILITY.

(A) This chapter provides for administrative citations and fines which are in addition to all other civil or criminal legal remedies, which the county may pursue to address any violation of the San Benito County Code.

(B) The use of this chapter shall be at the county's sole discretion.

(C) County staff may prepare a procedures manual which provides additional guidance for implementing the administrative citation program consistent with the provisions of this chapter.

(Ord. 917, § 1(part), 2013; Ord. 1,010, § 2(part), 2020)

#### § 1.04.002 DEFINITIONS.

For purpose of this chapter the following definitions shall apply:

**ADMINISTRATIVE CITATION.** A citation issued pursuant to this chapter, stating that one or more violations of this code has occurred and stating the amount of the administrative penalty to be paid by the responsible party.

**ADMINISTRATIVE COSTS.** All costs incurred by or on behalf of the county from the first discovery of the violation of this code through the appeal process and until compliance is achieved, including but not limited to, staff time in investigating the violation, inspecting the property where the violation occurred, preparing investigation reports, sending notices, preparing for and attending any appeal hearing, telephone contacts, and correspondence. **ADMINISTRATIVE COSTS** shall not include attorney's fees.

**DIRECTOR.** The director of any county department or his or her designated representative responsible and authorized to enforce county codes and ordinances.

**CLERK OF THE BOARD.** The Clerk of the Board or designee.

**CODE.** The San Benito County Code, the Codified Ordinances of San Benito County, including all pertinent provisions of state codes as from time to time adopted and incorporated therein, enacted by the Board of Supervisors of the County of San Benito.

**COUNTY.** The County of San Benito, a political subdivision of the State of California.

**COUNTY ADMINISTRATIVE OFFICER.** The County Administrative Officer or designee.

**ENFORCEMENT OFFICER.** The director of a county department or any county employee or agent of the county with the authority granted by a resolution of the Board of Supervisors to enforce any provision of this code or county ordinance through the administrative citation process.

**HEARING OFFICER.** Any person designated to preside over an administrative hearing provided for in this chapter. The hearing officer shall not be the citing enforcement officer.



PERSON. Without limitation, any natural person, firm, association, club, organization, corporation, partnership, business, business trust, company or other entity, which is recognized by law as the subject of rights or duties. PERSON shall include any “responsible party” as defined below.

RESPONSIBLE PARTY. For the purpose of this chapter, RESPONSIBLE PARTY shall mean:

(1) Each person, other than a minor, who commits or causes a violation of this code to occur, exist, or continue;

(2) Each person who is the parent or legal guardian of the minor person who commits or causes a violation of this code to occur, exist, or continue;

(3) Each person who has a legal or equitable ownership interest in any parcel of real property located within the unincorporated area of the County of San Benito and who commits, causes, or otherwise allows the violation of any provision of this code to occur, exist, or continue on such parcel;

(4) Each person who, although not an owner, nevertheless has a legal right or legal obligation to exercise possession and control over any parcel of real property located within the unincorporated area of the County of San Benito and who commits, causes, or otherwise allows the violation of any provision of this code to occur, exist, or continue on such parcel; and

(5) In addition to the business entity itself, each person who is an owner of that business entity in those cases in which the commission, occurrence, existence, or continuation of the violation of any provision of this code is most reasonably attributable to that business entity and not to an employee of that business entity.

(Ord. 917, § 1(part), 2013)

#### § 1.04.003 ADMINISTRATIVE CITATION.

(A) Whenever an enforcement officer determines that a violation of this code has occurred, the enforcement officer shall have the authority to issue administrative citations, in accordance with Cal. Gov't Code § 53069.4 and this section, to any person(s) responsible for any violation(s) of this code, including but not limited to those violations not occurring in the presence of the enforcing officer issuing the citation where the issuing officer determines through investigation that the responsible party committed, caused, allowed, or is otherwise responsible for the violation.

(B) Each administrative citation shall contain the following information:

(1) The date, or approximate date, of the violation;

(2) The address or a definite description of the location where the violation occurred;

(3) The code or ordinance sections of the code violated and a description of the violation;

- (4) A description of how the violation can be corrected;
- (5) The amount of the fine for the code violation;
- (6) A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
- (7) An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation;
- (8) A description of the administrative citation review process, including the time within which the administrative citation may be contested by submitting a request for hearing form; and
- (9) The name and signature of the citing enforcement officer.

(C) Except as provided in § 1.04.005(E), prior to the issuance of an administrative citation for a violation that does not create an immediate danger to health or safety, the enforcement officer shall provide a reasonable period of time not less than ten business days to correct or otherwise remedy the violation.

(Ord. 917, § 1(part), 2013; Ord. 1,010, § 1(part), 2020)

#### § 1.04.004 SERVICE OF ADMINISTRATIVE CITATION.

(A) Personal service. The enforcement officer, an authorized designee, may obtain the signature of the person responsible for the violation on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings. If the responsible party is a business, and the business owner is on the premises, the enforcement officer shall attempt to deliver the administrative citation to the business owner. If the enforcement officer is unable to serve the business owner of the premises, and the enforcement officer can only locate the manager or on-site supervisor, the administrative citation may be issued in the name of the business and a copy given to the manager or on-site supervisor. A copy of the administrative citation shall also be mailed to the business owner by certified mail, return receipt requested, and by first class mail.

(B) By mail as provided in this code. A copy of the administrative citation may be mailed to any person in lieu of personal service. The copy shall be mailed by certified mail, return receipt requested, and by first class mail. If a copy of the administrative citation that is sent by certified mail is returned by the United States Postal Service unsigned or marked “unclaimed” and/or “refused,” then service by first class mail shall be deemed effective provided it is not also returned by the United States Postal Service. The failure of the owner, responsible party or person of interest to receive a properly addressed citation shall not affect the validity of any proceeding under this chapter.

(C) Posting. As an alternative, if service cannot be completed as specified in this § 1.04.004(A) or (B) above, or by an additional method of notice at the discretion of the

county, the administrative citation may be posted in a conspicuous place on or near the property in which the owner or responsible party has a legal interest, and such posting shall be deemed effective service. The failure of the owner, responsible party or person of interest to receive any notice served in accordance with this section shall not affect the validity of any proceeding under this chapter.

(Ord. 917, § 1(part), 2013)

#### § 1.04.005 AMOUNT OF FINES.

(A) The fine for a violation imposed pursuant to this chapter shall be ~~\$100~~ \$500 for the first occurrence of a violation, ~~\$200~~ \$1,000 for the second occurrence of the violation within one year, and ~~\$500~~ \$2,500 for the third citation and each subsequent occurrence of the same violation within one year.

~~(B) A violation of local building and safety codes determined to be an infraction is punishable by a fine of \$130 for the first occurrence of a violation, \$700 for the second occurrence of the violation within one year, and \$1,300 for the third and each subsequent occurrence of the same violation within one year of the first violation.~~

(C) The fine amounts shall be cumulative where multiple citations are issued.

(D) A late payment charge shall be paid to the county in the amount specified in § 1.04.012 if a fine has not been paid in full to the county on the date on which it is due.

(E) Notwithstanding any other part of this code, any violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements, if the violation exists as a result of or to facilitate, the illegal cultivation, manufacture, or distribution of cannabis, shall constitute a misdemeanor and be subject to an immediate fine of \$10,000. However, a reasonable period of time to remedy the violation(s) shall be provided prior to the imposition of such fine if the responsible party proves all of the following are true at a hearing:

(1) A tenant is in possession of the property that is the subject of the administrative action;

(2) The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation, manufacture, or distribution of cannabis; and

(3) The rental property owner or agent did not know the tenant was illegally cultivating, manufacturing, or distributing cannabis and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

(Ord. 917, § 1(part), 2013; Ord. 1,010, § 2(part), 2020)

§ 1.04.006 PAYMENT OF FINE.

(A) The fine and any penalty shall be paid to the county within 30 days from the date of the administrative citation, in accordance with the payment instructions printed on the citation form.

(B) Any administrative citation fine paid pursuant to § 1.04.006(A) shall be refunded in accordance with § 1.04.011 if it is determined, after a hearing that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

(C) Payment of a fine and any penalty shall not excuse or discharge any continuation or repeated occurrence of the code violation that is the subject of the administrative citation, nor shall it release any person from the responsibility of correcting, removing or abating the violation; nor prevent the enforced correction, removal, or abatement of a violation by the county, its employees, agents, or representatives.

(Ord. 917, § 1(part), 2013)

§ 1.04.007 REQUEST FOR HEARING.

(A) Any person receiving an administrative citation may contest the citation by completing a request for hearing form and returning it to the Clerk of the Board within 30 days from the date of the administrative citation, together with an advance deposit of the total fine or an advance deposit hardship waiver application form pursuant to § 1.04.008. The failure of any person to properly file a request for hearing within the time specified in this section shall constitute a waiver of the right to an administrative hearing and adjudication of the administrative citation or fine or any portion of the fine.

(B) A request for hearing form may be obtained from the County Clerk of the Board. Any person requesting a hearing may provide the county with a mailing address to which any future notice required by this chapter may be sent.

(C) The person requesting the hearing shall be notified of the time and place set for the hearing, via mail postmarked at least ten days prior to the date of the hearing, or by personal service or posting at least ten days prior to the date of the hearing.

(D) If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing by personal service, posting, or by overnight mail mailed at least five days prior to the date of the hearing.

(Ord. 917, § 1(part), 2013)

§ 1.04.008 ADVANCE DEPOSIT OR HARDSHIP WAIVER.

(A) Any person who intends to request a hearing to contest that there was a violation of the code or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine or penalty as required in § 1.04.007 may file a request for an advance deposit hardship waiver which includes a sworn affidavit as described in division (C) of this section.

(B) The request shall be filed with the Clerk of the Board on an advance deposit hardship waiver application form available from the Clerk of the Board's office within 30 days of the administration citation. This request will be forwarded to the County Administrative Officer or designee for determination.

(C) The County Administrative Officer may waive the requirement of an advance deposit and issue the advance deposit hardship waiver only if the cited party submits to the Clerk of the Board a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the County Administrative Officer, the person's actual financial inability to deposit with the county the full amount of the fine in advance of the hearing.

(D) In determining the cited party's financial ability or inability to deposit the full amount of the penalty in advance, the County Administrative Officer shall consider the amount of the penalty imposed, the income of the cited party, the expenses of the cited party, and any other factors that are reasonably related to the cited party's ability to deposit the full amount.

(E) The requirement of depositing the full amount of the penalty as described in section shall be stayed unless or until the County Administrative Officer, or his or her designee makes a full determination of whether to issue the advance deposit hardship waiver.

(F) If the County Administrative Officer, or his or her designee, determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the county within ten days of service of that decision.

(G) The County Administrative Officer shall issue a written decision listing the reasons for the determination to issue or not issue the advance deposit hardship waiver. The County Administrative Officer's written decision shall be final.

(H) The written decision of the County Administrative Officer shall be served upon the person who applied for the advance deposit hardship waiver.

(Ord. 917, § 1(part), 2013)

§ 1.04.009 HEARING OFFICER.

The County Administrative Officer, or his or her designee, shall appoint an independent hearing officer to preside over an administrative citation hearing which has been properly requested under the provisions of this chapter.

(Ord. 917, § 1(part), 2013)

§ 1.04.010 HEARING PROCEDURE.

(A) No hearing to contest an administrative citation before a hearing officer shall be held unless the fine or penalty has been deposited in advance in accordance with § 1.04.007(A) or an advance deposit hardship waiver has been approved by the County Administrative Officer, or his or her designee.

(B) A hearing before the hearing officer shall be set for a date that is not less than 15 days and not more than 60 days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

(C) At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

(D) The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.

(E) The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.

(F) The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the citation prior to issuing a written decision.

(Ord. 917, § 1(part), 2013)

§ 1.04.011 HEARING OFFICER'S DECISION.

(A) After considering all of the oral and written evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall list the reasons for that decision. The decision of the hearing officer shall be final.

(B) If the hearing officer determines that the administrative citation should be upheld, the fine amount on deposit with the county shall be retained by the county.

(C) If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall state in the decision a due date for payment of the fine.

(D) If the hearing officer determines that the administrative citation should be canceled and the fine was deposited with the county, the county shall promptly refund the amount of the deposited fine.

(E) If the hearing officer determines that a violation has occurred and that compliance was not achieved, the hearing officer may assess additional administrative costs against the violator. Administrative costs may include any and all costs incurred by the county (both direct and indirect costs) in investigating and commencing administrative proceedings for the violation as well as any and all costs incurred by the county in connection with the hearing before the hearing officer, including but not limited to costs the enforcement officer incurred in preparation for the hearing and for participating in the hearing itself, and costs of the county to conduct the hearing.

(F) Failure to pay administrative fines, penalties or administrative costs in the amounts specified in the administrative hearing officer's decision on or before the date specified in that decision may result in the imposition of collection and late charges as otherwise provided for herein.

(G) The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.

(Ord. 917, § 1(part), 2013)

#### § 1.04.012 LATE PAYMENT CHARGES.

Any person who fails to pay to the county any fine or penalty imposed pursuant to the provisions of this chapter on or before the date that the fine is due also shall be liable for the payment of any applicable late payment charge as may be adopted by the Board of Supervisors by resolution.

(Ord. 917, § 1(part), 2013)

#### § 1.04.013 RECOVERY OF ADMINISTRATIVE CITATION FINES, LATE PAYMENT CHARGES AND COLLECTION COSTS.

The county may collect any past due administrative citation fine, late payment charge(s), and its collections costs by use of all available legal means. The failure of any person to pay a fine assessed by an administrative citation or a late payment charge or collections costs related to an administrative citation, by the due date shall constitute a debt to the county. The county may seek payment of the debt by use of all available legal means, including but not limited to the following:

(A) The county may refer the debt to the Auditor and controller for collection.

(B) The county may file a civil action to recover the debt.

(C) The county may impose a code enforcement lien upon the real property upon which the violation is located. The lien shall continue until all fines, late payment charges and other costs owed are fully paid. Any lien imposed pursuant to this chapter shall attach upon the recordation of a notice of code enforcement lien in the Office of the County Recorder.

(D) Recovery through the Franchise Tax Board.

(Ord. 917, § 1(part), 2013)

#### § 1.04.014 RIGHT TO JUDICIAL REVIEW.

Any person aggrieved by an administrative decision of the hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Superior Court in San Benito County in accordance with the time lines and provisions set forth in Cal. Gov't Code § 53069.4.

(Ord. 917, § 1(part), 2013)

#### § 1.04.015 SERVICE.

Except as otherwise specified in § 1.04.004 all decisions or notices required to be served by this chapter may be given either by personal delivery to the person to be notified or by deposit in the United States mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at the last known business or residence address as the same appears in the last equalized county assessment roll or as identified in the county records pertaining to the matter. Service by mail shall be deemed completed at the time deposit in the United States mail receptacle is made. Failure to receive any notice specified herein does not affect the validity of proceedings conducted hereunder.

(Ord. 917, § 1(part), 2013)

### CHAPTER 1.05: PUBLIC ENTITY OFFSET DISPUTE

#### Section

1.05.001 Public entity offset dispute resolution

#### § 1.05.001 PUBLIC ENTITY OFFSET DISPUTE RESOLUTION.

When a written dispute is submitted to the county under Cal. Gov't Code § 907, the dispute shall be referred to the Office of Administrative Hearings of the State of California, acting as county hearing officer pursuant to Cal. Gov't Code §§ 27720 et seq. (Title 3, Division 2, Part 3, Chapter 14), which shall hear the dispute and make a final written determination thereof, including findings of fact and conclusions of law. The determination shall resolve the dispute.

(1966 Code, § 23-1) (Ord. 591, § 1)



CHAPTER 1.06: ALTERNATIVE PUBLIC NUISANCE  
ABATEMENT PROCEDURES AND REMEDIES

Section

- 1.06.010 Purpose, effect, authority, and policy
- 1.06.020 Definitions
- 1.06.030 Conditions creating public nuisance
- 1.06.040 Nuisance abatement authority
- 1.06.050 No duty to enforce
- 1.06.060 Duty of owners and occupants; no unlawful activity permitted
- 1.06.070 Administrative civil remedies
- 1.06.080 Notices
- 1.06.090 Service of notices
- 1.06.100 Recordation of notices
- 1.06.110 Administrative hearing
- 1.06.120 Enforcement of abatement order
- 1.06.130 Liability for abatement costs and/or administrative penalties; interest
- 1.06.140 Lien hearing
- 1.06.150 Alternative lien hearing procedure
- 1.06.160 Enforcement by civil action
- 1.06.170 Refusal to issue permits
- 1.06.180 Transfer of title, interest, or possession
- 1.06.190 Remedies cumulative
- 1.06.200 Severability

§ 1.06.010 PURPOSE, EFFECT, AUTHORITY, AND POLICY.

(A) It is the intent of the Board of Supervisors of the County of San Benito in adopting this chapter to provide alternative procedures that govern the identification and abatement of public nuisances, as well as, the imposition, enforcement, collection, and administrative review of administrative penalties for violation of the San Benito County Code and/or State laws within the County of San Benito.

(B) The provisions of this chapter are supplementary to and cumulative with all other remedies provided in the San Benito County Code and applicable state and federal law. Nothing herein shall be read, interpreted or construed in any manner so as to limit any existing right or power of the County of San Benito or any other authorized governmental entity to enforce county ordinances, abate any and all nuisances, or employ any remedy otherwise available at law or in equity.

(C) Pursuant to the authority granted by Article XI, Section 7 of the California Constitution, and Cal. Gov't Code, §§ 25845 and 53069.4, the Board of Supervisors does enact this chapter, which shall be known and may be cited as the "Alternative Public Nuisance Abatement Procedures and Remedies."

(D) It is the policy of San Benito County to seek voluntary compliance with these provisions, but to provide an effective means of enforcement if such compliance is not obtained.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.020 DEFINITIONS.

The following definitions shall apply to this chapter as written unless context indicates or requires a different meaning.

**ABATEMENT.** The removal of the condition(s) constituting a nuisance as identified in the notice issued by the enforcing officer.

**ABATEMENT COSTS.** Any costs or expenses, including county staff time reasonably related to the abatement of a public nuisance under this chapter, and shall include, but shall not be limited to, enforcement, investigation, summaries, reports, notices, telephonic contact, correspondence, mailing expense, title search costs, administrative costs, including the total direct and indirect costs of enforcement established by generally accepted accounting principles that are reasonably and necessarily incurred by the county to investigate, inspect, or cure any violation or monitor the recurrence of any violation that is the subject of a notice issued by the enforcing officer, including, but not limited to, scheduling and participation at hearings, hearing officer costs, expenses incurred by the county, and any other costs associated with the removal, abatement or correction of a violation.

**CONTIGUOUS.** Any two legal parcels which share a mutual boundary. Notwithstanding the foregoing, legal parcels shall be considered contiguous, even if they are separated by roads, streets, utility easements or railroad rights-of-way.

**COUNTY.** The County of San Benito.

**COUNTY HEARING OFFICER.** A person designated by the Board of Supervisors and appointed to the position of Hearing Officer, as established by San Benito County Code Ch. 1.07, and who is independently authorized to conduct administrative hearings and issue recommended decisions pursuant to and as authorized by the San Benito County Code.

ENFORCING OFFICER or CODE ENFORCEMENT OFFICER. The San Benito County Resources Management Agency Director, Building Official, Building Inspector, Cannabis Coordinator, Health Officer, Sheriff, Agricultural Commissioner, Fire Chief, or their authorized deputies or designee(s), and any person employed by the County of San Benito and appointed to the position of CODE ENFORCEMENT OFFICER, as established by San Benito County Res. 90-27 and Ords. 567 and 625, each of whom is independently authorized to enforce this chapter.

LEGAL PARCEL. Any parcel of real property for which one legal title exists that may be separately sold in compliance with the Subdivision Map Act (commencing with Cal. Gov't Code § 66410, Title 7, Div. 2). Where contiguous LEGAL PARCELS are under common ownership or control, such LEGAL PARCELS shall be counted as a single premises for purposes of this chapter.

PREMISES. A single, legal parcel of real property. In addition, where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single PREMISES for purposes of this chapter.

RESPONSIBLE PARTY. An individual or legal entity, or the agent or legal guardian of such individual or entity, whose action or failure to act results in a violation. This term specifically means and includes, but is not limited to, any of the following:

- (1) Any person or entity that causes, maintains, permits, or allows a violation of this chapter;
- (2) Any person or entity that owns, possesses, or controls any parcel of real property in the county upon which a violation of this chapter is maintained;
- (3) Any trustee of any trust that holds legal title to any parcel of real property in the county upon which a violation of this chapter is maintained;
- (4) Any person or entity that owns, possesses, operates, manages, or controls any business within the county that is responsible for causing or maintaining a violation of this chapter.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor. (PC 372)

#### § 1.06.030 CONDITIONS CREATING PUBLIC NUISANCE.

(A) Without limiting any other provision of this code, any and all of the following are hereby declared unlawful and a public nuisance and a violation of this code:

- (1) Any condition, act, or omission declared by any statute of the State of California or any provision of this code to be a public nuisance;
- (2) Any public nuisance known or recognized in common law or equity;

(3) Any condition which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance, as defined in Cal. Civil Code § 3479;

(4) Any use or condition of property that:

(a) Poses a danger to human life; or

(b) Is unsafe or detrimental to the public health, safety, or welfare.

(5) Any use of land, buildings, or premises established, operated, or maintained contrary to the provisions of any provision of this code or state law;

(6) Any real property that has been the situs for nuisance activity and/or violations of any provision of this code or any other state or federal law or regulation, including, but not limited to: disturbing the peace, unreasonably loud noise, loitering, harassment of passersby, illegal gambling, prostitution, sale of stolen goods, acts of violence, acts of vandalism, acts of lewd conduct, public urination, illegal drug activity, public drunkenness, drinking alcoholic beverages in public, or excessive littering.

Any building or property used for the purpose of willfully conducting dogfighting in violation of Section 597.5 of the Penal Code or cockfighting in violation of subdivision (b) of Section 597b of the Penal Code is a public nuisance.

(7) Any condition that constitutes a visual blight to a reasonable person of average sensibilities. For purposes of this chapter, visual blight is any unreasonable or unlawful condition or use of real property, premises, or building exteriors which by reason of its appearance as viewed at ground level from the public right-of-way or from neighboring premises, is detrimental to the property of others or to the value of property of others, offensive to the senses, or significantly degrades the aesthetic appearance of the neighborhood. Visual blight may include, but is not limited to, the keeping, storing, depositing, scattering over or accumulation on the premises any of the following:

(a) Junk, trash, debris, scrap metal, wood, rubbish, or packing materials, including, but not limited to, building, construction, salvage, and/or recyclable material;

(b) Abandoned, discarded or unused objects or equipment, such as furniture, stoves, appliances, refrigerators, freezers, or other household fixtures, cans or containers, or automotive parts and equipment;

(c) Abandoned, wrecked, disabled, dismantled or inoperative vehicles or parts thereof except inoperative vehicles that are not abandoned, are either registered or are certified pursuant to Cal. Vehicle Code § 4604 and are in an active state of renovation or restoration, or are maintained and stored in accordance with Cal. Vehicle Code § 5052;

(d) Stagnant water or abandoned excavations;

(e) The existence of overgrown, dead, decayed, diseased or hazardous trees, and other vegetation, including but not limited to dead agricultural groves which are:

1. Likely to attract rodents, vermin or other nuisances;
2. Constitutes a fire hazard; or
3. Is dangerous to the public safety and welfare.

(f) Any personal property, object, device, decoration, design, fence, structure or clothesline which is unsightly by reason of its condition or its inappropriate location.

(8) Any condition that constitutes an attractive nuisance; those dangerous objects or conditions that, by their nature may attract children or other curious individuals, including, but not limited to, unprotected hazardous or unfilled pools, ponds, ice boxes, refrigerators, freezers, abandoned wells, shafts, septic tanks, or other excavations.

(9) Continuation of any use or activity on any property after a stop work notice has been issued by an enforcing officer.

(B) Acts, omissions, or conditions in violation of this chapter that continue, exist, or occur on more than one calendar day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations. For each day the nuisance continues to exist, a separate administrative penalty shall be imposed.

(C) The Board of Supervisors of the County of San Benito finds that certain conditions as defined in this section cause annoyance, inconvenience or damage to the public with respect to the public's comfort, health, safety, welfare and enjoyment of property. It is the purpose and intent of the Board of Supervisors to define and proscribe those conditions which are injurious to the public and which constitute a public nuisance, having carefully weighed the interests of the public against the interests of private property owners and possessors in the free use of their property.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.040 NUISANCE ABATEMENT AUTHORITY.

(A) Whenever necessary to investigate and ascertain, and/or to abate any violation of the provisions of this chapter, or whenever there is reasonable cause to believe that there exists a violation of this chapter, the enforcing officer may enter onto any premises or into any building upon presentation of proper credentials to the owner and/or the occupant thereof. Notwithstanding the foregoing, the enforcing officer may enter onto any premises or into any building under authority of warrant issues pursuant to Cal. Code of Civil Procedure §§ 1822.50 et seq. All costs incurred by the county in seeking and obtaining an inspection and/or abatement warrant may be recoverable as abatement costs.

(B) Upon discovering a public nuisance as defined in this chapter, the enforcing officer may do any one or more of the following:

- (1) Issue a notice of violation, and record the notice of violation;
- (2) Issue a notice to abate a public nuisance, record the notice to abate, and abate the public nuisance;
- (3) Impose, determine, and collect an administrative civil penalty;
- (4) Issue a stop work order requiring immediate cessation of the use or activity in accordance with this chapter;
- (5) Seek relief from any court to abate the nuisance and/or collect civil penalties and abatement costs through the Office of the County Counsel, without first going through the administrative procedures set forth in this chapter; or
- (6) Notwithstanding any other provision of this chapter, when any nuisance described in § 1.06.030 constitutes an immediate threat to public health, safety, and/or welfare, and when the procedures set forth in this chapter would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the county to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the responsible parties, but the formal notice and hearing procedures in this chapter shall not apply; however, the enforcing officer shall issue a post-deprivation notice to the responsible parties. The county may nevertheless recover all its costs for abating that nuisance in the manner set forth in this chapter.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.050 NO DUTY TO ENFORCE.

Nothing in this chapter shall be construed as imposing on the enforcing officer or the County of San Benito any duty to issue any notice hereunder, nor to abate any nuisance, nor to take any other action with regard to any nuisance. Neither the enforcing officer nor the County of San Benito shall be liable for failure to issue any notice hereunder, nor for failure to abate any nuisance, nor for failure to take any other action with regard to any nuisance.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.060 DUTY OF OWNERS AND OCCUPANTS; NO UNLAWFUL ACTIVITY PERMITTED.

No person or entity owning, leasing, occupying or having charge or possession of any premises within the unincorporated area of the County of San Benito shall cause, permit, maintain, conduct or otherwise suffer or allow a public nuisance to exist. It shall be the duty of every owner, occupant, and person that controls any land or interest therein within the unincorporated area of the County of San Benito to remove, abate, and prevent the

reoccurrence of the public nuisance upon such land. Such duty of an owner shall exist regardless of whether the owner is in actual possession of his or her real property, and may include an obligation to take action to evict or otherwise remove an occupier who creates a public nuisance upon the owner's property. Nothing in this chapter shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.070 ADMINISTRATIVE CIVIL REMEDIES.

(A) In addition to any other remedy or penalty prescribed in this chapter, any public nuisance ~~any nuisance~~ violation may be subject to an administrative civil penalty in the following amounts:

(1) Up to \$1,000 per day, or part thereof, for the first violation.

(2) Up to \$2,000 per day, or part thereof, for a second violation of the same ordinance within one year;

(3) Up to \$5,000 per day, or part thereof, for each additional violation of the same ordinance within one year of the first violation;

~~(4) Notwithstanding divisions (A)(1) through (A)(3), any nuisance resulting from a violation of local building and safety codes may be subject to an administrative penalty of up to \$130 \$500 per day, or part thereof, for the first violation, up to \$700 \$1,000 per day, or part thereof, for a second violation of the same ordinance within one year, and up to \$1,300 \$2,500 per day, or part thereof, for each additional violation of the same ordinance within one year of the first violation;~~

(5) Notwithstanding any other provision of this code, any violation of Ch. 7.02, Cannabis Businesses, shall constitute a misdemeanor and shall be subject to an administrative penalty of up to \$10,000 per day, or part thereof;

(6) Notwithstanding any other part of this code, any violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements, if the violation exists as a result of, or to facilitate, the illegal cultivation, manufacture, or distribution of cannabis, shall be subject to immediate fines of \$1,000 per day, per violation. However, a reasonable period of time to remedy the violation(s) shall be provided prior to the imposition of such fine if the responsible party proves all of the following are true at a hearing:

(a) A tenant is in possession of the property that is the subject of the administrative action;

(b) The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation, manufacture, or distribution of cannabis; and

(c) The rental property owner or agent did not know the tenant was illegally cultivating, manufacturing, or distributing cannabis and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

(7) Notwithstanding any other part of this code, any violation of a stop work notice shall be subject to an immediate fine of \$2,500 per day.

(B) In determining the amount of the administrative penalty, the enforcing officer, or the court if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, duration, extent, and gravity of the violation(s), any prior history of violations, the degree of culpability, economic impact, impact of the nuisance upon the community, and any other factors as justice may require.

(C) The administrative penalty may be imposed via the administrative processes set forth in this chapter, as provided in Cal. Gov't Code § 53069.4, or may be imposed by the court if the violation requires court enforcement without an administrative process.

(D) In the case of a continuing violation, if the violation does not create an immediate danger to health or safety, or is not subject to immediate fines as set forth herein, the enforcing officer or the court shall provide for a reasonable period of time for the person responsible for the violation to correct or otherwise remedy the violation prior to the imposition of administrative penalties.

(E) Per Board of Supervisors' resolution, maximum daily accrual of fines may not exceed 90 days.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.080 NOTICES.

Whenever the enforcing officer determines that a public nuisance as described in this chapter exists on any real property within the unincorporated area of San Benito County, he or she is authorized to issue any of the following notices in accordance with this chapter:

(A) Notice of violation ("NOV"). The notice of violation shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the County Assessor, and occupant(s), if other than the owner(s), and if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Contain a statement that one or more conditions described in § 1.06.030 exist on the premises and that it has been determined by the enforcing officer to be a public nuisance as described in this chapter. The statement required under this paragraph shall



describe the nuisance conditions with reference to applicable provisions of this code and/or state law upon which the enforcing officer based his or her determination;

(5) Contain a statement that the recipient(s) must abate the nuisance within ~~ten calendar days after the date that~~ within the time stated on the notice of violation was served, describe the action(s) required to abate the nuisance, and set forth the proposed amount of any administrative penalty (per violation, per day) to be imposed if the conditions are not abated within the time stated;

(6) Contain a statement that unless the recipient(s) voluntarily abate the nuisance within the time specified in division (A)(5) of this section, that the enforcing officer may issue additional notices in accordance with this chapter, and may further record the notice of violation on the subject property with the San Benito County Recorder's Office;

(7) Contain a statement that the recipient(s) may request an administrative hearing to determine whether the conditions identified in the notice of violation constitute a public nuisance by submitting a written request to the enforcing officer no later than seven calendar days of the date of the notice of violation. This written request must identify the recipient(s), provide the recipient(s) contact information, and set forth the reason(s) the hearing is requested. If any responsible party properly requests a hearing, they shall be notified when the matter has been set for hearing. Failure of the recipient(s) to appear at the scheduled hearing and present evidence shall constitute a failure to exhaust administrative remedies.

(B) Notice to abate a public nuisance ("notice to abate"). The notice to abate a public nuisance shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the County Assessor, and occupant(s), if other than the owner(s), and if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Contain a statement that one or more conditions described in § 1.06.030 exist on the premises and that it has been determined by the enforcing officer to be a public nuisance as described in this chapter. The statement required under this paragraph shall describe the nuisance conditions with reference to applicable provisions of this code and/or state law upon which the enforcing officer based his or her determination;

(5) Contain a statement that the recipient(s) must abate the nuisance within ~~ten calendar days after the date that~~ the time stated in the notice of to abate that was served, describe the action(s) required to abate the nuisance, set forth the proposed amount of any administrative penalty (per violation, per day) to be imposed if the conditions are not abated within the time stated, and the enforcing officer's intent to record a Notice of Pending Nuisance Abatement Proceeding with the San Benito County Recorder in accordance with § 1.06.100;

(6) Contain a statement that the recipient(s) may request an administrative hearing to determine whether the conditions identified in the notice of abate constitute a public nuisance by submitting a written request to the enforcing officer no later than seven calendar days of the date of the notice of abate. This written request must identify the recipient(s), provide the recipient(s) contact information, and set forth the reason(s) the hearing is requested. If any responsible party properly requests a hearing, they shall be notified when the matter has been set for hearing. Failure of the recipient(s) to appear at the scheduled hearing and present evidence shall constitute a failure to exhaust administrative remedies.

(7) Contain a statement that, unless the recipient(s) timely abate the nuisance, or show good cause before the County Hearing Officer why the conditions should not be abated, the enforcing officer will abate the nuisance. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the county assessment roll and become a lien on the real property, or be placed on the unsecured tax roll in accordance with this chapter.

(C) Post-deprivation notice. The post-deprivation notice shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the County Assessor, and occupant(s), if other than the owner(s), if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Contain a statement that one or more conditions described in § 1.06.030 existed on the premises and that it was determined by the enforcing officer to be a public nuisance as described in this chapter. The statement required under this paragraph shall describe the nuisance conditions with reference to applicable provisions of this code and/or state law upon which the enforcing officer based his or her determination, and set forth the proposed amount of any administrative penalty (per violation, per day) to be imposed;

(5) That the enforcing officer summarily abated the nuisance existing on the premises after it was deemed that other administrative procedures would not result in abatement of the nuisance, which constituted an immediate threat to public health, safety, and/or welfare, within a short enough period of time to avoid said threat;

(6) Contain a statement that the recipient(s) may request an administrative hearing to determine whether the conditions identified in the notice of abate constituted a public nuisance by submitting a written request to the enforcing officer no later than seven calendar days of the date of the notice of abate. This written request must identify the recipient(s), provide the recipient(s) contact information, and set forth the reason(s) the hearing is requested. If any responsible party properly requests a hearing, they shall be notified when the matter has been set for hearing. Failure of the recipient(s) to appear at

the scheduled hearing and present evidence shall constitute a failure to exhaust administrative remedies.

(D) Stop work notice. The stop work notice shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the County Assessor, and occupant(s), if other than the owner(s), if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Contain a statement that one or more conditions described in § 1.06.030 exist on the premises and that it has been determined by the enforcing officer to be a public nuisance as described in this chapter. The statement required under this paragraph shall describe the nuisance conditions with reference to applicable provisions of this code and/or state law upon which the enforcing officer based his or her determination;

(5) Contain a statement that the enforcing officer has ordered the immediate cessation of any use or activity constituting a public nuisance, and set forth the proposed amount of any administrative penalty (per violation, per day) to be imposed if the conditions are not abated within the time stated;

(6) Contain a statement that it is unlawful and a violation of this code for any person to resume any use or activity that the enforcing officer ordered to be stopped, unless the enforcing officer has expressly authorized the recipient(s) to resume the use or activity based upon the recipient(s) written agreement to take corrective action to abate the nuisance;

(7) Contain a statement that the recipient(s) may request an administrative hearing to determine whether the conditions identified in the stop work notice constitute a public nuisance by submitting a written request to the enforcing officer no later than seven calendar days of the date of the stop work notice. This written request must identify the recipient(s), provide the recipient(s) contact information, and set forth the reason(s) the hearing is requested. If any responsible party properly requests a hearing, they shall be notified when the matter has been set for hearing. Failure of the recipient(s) to appear at the scheduled hearing and present evidence shall constitute a failure to exhaust administrative remedies.

(8) Contain a statement that the timely submission of a request for hearing shall not permit the resumption of the use or activity that the enforcing officer ordered to be ceased.

(E) Notice of refusal to issue permits ("refusal to issue"). The refusal to issue shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the County Assessor, and occupant(s), if other than the owner(s), and if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Contain a statement that one or more conditions described in § 1.06.030 exist on the premises and that it has been determined by the enforcing officer to be a public nuisance as described in this chapter. The statement required under this paragraph shall describe the nuisance conditions with reference to applicable provisions of this code and/or state law upon which the enforcing officer based his or her determination.

(5) (a) If the applicant disagrees with the determination that a violation exists, he or she may request a hearing in accordance with § 1.06.110 within 30 calendar days after issuance of the refusal to issue. A written request for hearing shall be submitted to the Resources Management Agency.

(b) If any applicant requests a hearing in accordance with this subdivision, they shall be notified in accordance with § 1.06.090, when the matter has been set for hearing. Failure of the applicant(s) to appear at the scheduled hearing and present evidence shall constitute a failure to exhaust administrative remedies.

(F) Invoice for abatement costs and/or administrative penalties ("invoice"). The invoice shall be in writing and shall:

(1) Identify the responsible parties, including owner(s) of the property upon which the nuisance exists, as named in the records of the County Assessor, and occupant(s), if other than the owner(s), if known or reasonably identifiable (collectively, the "recipients");

(2) Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property;

(3) Identify such property by reference to the assessor's parcel number;

(4) Set forth the amount(s) due and owing for abatement costs, including administrative costs incurred by the county to abate the nuisance and/or administrative penalties imposed, including any interest which has accrued on any amount due under this chapter from the effective date of the Board of Supervisors' decision, as set forth in this chapter;

(3) A demand for payment of said costs, including accrued interest, to be paid within 30 calendar days after service of the invoice;

(4) If said amounts due and owing are not timely satisfied in full, a lien hearing may be held in accordance with §§ 1.06.140 and 1.06.150.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.090 SERVICE OF NOTICES.

(A) Any notice issued by the enforcing officer in accordance with this chapter may be served in the following manner:

(1) By delivering it personally to the responsible parties. Service shall be deemed to have been completed upon personal delivery;

(2) By certified mail, addressed to:

(a) The owner at the address shown on the last equalized assessment roll or as otherwise known to the enforcing officer; and

(b) To anyone known to the enforcing officer to be in possession of the property at the street address of the property subject to the notice, if the property is capable of receiving mail. Service shall be deemed to have been completed upon the deposit of said notice, postage prepaid, in the United States mail.

(3) In the event that, after reasonable effort, the enforcing officer is unable to serve the notice as set forth above, service shall be accomplished by posting a copy of such notice conspicuously along the frontage of the real property subject to the notice, or if the property has no frontage, upon any street, highway, or road then upon the portion of the property nearest to a street, highway, or road, or most likely to give actual notice to the owner and any person known by the enforcing officer to be in possession of the property. Service shall be deemed to have been completed upon posting.

(B) The failure to serve any person described in this section shall not affect the validity of service or the validity of any administrative penalties imposed pursuant to this chapter upon any other person.

(C) The failure of any responsible party to receive such notice shall not affect the validity of the proceedings.

(D) Notwithstanding the foregoing, with the consent of a responsible party, notices under this chapter may be provided by electronic mail (e-mail) or any other means reasonably calculated to provide notice.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.100 RECORDATION OF NOTICES.

(A) Notice of pending nuisance abatement proceeding.

(1) Upon issuance of a notice to abate, the enforcing officer may record a notice of pending nuisance abatement proceeding with the San Benito County Recorder and shall notify the responsible parties of such action. A notice of pending nuisance abatement proceeding shall describe the premises and the condition in violation of this chapter.

(2) If a notice of pending nuisance abatement proceeding is recorded, the enforcing officer shall serve and record a notice of final disposition when the nuisance abatement

proceeding has been completed, including any appeals and the completion of any work necessary to abate the nuisance.

(B) Notice of final disposition. If the work to abate the nuisance is performed at county expense, the notice of final disposition need not be issued until those costs have been paid or a lien for those costs has been recorded in accordance with §§ 1.06.140 and 1.06.150. A fee shall be paid by the responsible parties for processing the notice of final disposition. The notice of final disposition shall be served upon any party that was served with the notice and order.

(C) Notice of non-compliance.

(1) The enforcing officer may record a notice of non-compliance with the San Benito County Recorder on the property which is the subject of a notice under this chapter if:

- (a) The time limit for abatement expires and abatement has not occurred;
- (b) A use or activity continues after issuance of a stop work notice; or
- (c) If a hearing is held, after the county hearing officer has determined responsibility.

(2) The notice of non-compliance filed with the San Benito County Recorder shall include a copy of the applicable notice as an attachment.

(D) Notice of compliance.

(1) Upon completion of all work to abate a nuisance, including securing of permits where required, and payment of all abatement costs and/or administrative penalties imposed pursuant to this chapter, the enforcing officer may record a notice of compliance with the San Benito County Recorder and shall notify the owner(s) of such action.

(E) Notice of pendency.

(1) Whenever the county institutes a judicial action or proceeding to enforce a land use ordinance, a notice of pendency of the action or proceeding may be filed with the County Recorder's Office. The notice of pendency may be filed at the time of the commencement of the action or proceeding and upon recordation of the notice of pendency, shall have the same effect as a notice recorded in compliance with the Cal. Code of Civil Procedure, §§ 405.20 et seq., as amended.

(2) Upon motion of a party to the judicial action or proceeding, the notice of pendency may be vacated upon an appropriate showing of need therefore by an order of a judge of the court in which the action or proceeding is pending.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

§ 1.06.110 ADMINISTRATIVE HEARING.

(A) If the enforcing officer determines that all violations have been timely corrected, the enforcing officer may clear the notice and no hearing shall be required.

(B) The Board of Supervisors may delegate its authority to conduct the administrative proceedings set forth in this section to the County Hearing Officer appointed by the Board of Supervisors pursuant to Ch. 1.07 of the San Benito County Code and Cal Gov't Code § 27720, as amended. The Hearing Officer shall have full authority and duty to preside over hearings in the manner set forth in Ch. 1.07 of the San Benito County Code.

(C) Administrative hearing and recommended decision. Pursuant to Cal. Gov't Code § 25845(h), and Chapter 1.07 of the San Benito County Code, the County Hearing Officer shall hold an administrative hearing as follows:

(1) A hearing shall be held within 30 days of the county's receipt of a written request for an administrative hearing, unless the parties agree otherwise, and the county shall provide notice of the time, date, and location of the hearing. Hearings may be held virtually at the election of the county.

(2) At the hearing, the County Hearing Officer shall determine:

(a) With respect to a notice of violation:

1. Whether the conditions existing on the property constitute a nuisance under this chapter;

2. Whether to impose, modify, or disapprove, in whole or in part, any proposed administrative penalties; and

3. Whether the enforcing officer may record any notices.

(b) With respect to a notice to abate:

1. Whether the conditions existing on the property constitute a nuisance under this chapter;

2. Whether there is any other good cause why those conditions should not be abated;

3. Whether the hearing officer should impose, modify, or disapprove, in whole or in part, any proposed administrative penalties; and

4. Whether the hearing officer should permit the enforcing officer to record any notices.

(c) With respect to post-deprivation notices:

1. Whether the conditions existing on the property constitute a nuisance under this chapter;

2. Whether the conditions existing on the property constituted an immediate threat to the public health, safety, and/or welfare such that the alternative procedures set forth in

this chapter would not have resulted in abatement of the nuisance within a short enough period of time to avoid said threat;

3. Whether the Hearing Officer should impose, modify, or disapprove, in whole or in part, any proposed administrative penalties; and

4. Whether the means of abatement were reasonable.

(d) With respect to stop work notices.

1. Whether the conditions existing on the property constitute a nuisance under this chapter;

2. Whether the hearing officer should impose, modify, or disapprove, in whole or in part, any proposed administrative penalties.

(e) With respect to a notice of refusal to issue permits:

1. Whether the conditions existing on the property constitute a nuisance under this chapter.

(3) At the hearing, the responsible parties shall be given an opportunity to present and elicit testimony and other relevant evidence. Failure of the responsible parties to appear and present evidence at the hearing shall be deemed a withdrawal of the request for hearing or a waiver of the right to be personally present at the hearing, and shall constitute a failure to exhaust administrative remedies.

(4) In the event that the responsible parties do not appear and present evidence at the hearing, the County Hearing Officer may base its recommended decision solely upon the evidence submitted by the enforcing officer.

(5) Any hearing conducted pursuant to this chapter need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The County Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(6) The standard of proof shall be by a preponderance of the evidence and the burden of proof to establish the existence of the nuisance shall be borne by the enforcing official. The burden of proof that the nuisance has been abated shall be borne by the responsible parties.

(7) The County Hearing Officer may continue the hearing from time to time. Prior to a scheduled hearing, the enforcing officer or the responsible parties may submit a written request for continuance to the county hearing officer. The County Hearing Officer shall issue his or her determination by any means likely to provide notice to the parties at the



soonest time possible. In the event the request for continuance is granted, the county hearing officer shall also provide the date and time for the rescheduled hearing.

(8) The County Hearing Officer shall consider the matter de novo.

(9) After the hearing, the County Hearing Officer shall issue a recommended decision in the form of a resolution which shall be served in any manner agreed upon by the parties. If no manner is agreed upon, then service shall be by first class mail, postage prepaid, to, or personally served upon, all parties appearing at the hearing and any other parties upon whom the notice was served.

(D) The Board of Supervisors shall review the following all recommended decisions from the County Hearing Officer as follows:

(1) The county shall promptly present the recommended decision to the Board of Supervisors. The Board of Supervisors may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the Board of Supervisors.

(2) In the event that the Board of Supervisors sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of this section.

(3) The decision of the Board of Supervisors shall become effective upon issuance thereof and shall be served by first class mail, postage prepaid, or personally served upon, all parties appearing at the hearing and any other parties upon whom the notice was served. Service shall be deemed to have been completed upon personal service and/or the deposit of said decision, postage prepaid, in the United States mail.

(4) The decision of the Board of Supervisors shall be final and conclusive.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.120 ENFORCEMENT OF ABATEMENT ORDER.

(A) Any responsible party may abate the nuisance or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer. Such abatement by any responsible party shall not impair the enforcing officer's ability to impose any administrative penalty accrued prior to such abatement.

(B) Notwithstanding the foregoing, whenever the enforcing officer becomes aware that a responsible party has failed to abate any nuisance within 14 calendar days of the date of service of the decision of the Board of Supervisors requiring such abatement, or such other time specified by the Board of Supervisors, the enforcing officer may enter upon the property and abate the nuisance by county personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary. If any part of the work is to be accomplished by private contract, that contract shall be submitted to and approved by the purchasing agent or Board of

Supervisors, as applicable, prior to commencement of work. Nothing herein shall be construed to require that any private contract under this code be awarded through competitive bidding procedures where such procedures are not required by the general laws of the State of California.

(C) The costs of abatement and administrative costs for every abatement carried out under this section may be recovered in accordance with this chapter.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.130 LIABILITY FOR ABATEMENT COSTS AND/OR ADMINISTRATIVE PENALTIES; INTEREST.

(A) In any enforcement action brought pursuant to this chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each responsible party who causes, permits, suffers, or maintains the nuisance to exist shall be personally liable for:

(1) All costs incurred by the county, including, but not limited to, abatement costs, including administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this chapter, whether those costs are incurred prior to, during, or following enactment of this chapter. In addition, the prevailing party shall be entitled to a recovery of the reasonable attorneys' fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the county elects, at the initiation of that action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the county in the action or proceeding;

(2) Any administrative penalty imposed pursuant to this chapter. In the event that an administrative penalty is imposed pursuant to this chapter on two or more responsible parties for the same violation, all such responsible parties shall be jointly and severally liable for the full amount of the administrative penalty imposed. Payment of administrative penalties imposed pursuant to this chapter does not excuse or discharge any continuation or repeated occurrence of the violation. Payment of the administrative penalty does not bar the county from taking any other enforcement action regarding a violation that is not corrected.

(B) Interest shall accrue on all amounts due under this chapter, from the effective date of the Board of Supervisors' Decision, as set forth in § 1.06.110, to the date paid pursuant to the laws applicable to civil money judgments.

(C) At such time as the information becomes known, the enforcing officer shall make a demand for abatement costs and/or accrued administrative penalty by issuing an invoice in accordance with § 1.06.080 to the responsible parties.

(D) Whenever the amount of abatement costs, including administrative costs, incurred by the county to abate the nuisance, or the amount of any administrative penalty imposed pursuant to this chapter has not been satisfied in full within 30 calendar days after service of the invoice, and/or has not been timely appealed to the Superior Court in accordance with Cal. Gov't Code § 53069.4(b), or if appealed, such appeal has been dismissed or denied, all or any part of, this obligation may constitute a lien against the real property on which the violation occurred in accordance with the procedures set forth in §§ 1.06.140 and 1.06.150.

(E) In addition to any other remedy, the county may prosecute a civil action through the Office of the County Counsel to collect any costs incurred to abate the nuisance and/or any administrative penalty imposed pursuant to this chapter.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.140 LIEN HEARING.

At such time as an invoice for abatement costs and/or administrative penalties due and has not timely been paid:

(A) The enforcing officer shall prepare and present a written report of abatement costs and/or administrative penalties ("report") to the Board of Supervisors stating, as applicable:

(1) For each abatement carried out, an account of the abatement costs, including costs of administration; and/or

(2) For each accrued administrative penalty, the amount of delinquent administrative penalty.

(B) Upon receipt of the report, the county shall serve a written notice of a lien hearing regarding the report, along with a copy of the invoice upon the responsible parties.

(C) At the time and date set for the lien hearing, the Board of Supervisors shall meet to review and consider the report and any protests or objections to it, and determine whether the amounts owed shall be assessed against such parcel or otherwise attempted to be collected from the owner(s) of such parcel.

(D) At the conclusion of the lien hearing, the Board of Supervisors may make such modifications in the report as it deems necessary and thereafter shall adopt a resolution confirming, modifying, or discharging the lien amount. As part of the resolution, the Board of Supervisors may order that all or any part of the cost to abate the nuisance pursuant to this chapter, including the administrative costs, as confirmed by the Board of Supervisors be placed upon the county tax roll by the County Auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to Cal. Gov't Code § 25845; provided, however, that the abatement costs, including the cost of administration, as finally determined, shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll.

(E) The liens provided herein shall have no force and effect until recorded with the County Recorder. The county may cause notices of abatement lien and/or notices of administrative penalty lien to be recorded against the respective parcels of real property pursuant to Cal. Gov't Code § 25845. Upon recordation, the county shall serve, in the manner set forth in § 1.06.090, a copy of the recorded notice(s).

(F) Within 30 calendar days following the Board of Supervisors' adoption of a resolution imposing a lien, the county will file the judgment lien in the San Benito County Recorder's Office.

(G) Once recorded, any costs or penalties not specially assessed by the Board of Supervisors pursuant to this section shall have the same force and effect and priority of a judgment lien governed by the provisions of Cal. Code of Civil Procedure § 697.340, and may be extended as provided in Cal. Code of Civil Procedure §§ 683.110 to 683.220, inclusive.

(H) Interest shall accrue on the principal amount of any lien remaining unsatisfied pursuant to the law applicable to civil money judgments.

(I) Once the county receives full payment for outstanding principal, penalties, and costs, the county will record a notice of satisfaction. A fee shall be paid by the responsible parties for processing the notice of satisfaction. This notice of satisfaction will cancel the county's lien under this section.

(J) The lien may be foreclosed and the real property sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The county shall be entitled to its attorneys' fees and costs.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.150 ALTERNATIVE LIEN HEARING PROCEDURE.

If a County Hearing Officer has been appointed in accordance with Ch. 1.07 of this code, the county hearing officer is authorized to conduct the hearing required under § 1.06.140 and shall prepare a recommended decision and resolution for the Board of Supervisors pursuant to Cal. Gov't Code §§ 25845(i) and 27721(b). The recommended decision and resolution shall include any proposed modifications to the report. The Hearing Officer shall promptly submit that recommendation and the administrative record to the county staff, who shall promptly present it to the Board of Supervisors. The Board of Supervisors may adopt the recommended decision and resolution without further notice of hearing, or may set the matter for a de novo hearing before the Board of Supervisors. In the event that the Board of Supervisors sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of § 1.06.140.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.160 ENFORCEMENT BY CIVIL ACTION.

As an alternative to any other procedure set forth in this chapter, the county may abate any nuisance described in this chapter by the prosecution of a civil action through the Office of the County Counsel, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this chapter or requiring compliance with other terms. In addition to any other remedy provided by law or equity, the court in such an action may appoint a receiver for the property upon which the violation is occurring, pursuant to Cal. Code of Civil Procedure, § 564, who shall be authorized to take such actions as may be necessary to remedy and remove the violation.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

#### § 1.06.170 REFUSAL TO ISSUE PERMITS.

(A) No department, commission or employee of the County of San Benito vested with the duty or authority to issue or approve permits, licenses or other entitlements shall do so when there is an outstanding violation, including, but not limited to, a failure to abate a nuisance as described in this chapter within 14 calendar days of the date of service of the decision of the Board of Supervisors requiring abatement, or such other time specified by the Board of Supervisors, involving the real property to which the pending application pertains.

(B) The authority to deny shall apply whether the applicant was the occupant or owner of record at the time of such violation or whether the applicant is either the current occupant or owner of record or a vendor of the current owner of record pursuant to a contract of sale of the real property, with or without actual or constructive knowledge of the violation at the time he or she acquired his or her interest in such real property.

(C) Upon recordation of Notice of violation or notice to abate, all departments, commissions, and/or employees shall refuse to issue permits, licenses, or entitlements involving the premises except those necessary to abate such violation.

(D) Written notice of the refusal to issue identified in § 1.06.080 shall be served upon the applicant in accordance with § 1.06.090.

(E) The enforcing officer may waive the provisions of this section regarding refusal to issue if he or she determines such waiver to be required to allow necessary or desirable remedial, protective or preventative work.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

§ 1.06.180 TRANSFER OF TITLE, INTEREST, OR POSSESSION.

(A) It shall be unlawful for the owner of any real property to sell, transfer, mortgage, lease, or otherwise dispose of any real property knowing there is a notice issued by the enforcing officer in accordance with § 1.06.080 involving that real property until the violations are corrected or until such owner first furnishes the grantee, transferee, mortgagee, or lessee with a true copy of any such notice and shall furnish to the enforcing officer a signed and notarized statement from the grantee, transferee, mortgagee, or lessee acknowledging the receipt of a true copy of such notice and fully accepting the responsibility without condition for making the corrections or repairs required by such documents or stating intentions to timely challenge such notice. Failure to provide notice as required in this section is a misdemeanor. The transfer of ownership in violation of this section shall not abrogate the transfer.

(B) Upon transfer of any property with a violation on file indicating the property is unsafe, dangerous or otherwise not habitable, the new owner shall not occupy or use the property until the enforcing officer expressly authorizes such occupation or use.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

§ 1.06.190 REMEDIES CUMULATIVE.

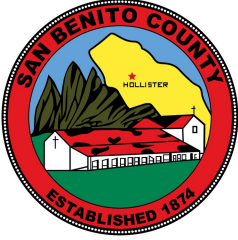
All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)

§ 1.06.200 SEVERABILITY.

If any section, subsection, sentence, clause, portion, or phrase of this chapter is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

(Ord. 960, § 1, 2017; Ord. 1,029, § 2(part), 2021)



**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

**Vincent  
Ringheden**  
District No. 1

**Richard  
Way**  
District No. 2

**Robert  
Scagliotti**  
District No. 3  
- Vice-Chair

**Robert  
Gibson**  
District No. 4  
- Chair

**Celeste Toledo-  
Bocanegra**  
District No. 5

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**Item Number: 8.3**

**MEETING DATE:** 09/18/2024

**DEPARTMENT:** RESOURCE MANAGEMENT AGENCY

**AGENDA ITEM PREPARER:** Stephanie Reck

**SUBJECT:**

**RESOURCE MANAGEMENT AGENCY- A.PRADO, PLANNING AND BUILDING DIRECTOR**  
**Staff to provide an update on the status of the Commercial Cannabis Ordinance amendments.**  
**SBC FILE NUMBER: 790**

**AGENDA SECTION:**

REGULAR AGENDA

**BACKGROUND/SUMMARY:**

Staff to provide an update on the status of the Commercial Cannabis Ordinance amendments.

**STRATEGIC PLAN GOALS: 1. Operational Development & Excellence**

Yes

**STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth**

Yes

**STRATEGIC PLAN GOALS: 3. Technology**

No

**STRATEGIC PLAN GOALS: 4. Community Engagement**

Yes

## **STRATEGIC PLAN GOALS: 5. Health & Safe Community**

No

### **STAFF RECOMMENDATION:**

Staff recommends the Planning Commission receive an update on the status of the Commercial Cannabis Ordinance amendments and provide any direction to staff.

### **ATTACHMENTS:**

[Chapter 7.02 Cannabis Business \(Ord. No. 1036\)\\_Track Changes.docx](#)

[Chapter 19.43 Cannabis Business Land Use Regulations \(Ord. No. 1036\)\\_Track Changes.docx](#)

[Limits-Comparison to Other Cannabis Code.docx](#)



## CHAPTER 7.02: CANNABIS BUSINESSES

### Section

- 7.02.010 Authority, purpose, and intent
- 7.02.020 Definitions
- 7.02.030 Prohibitions; restriction on alcohol and tobacco
- 7.02.040 Cannabis business regulatory program
- 7.02.050 Cannabis business permit
- 7.02.051 Application review procedure; reservation of rights
- 7.02.052 [RESERVED]
- 7.02.053 Cannabis business permit issuance
- 7.02.054 Renewal of cannabis business permit
- 7.02.055 Amended application; change in location
- 7.02.056 Transfer of cannabis business permit
- 7.02.060 Cannabis employee work permit
- 7.02.061 [RESERVED]
- 7.02.062 [RESERVED]
- 7.02.063 [RESERVED]
- 7.02.064 [RESERVED]
- 7.02.065 [RESERVED]
- 7.02.070 Denial, non-renewal, suspension, or revocation of permit
- 7.02.080 Appeal process
- 7.02.090 Fees and charges; debt owed to county
- 7.02.100 General requirements applicable to all cannabis businesses
- 7.02.110 General operating requirements
- 7.02.120 [RESERVED]
- 7.02.130 Operating requirements for out of county delivery services
- 7.02.140 Operating requirements for cultivators
- 7.02.150 Operating requirements for distributors

- 7.02.160 Operating requirements for testing laboratories
- 7.02.170 Operating requirements for manufacturers
- 7.02.180 Operating requirements for microbusinesses
- 7.02.190 [RESERVED]
- 7.02.200 Inspection and enforcement
- 7.02.210 Compliance with state and local laws
- 7.02.220 Permit holder responsible for violations
- 7.02.230 Limitations on county's liability

§ 7.02.010 AUTHORITY, PURPOSE, AND INTENT.

(A) Pursuant to Article XI, Section 7 of the California Constitution, the county is authorized to adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens, including, but not limited to, those which establish standards, requirements, and regulations for the licensing and permitting of commercial cannabis activity, security, and worker protections pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act (hereinafter "MAUCRSA"), and any subsequent state legislation and/or regulations regarding same. Any standards, requirements, and regulations established by the state or any of its departments or divisions, regarding commercial cannabis activity shall be the minimum standards applicable within the unincorporated area of the county.

(B) It is the purpose and intent of this chapter to implement the provisions of MAUCRSA by providing a licensing scheme as a means of regulating commercial cannabis activities, including, but not limited to, cultivation, delivery, dispensing, distribution, manufacture, processing, propagation, retail sale, storage, transportation, and laboratory testing, in the unincorporated area of the county in a manner that is consistent with state law and which balances the need to accommodate qualified patients with access to medicinal cannabis, the interests of persons 21 years of age and older choosing to access adult-use cannabis as authorized by the Control, Tax and Regulate the Adult Use Cannabis Act ("AUMA" or "Proposition 64" passed by California voters in 2016), and promotes the public health, safety, and general welfare.

(C) It is the further purpose and intent of this chapter to require all cannabis business owners and operators to obtain and renew annually, a permit to engage in certain commercial cannabis activities within the unincorporated area of the county.

(D) Further, it is the purpose and intent of this chapter to impose reasonable land use regulations to protect the county's residents, neighborhoods, businesses, and the environment from disproportionately negative impacts caused by commercial cannabis activity, and to enforce rules and regulations consistent with state law.

(E) Nothing in this chapter is intended, or shall be construed, to conflict with federal or state law, and/or to authorize the possession, use, or provision of cannabis, including any commercial cannabis activity, for purposes that violate state law and/or in violation of this chapter. It is the stated intent of this chapter to regulate commercial cannabis activity in the county in compliance with all provisions of the AUMA and MAUCRSA, and any subsequent state legislation, and for this chapter to be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

(F). The provisions of this chapter are in addition to any other permits, licenses, and approvals which may be required to conduct business in the county, and are in addition to any permits, licenses, and approval required under state, county, or other law.

(Ord. 974, § 1, 2018)

#### § 7.02.020 DEFINITIONS.

When used in this chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to state statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

**ADULT-USE CANNABIS or ADULT-USE CANNABIS PRODUCT.** CANNABIS or a CANNABIS PRODUCT, respectively, intended for adults 21 years of age and over and who do not possess PHYSICIAN'S RECOMMENDATIONS.

**APPLICANT.** An OWNER applying for a CANNABIS BUSINESS PERMIT pursuant to this chapter.

**BATCH.** A specific quantity of homogeneous CANNABIS or CANNABIS PRODUCT that is one of the following types:

(1) **HARVEST BATCH.** A specifically identified quantity of DRIED FLOWER or trim, leaves, and other CANNABIS plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals and harvested at the same time.

(2) **MANUFACTURED CANNABIS BATCH.** Either of the following:

(a) An amount of CANNABIS CONCENTRATE or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.

(b) An amount of a type of MANUFACTURED CANNABIS produced in one production cycle using the same formulation and standard operating procedures.

**BUREAU.** The Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

**CANNABIS.** All parts of the Cannabis Sativa Linnaeus, Cannabis Indica, or Cannabis Ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, MANUFACTURE, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. CANNABIS also means the separated resin, whether crude or purified, obtained from CANNABIS. CANNABIS does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, MANUFACTURE, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, CANNABIS does not mean "industrial hemp" as defined by Cal. Health and Safety Code § 11018.5.

**CANNABIS ACCESSORIES.** Any equipment, products, or materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, PROCESSING, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing CANNABIS, or for ingesting, inhaling, or otherwise introducing CANNABIS GOODS into the human body.

**CANNABIS BUSINESS.** Any business or OPERATION which engages in any medicinal or adult-use COMMERCIAL CANNABIS ACTIVITY. CANNABIS BUSINESS also means the location at which a person engages in COMMERCIAL CANNABIS ACTIVITIES.

**CANNABIS BUSINESS PERMIT.** A regulatory permit issued by the COUNTY pursuant to this chapter to a STATE LICENSED CANNABIS BUSINESS to engage in those COMMERCIAL CANNABIS ACTIVITIES authorized by the permit; and is required before any CANNABIS BUSINESS may conduct any COMMERCIAL CANNABIS ACTIVITY in the COUNTY. The CANNABIS BUSINESS PERMIT, and any annual renewal, is made expressly contingent upon the CANNABIS BUSINESS' ongoing compliance with all requirements of this chapter and any regulations adopted by the COUNTY governing the specified type of COMMERCIAL CANNABIS ACTIVITY.

**CANNABIS BUSINESS SITE.** A fixed location, under the control of a STATE LICENSED CANNABIS BUSINESS where the CANNABIS BUSINESS is LOCALLY AUTHORIZED to ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.

**CANNABIS CONCENTRATE.** CANNABIS that has undergone a PROCESS to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a CANNABIS plant is a concentrate for purposes of this division. A CANNABIS CONCENTRATE is not considered food as defined by Cal. Health and Safety Code § 109935, or drug as defined by Cal. Health and Safety Code § 109925.

**CANNABIS COORDINATOR.** The County Administrative Officer, or his/her designee, responsible for:

- (1) The issuance, renewal, or reinstatement of CANNABIS BUSINESS PERMITS; and

(2) Authorized to initiate and/or take disciplinary and/or enforcement action against a PERMITTEE.

CANNABIS EMPLOYEE WORK PERMIT. A work permit issued by the COUNTY pursuant to this chapter to an EMPLOYEE-APPLICANT within a CANNABIS BUSINESS which authorizes the EMPLOYEE-APPLICANT to be employed by a CANNABIS BUSINESS and is required prior to commencing work.

CANNABIS GOODS. Both CANNABIS and/or CANNABIS PRODUCTS.

CANNABIS PRODUCTS. CANNABIS that has undergone a PROCESS whereby the plant material has been transformed into a concentrate, including, but not limited to, CONCENTRATED CANNABIS, or an edible or TOPICAL product containing CANNABIS, or CONCENTRATED CANNABIS and other ingredients. CANNABIS PRODUCTS shall also mean medicinal concentrates and MEDICINAL CANNABIS PRODUCTS.

CANOPY. The designated area(s) at a STATE LICENSED CANNABIS BUSINESS SITE that will contain LIVE CANNABIS PLANTS at any point in time, as follows:

(1) CANOPY shall be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain LIVE CANNABIS PLANTS at any point in time, including all of the space(s) within the boundaries;

(2) CANOPY may be noncontiguous but each unique area included in the total CANOPY calculation shall be separated by an identifiable boundary which includes, but is not limited to, interior walls, shelves, GREENHOUSE walls, HOOP HOUSE walls, garden benches, hedgerows, fencing, garden beds, or garden plots; and

(3) If LIVE CANNABIS PLANTS are being cultivated using a shelving system, the surface area of each level shall be included in the total CANOPY calculation.

CAREGIVER or PRIMARY CAREGIVER. Has the same meaning as that term is defined in Cal. Health and Safety Code § 11362.7.

CHILD RESISTANT. Designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for average adults to use properly.

COMMERCIAL CANNABIS ACTIVITY or CANNABIS BUSINESS ACTIVITY. Includes the CULTIVATION, possession, MANUFACTURE, DISTRIBUTION, PROCESSING, storing, laboratory testing, packaging, LABELING, transportation, DELIVERY, dispensing, or SALE of CANNABIS and/or CANNABIS PRODUCTS as provided for in this chapter.

COUNTY OF SAN BENITO or COUNTY. The COUNTY OF SAN BENITO, as a political subdivision of the State of California or entity, and/or as related to the land or jurisdiction to which this chapter applies, means the unincorporated area of the COUNTY OF SAN BENITO.

CULTIVATION. Any activity involving the PROPAGATION, planting, growing, harvesting, drying, curing, grading, or trimming of CANNABIS.

**CULTIVATION SITE.** A fixed location, under the control of a **CULTIVATOR** or **MICROBUSINESS**, where **CANNABIS** is cultivated.

**CULTIVATOR.** A **STATE LICENSED CANNABIS BUSINESS** that is **LOCALLY AUTHORIZED** to engage in the **CULTIVATION** of **CANNABIS**.

**CUSTOMER.** A natural person 21 years of age or older, or a natural person 18 years of age or older who possesses a **PHYSICIAN'S RECOMMENDATION**, or a **PRIMARY CAREGIVER** who is engaged in a transaction with a **RETAILER** or **MICROBUSINESS** for purposes of obtaining **CANNABIS GOODS**, specifically, to purchase.

**DELIVERY** or **DELIVER.** The commercial transfer of **CANNABIS GOODS** from a **STATE LICENSED RETAILER** or **STATE LICENSED MICROBUSINESS** to a **CUSTOMER** or **PURCHASER** at a physical address. **DELIVERY** also includes the use by a **RETAILER** of any technology platform, whether or not owned and controlled by the **RETAILER**.

**DELIVERY EMPLOYEE.** An individual employed by a **RETAILER** or **MICROBUSINESS**, including an **OUT OF COUNTY DELIVERY SERVICE**, who **DELIVERS CANNABIS GOODS** from the authorized **CANNABIS BUSINESS SITE** of the **RETAILER** or **MICROBUSINESS** to a **CUSTOMER** or **PURCHASER** at a physical address.

**DELIVERY VEHICLE.** Any motor vehicle operated by a **DELIVERY EMPLOYEE**.

**DISTRIBUTION.** The procurement, **SALE**, and **TRANSPORT** of **CANNABIS GOODS** between **STATE LICENSED CANNABIS BUSINESSES** that are **LOCALLY AUTHORIZED** to **ENGAGE IN COMMERCIAL CANNABIS ACTIVITY**.

**DISTRIBUTION EMPLOYEE.** An individual employed by a **DISTRIBUTOR** or **MICROBUSINESS** who **TRANSPORTS CANNABIS GOODS** from one **CANNABIS BUSINESS SITE** to another **CANNABIS BUSINESS SITE**.

**DISTRIBUTION VEHICLE.** Any motor vehicle operated by a **DISTRIBUTION EMPLOYEE**.

**DISTRIBUTOR.** A **STATE LICENSED CANNABIS BUSINESS** that is **LOCALLY AUTHORIZED** to engage in the **DISTRIBUTION** of **CANNABIS GOODS**.

**DRIED FLOWER.** All dead **CANNABIS** that has been harvested, dried, cured, or otherwise **PROCESSED**, excluding leaves and stems.

**EDIBLE CANNABIS PRODUCT.** **CANNABIS PRODUCT** that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Cal. Food and Agricultural Code Division 15 (commencing with § 32501). An **EDIBLE CANNABIS PRODUCT** is not considered food as defined by Cal. Health and Safety Code § 109935, or a drug as defined by Cal. Health and Safety Code § 109925.

**EMPLOYEE.** An individual employed by a **STATE LICENSED CANNABIS BUSINESS** that is **LOCALLY AUTHORIZED** to **ENGAGE IN COMMERCIAL CANNABIS ACTIVITY**.

**EMPLOYEE-APPLICANT.** Any person applying for a CANNABIS EMPLOYEE WORK PERMIT pursuant to this chapter.

**ENFORCING OFFICER.** The San Benito County Administrative Officer, Health Officer, Resources Management Agency Director, Sheriff, or Agricultural Commissioner, or their authorized deputy(ies) or designee(s), or any person employed by the COUNTY and appointed to the position of CANNABIS COORDINATOR, or any person employed by the COUNTY and appointed to the position of Code Enforcement Officer, as established by Resolution No. 90-27 and Ordinances 567 and 625, each of whom is independently authorized to enforce this chapter.

**ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.**

(1) The commencing, conducting, operating, managing, or carrying on of a CANNABIS BUSINESS, and the exercise of corporate or franchise powers, whether done as OWNER, or by means of an officer, agent, manager, EMPLOYEE, or otherwise, whether operating from a fixed location in the unincorporated area of the COUNTY or coming into the unincorporated area of the COUNTY from an outside location to ENGAGE IN CANNABIS BUSINESS ACTIVITIES. A person shall be deemed ENGAGED IN CANNABIS BUSINESS ACTIVITIES within the COUNTY if:

(a) Such person or person's EMPLOYEE maintains a fixed place of business within the unincorporated area of the COUNTY for the benefit or partial benefit of such person;

(b) Such person or person's EMPLOYEE owns or leases real property within the unincorporated area of the COUNTY for business purposes;

(c) Such person or person's EMPLOYEE regularly maintains a stock of tangible personal property in the unincorporated area of COUNTY for SALE in the ordinary course of business;

(d) Such person or person's EMPLOYEE regularly conducts solicitation of business within the unincorporated area of the COUNTY;

(e) Such person or person's EMPLOYEE performs work or renders services in the unincorporated area of the COUNTY; and

(f) Such person or person's EMPLOYEE utilizes the streets within the unincorporated area of the COUNTY in connection with the operation of motor vehicles for business purposes.

(2) The foregoing specified CANNABIS BUSINESS ACTIVITIES shall not be a limitation on the meaning of ENGAGED IN COMMERCIAL CANNABIS ACTIVITY.

**FLOWERING.** That a CANNABIS plant has formed a mass of pistils measuring greater than one-half inch wide at its widest point.

**GREENHOUSE.** A completely enclosed structure whose structural members are made of pre-formed, rigid materials. The walls, roof, and ends are typically covered using a

transparent material, often glass, and which allows solar radiation to penetrate the surface and affect the growing environment of plants.

**HOOP HOUSE.** A structure with structural members which are made of flexible and somewhat rigid construction materials, typically PVC pipe or similar material. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed frequently.

**IMMATURE PLANT.** A CANNABIS plant that is nonflowering and is shorter and/or narrower than 18 inches.

**INDOOR CULTIVATION.** CULTIVATION that is conducted within a fully enclosed, permitted building or structure, accessible only through one or more locking doors, which is secure against unauthorized entry, and which uses artificial light.

**LABELING.** Any label or other written, printed, or graphic matter upon a CANNABIS GOOD, upon its container or wrapper, or that accompanies any CANNABIS GOOD.

**LABOR PEACE AGREEMENT.** An agreement between a STATE LICENSEE and any bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the APPLICANT'S business. This agreement means that the APPLICANT has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent the APPLICANT'S EMPLOYEES. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the APPLICANT'S EMPLOYEES work, for the purpose of meeting with EMPLOYEES to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

**LEGAL PARCEL.** A parcel of real property for which one legal title exists that may be separately sold in compliance with the Subdivision Map Act, Cal. Government Code Title 7, Division 2 (commencing with § 66410).

**LIMITED ACCESS AREA.** An area in which CANNABIS GOODS, cash, business records, surveillance equipment, and the ability to control or monitor the surveillance equipment is/are stored or held and is only accessible to PERMITTEE'S authorized personnel.

**LIVE CANNABIS PLANTS.** Living CANNABIS flowers and plants, including seeds, IMMATURE PLANTS, and vegetative stage plants.

**LOCAL JURISDICTION OF ORIGIN.** A city, county, or city and county within the state.

**LOCALLY AUTHORIZED.** A city, county, or city and county within the state that has issued a permit, license, or the like to any STATE LICENSED CANNABIS BUSINESS to ENGAGE IN COMMERCIAL CANNABIS ACTIVITY within that jurisdiction.

**LOT.** A BATCH or a specifically identified portion of a BATCH.



**MANUFACTURE.** To produce, prepare, PROPAGATE, or compound, or otherwise blend, extract, or infuse CANNABIS and/or a CANNABIS PRODUCT, either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

**MANUFACTURED CANNABIS.** RAW CANNABIS that has undergone a PROCESS whereby the RAW CANNABIS has been transformed into a concentrate, extract, or other manufactured product intended for either internal consumption, through inhalation or oral ingestion, or for TOPICAL application.

**MANUFACTURER.** A STATE LICENSED CANNABIS BUSINESS that is LOCALLY AUTHORIZED to conduct the production, preparation, PROPAGATION, or compounding of CANNABIS GOODS, either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages CANNABIS GOODS, or LABELS or re-labels its container.

**MANUFACTURING EMPLOYEE.** An individual employed by a MANUFACTURER or MICROBUSINESS who is engaged in the performance or supervision of OPERATIONS at a MANUFACTURING SITE.

**MANUFACTURING SITE.** A fixed location, under the control of a MANUFACTURER or MICROBUSINESS where CANNABIS GOODS are MANUFACTURED.

**MATURE PLANT.** A CANNABIS plant capable of producing the CANNABIS flower or is FLOWERING, and is at least 18 inches tall and/or wide.

**MAUCRSA.** The Medicinal and Adult-Use Cannabis Regulation and Safety Act, Cal. Business and Professions Code §§ 26000 et seq.

**MEDICINAL CANNABIS or MEDICINAL CANNABIS PRODUCT.** CANNABIS or a CANNABIS PRODUCT, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Cal. Health and Safety Code § 11362.5, by a MEDICINAL CANNABIS PATIENT in the state who possesses a valid PHYSICIAN'S RECOMMENDATION.

**MICROBUSINESS.** A STATE LICENSED CANNABIS BUSINESS that is LOCALLY AUTHORIZED to engage in the CULTIVATION of CANNABIS on an area less than 10,000 square feet, and may additionally act as any three of the following: a STATE LICENSED, LOCALLY AUTHORIZED DISTRIBUTOR, CULTIVATOR, Level 1 MANUFACTURER, or RETAILER under state law, provided such licensee can demonstrate compliance with all requirements imposed by state law on licensed CULTIVATORS, DISTRIBUTORS, Level 1 MANUFACTURERS, and RETAILERS to the extent the licensee engages in such activities. MICROBUSINESS licenses that authorize CULTIVATION of CANNABIS shall include the license conditions described in Cal. Business and Professions Code § 26060.1 (b).

**MIXED-LIGHT CULTIVATION.** CULTIVATION of CANNABIS using light deprivation, and both natural and/or artificial lighting during the growing cycle, and is conducted within a permitted GREENHOUSE or similar structure, accessible only through one or more locking doors, which is secure against unauthorized entry.

**NON-VOLATILE SOLVENT.** Any solvent used in the extraction PROCESS that is not a VOLATILE SOLVENT as defined in Cal. Health and Safety Code § 11362.3(b)(3). NON-VOLATILE SOLVENT includes carbon dioxide (CO2) used for extraction and ethanol, when used for extraction or post-extraction PROCESSING.

**NURSERY.** A CULTIVATOR that produces only clones, IMMATURE PLANTS, seeds, and other agricultural products used specifically for the PROPAGATION and CULTIVATION of CANNABIS.

**OPERATION.** Any activity for which a STATE LICENSE and a CANNABIS BUSINESS PERMIT is required under the provisions of this chapter, including any commercial transfer, including, but not limited to, DELIVERY or DISTRIBUTION of CANNABIS GOODS.

**OUT OF COUNTY DELIVERY SERVICE.** A STATE LICENSED RETAILER or MICROBUSINESS that:

(1) Is LOCALLY AUTHORIZED to engage in the RETAIL SALE and DELIVERY of CANNABIS

GOODS, and whose place of business, main office, or center of OPERATIONS is located outside the unincorporated area of the COUNTY; and

(2) DELIVERS CANNABIS GOODS to a CUSTOMER within the COUNTY.

**OUT OF COUNTY DISTRIBUTORS.** A STATE LICENSED DISTRIBUTOR or MICROBUSINESS that:

(1) Is LOCALLY AUTHORIZED to engage in the DISTRIBUTION of CANNABIS GOODS, and whose place of business, main office, or center of OPERATIONS is located outside the unincorporated area of the COUNTY; and

(2) TRANSPORTS CANNABIS GOODS to or from an authorized CANNABIS BUSINESS SITE.

**OUTDOOR CULTIVATION.** Any commercial CANNABIS CULTIVATION without the use of light deprivation and/or artificial lighting in the CANOPY area, and that is not conducted within a fully enclosed, permitted building, accessible only through one or more locking doors, which is secure against unauthorized entry. OUTDOOR CULTIVATION includes, without limitation, CULTIVATION of CANNABIS within a HOOP HOUSE or similar structure.

**OWNER.** Any of the following:

(1) A person with an aggregate ownership interest of 20% or more in the person applying for a CANNABIS BUSINESS PERMIT or a PERMITTEE, unless the interest is solely a security, lien, or encumbrance;

(2) The Chief Executive Officer, or other manager, of a nonprofit or other entity;

(3) A member of the Board of Directors of a nonprofit; or

(4) An individual who will be participating in the direction, control, or management of the business applying for a CANNABIS BUSINESS PERMIT, or who has a financial interest in the business other than a fixed lease of real property.

**PACKAGE.** Any container or receptacle used for holding CANNABIS GOODS.

**PATIENT or QUALIFIED PATIENT.** Shall have the same definition as Cal. Health and Safety Code §§ 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of Cal. Health and Safety Code § 11362.5. For purposes of this chapter, QUALIFIED PATIENT shall also refer to QUALIFIED PATIENTS who have obtained an identification card from the State Department of Health Services via a local county health department, as that term is defined by Cal. Health and Safety Code §§ 11362.7 et seq.

**PERMITTEE or PERMITTED CANNABIS BUSINESS.** Any person holding a valid CANNABIS BUSINESS PERMIT issued by the COUNTY pursuant to this chapter.

**PERMITTING AUTHORITY.** The county department that is responsible for the issuance, renewal, or reinstatement of the CANNABIS BUSINESS PERMIT, and authorized to take disciplinary action against the PERMITTEE.

**PERSON.** Includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business, business trust, receiver, syndicate, collective, cooperative, or any other group or entity, or combination acting as a unit, and the plural as well as the singular.

**PHYSICIAN'S RECOMMENDATION.** A recommendation by a physician and surgeon that a PATIENT use CANNABIS provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Cal. Health and Safety Code § 11362.5.

**PREMISES.** The designated structure(s) and land of a LEGAL PARCEL specified in the application that is owned, leased, used, possessed, or otherwise held under the control of the APPLICANT or PERMITTEE where the COMMERCIAL CANNABIS ACTIVITY will be or is conducted. The PREMISES shall be a contiguous area and shall only be occupied by one PERMITTEE.

**PROCESS or PROCESSING.** COMMERCIAL CANNABIS ACTIVITY associated with curing, drying, grading, LABELING, packaging, or trimming of raw or non-manufactured CANNABIS GOODS.

**PROCESSING SITE.** A CULTIVATION SITE that conducts only trimming, drying, curing, grading, packaging, or LABELING of raw or non-manufactured CANNABIS GOODS.

**PROPAGATE or PROPAGATION.** To CULTIVATE IMMATURE PLANTS from CANNABIS plant cuttings or seeds.

**PROPERTY OWNER.** The person who is the record OWNER of the subject real property where the CANNABIS BUSINESS is located and the OPERATIONS thereof occur or are proposed to occur.

**PURCHASER.** The CUSTOMER who is engaged in a transaction with a PERMITTEE for purposes of obtaining CANNABIS GOODS.

**RAW CANNABIS.** Shall include CANNABIS flowers, CANNABIS leaves, or other categories of harvested CANNABIS, categories for unprocessed or frozen CANNABIS or IMMATURE PLANTS, or CANNABIS that is shipped directly to MANUFACTURERS.

**RETAIL.** Both STOREFRONT and NON-STOREFRONT RETAIL as follows:

(1) **NON-STOREFRONT RETAIL.** The RETAIL SALE and DELIVERY of commercial CANNABIS GOODS to CUSTOMERS from vehicular DELIVERY only.

(2) **STOREFRONT RETAIL.** The RETAIL SALE and DELIVERY of commercial CANNABIS GOODS to CUSTOMERS from either:

(a) A physical location where the CANNABIS BUSINESS is authorized to conduct COMMERCIAL CANNABIS ACTIVITY; or

(b) Vehicular DELIVERY.

**RETAILER.** A STATE LICENSED CANNABIS BUSINESS that it LOCALLY AUTHORIZED to engage in the RETAIL SALE and DELIVERY of CANNABIS GOODS.

**SELL, SALE, and TO SELL.** Includes any transaction whereby, for any consideration, title to CANNABIS GOODS is transferred from one person to another, and includes the DELIVERY of CANNABIS GOODS pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of CANNABIS GOODS by a licensee to the licensee from whom the CANNABIS GOODS was purchased.

**SENSITIVE USE.** Any of the following:

(1) **CHURCH.** A structure or leased portion of a structure, which is used primarily for religious worship and related religious activities;

(2) Licensed child care facility;

(3) Licensed child care home;

(4) **LICENSED CHILD DAY CARE FACILITY.** A facility that provides non- medical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. CHILD DAY CARE FACILITY includes:

(a) **DAY CARE CENTER.** Any CHILD DAY CARE FACILITY other than a FAMILY DAY CARE HOME, and includes infant centers,

preschools, extended day care facilities, and school-age child care centers;

(b) **EMPLOYER-SPONSORED CHILD CARE CENTER.** Any CHILD DAY CARE FACILITY at the employer's site of business operated directly or through a provider contract by any

person or entity having one or more EMPLOYEES, and available exclusively for the care of children of that employer, and of the officers, managers, and EMPLOYEES of that employer;

(c) FAMILY DAY CARE HOME. A home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large FAMILY DAY CARE HOME or a small FAMILY DAY CARE HOME;

(5) SCHOOL. An institution of learning for minors, whether public, private, or charter, offering a regular course of instruction required by the California Education Code, or any licensed CHILD or DAY CARE FACILITY. This definition includes a nursery school, pre-school, transitional kindergarten, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university;

(6) SCHOOL BUS STOP. Any location designated in accordance with Cal. Code of Regulations Title 13, § 1238, to receive school buses, as defined in Cal. Vehicle Code § 233, or school pupil activity buses, as defined in Cal. Vehicle Code § 546;

(7) SCHOOL EVACUATION SITE. Any location designated by formal action of the governing body, superintendent, or principal of any SCHOOL as a location to which juveniles are to be evacuated to, or are to assemble at, in the event of an emergency or other incident at the SCHOOL;

(8) YOUTH CENTER. Any public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to:

(a) Private youth membership organizations or clubs, social service teenage club facilities, video arcades where ten or more video games or game machines or devices are operated and where minors are legally permitted to conduct business, or similar amusement park facilities;

(b) A park, playground, or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball, or any similar facility located on a public or private school grounds, or on city, county, or state parks;

(c) This definition shall not include any private martial arts, yoga, ballet, music, art studio or similar studio of this nature nor shall it include any private gym, athletic training facility, pizza parlor, dentist's office or doctor's office, primarily serving children, or a location which is primarily utilized as an administrative office or facility for youth programs or organizations; and

(9) YOUTH-ORIENTED FACILITY. Elementary school, middle school, high school, public park, any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate, or assemble at the establishment are predominately minors.

**STATE LICENSE.** A license issued by the State of California, or one of its departments or divisions, including the Bureau of Cannabis Regulation, under MAUCRSA and any subsequent state legislation regarding the same, authorizing the holder to ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.

**STATE LICENSEE or STATE LICENSED.** A person to whom a STATE LICENSE has been issued, authorizing that person to ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.

**TESTING LABORATORY.** A STATE LICENSED laboratory, facility, or entity that offers or performs tests of CANNABIS GOODS and that is:

- (1) Accredited by an accrediting body that is independent from all other persons involved in COMMERCIAL CANNABIS ACTIVITY in the state; and
- (2) Authorized by the COUNTY to engage in laboratory testing of CANNABIS GOODS via a valid CANNABIS BUSINESS PERMIT.

**TOPICAL or TOPICAL CANNABIS.** A product intended for external application and/or absorption through the skin. A TOPICAL CANNABIS product is not considered a drug as defined by Cal. Health and Safety Code § 109925.

**TRANSPORT.** The physical movement of CANNABIS GOODS from one authorized CANNABIS BUSINESS SITE to another authorized CANNABIS BUSINESS SITE, for the purposes of conducting COMMERCIAL CANNABIS ACTIVITY authorized by MAUCRSA which may be amended or repealed by any subsequent state legislation regarding the same. TRANSPORT does not include DELIVERY.

**UNIQUE IDENTIFIER.** An alphanumeric code or designation used for reference to a specific CANNABIS plant on a STATE LICENSED PREMISES and any CANNABIS GOODS derived or MANUFACTURED from that plant.

**VOLATILE SOLVENT.** Any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of VOLATILE SOLVENTS include, but are not limited to, butane, hexane, and propane.

(Ord. 974, § 1, 2018; Ord. 1036, § 2, 2021)

#### § 7.02.030 PROHIBITIONS; RESTRICTION ON ALCOHOL AND TOBACCO.

(A) Commercial cannabis activities prohibited unless specifically authorized. Except as specifically authorized in this chapter, commercial cannabis activities are expressly prohibited in the county.

(B) Prohibited commercial cannabis activities. It is a violation of this chapter, and shall constitute a public nuisance, for any person or entity to engage in any of the following commercial cannabis activities, which are expressly prohibited:

- (1) Outdoor cultivation within the exclusion zone defined in § 7.04.003; and

(2) Special events, held for the purpose of marketing cannabis goods, as described in Cal. Business and Professions Code § 26150(e).

(C) Compliance with laws. It is unlawful and shall constitute a public nuisance for anyone to engage in any commercial cannabis activity within the county without complying with all applicable state and local laws and regulations pertaining to the cannabis business and the commercial cannabis activities, including the duty to obtain all of the following:

- (1) A valid cannabis business permit; and
- (2) A valid state license; and
- (3) A valid state seller's permit.

(D) Persons prohibited from holding permit(s) under this chapter. The persons set forth in § 7.02.070(A) shall be prohibited from holding a cannabis business permit or a cannabis employee work permit in the county.

(E) Restriction on alcohol and tobacco.

(1) No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the cannabis business.

(2) No person shall cause or permit the sale or tobacco products on or about the premises of the cannabis business.

(3) No person shall consume any cannabis good, tobacco, or alcohol at any cannabis business site.

(Ord. 974, § 1, 2018; Ord. 1032, § 2, 2021; Ord. 1036, § 3, 2021)

#### § 7.02.040 CANNABIS BUSINESS REGULATORY PROGRAM.

(A) There is hereby created the cannabis business regulatory program which shall be administered by the County Administrative Officer.

(B) The permit issued under the cannabis business regulatory program is a cannabis business permit.

(C) The Administrative Officer or his/her designee(s) shall be authorized to build and manage the cannabis business regulatory program, including, but not limited to, preparing the necessary forms, promulgating any necessary rules, regulations, and standards governing application requirements and processes, soliciting applications, conducting evaluations of the cannabis business applicants and otherwise implementing the cannabis business permit and cannabis employee work permit processes and requirements.

(D) Promulgation of rules, regulations, and standards.

(1) Rules, regulations, and/or standards governing the issuance, denial, renewal, suspension, and/or revocation of cannabis business permits may be promulgated by the Board of Supervisors and shall become effective in accordance with applicable laws.

(2) In addition, the Administrative Officer or his or her designee is authorized to establish any additional rules, regulations, and/or standards governing the same, including, but not limited to, the ongoing operation and county's oversight of cannabis businesses, and/or concerning any other subject determined to be necessary to carry out the purposes of this chapter and shall become effective upon publication on the county's website.

(3) Cannabis businesses shall be required to comply with all state and local laws and rules, regulations, and standards, including, but not limited to, those promulgated by the Administrative Officer or his or her designee.

(4) Testing laboratories, distribution facilities, and out of county distributors shall be subject to state law and shall be subject to additional county regulations as determined from time to time as more regulations are developed under § 7.02.010 and any subsequent state legislation regarding the same.

(Ord. 974, § 1, 2018; Ord. 1036, § 4, 2021)

**§ 7.02.050 CANNABIS BUSINESS PERMIT.**

(A) Permit required. No person may operate any cannabis business or engage in any commercial cannabis activity within the county unless the person has, at a minimum, complied with all applicable state and local laws and regulations pertaining to the cannabis business and the commercial cannabis activities, including, but not limited to, the duty to obtain all of the following:

- (1) A valid cannabis business permit;
- (2) A valid state license; and
- (3) A valid state seller's permit.

(B) No cannabis business permit will be issued to any person set forth in § 7.02.030(D).

(C) Permit type. The following cannabis business permits are created under this chapter:

<b>County Cannabis Business Permit Types</b>	<b>State License Types (includes both A- Licenses and M- Licenses)</b>
Cultivation***	1A, 1B, 1C, 2A, 2B, 3A, 3B, 4, 5A, 5B, Specialty Cottage, Specialty, Small, Medium, Large, Nursery, and Processor
Manufacturing	6, 7, N, P, and S
Testing	8
Retailer**	9, 10, 12
Distributor	11, 13
Microbusiness (non-storefront retail)	12



\* Pursuant to Cal. Business and Professions Code § 26050.  
\*\* Number of permits may be limited as set forth in this chapter.  
\*\*\* Includes Outdoor, Indoor, and Mixed-Light (Tier 1 and Tier 2) Licenses

(D) Number of permits limited. The maximum number of each cannabis business type and the corresponding number of cannabis business permits issued by the county may be limited or restricted, and shall be established by resolution and/or ordinance by the Board of Supervisors. The maximum number of cannabis business permits shall be subject to the Board's annual review; The Board of Supervisors may, in their discretion, modify the number of cannabis business permits authorized for issuance. This section is only intended to create a maximum number of each cannabis business type operating in the county. Nothing in this chapter obligates the Board of Supervisors to issue any or all of the available cannabis business permits if it is determined that:

- (1) Applicants do not meet the application requirements; or
- (2) Issuance of any or all cannabis business permits will detrimentally impact the public health, safety, or welfare, or any other public policy concern.

(E) The number of permits issued for storefront retail cannabis businesses shall be limited to five, not be subject to §§ 7.02.051 and 7.02.052, and shall be permitted in accordance with Ch. 19.43 with a conditional use permit.

(F) Expiration. Each cannabis business permit issued pursuant to this chapter shall only be valid for a term of 12 months and shall expire 12 months after the date of its issuance, unless suspended or revoked by the county pursuant to § 7.02.070. A cannabis business permit may be renewed as provided in § 7.02.054.

(Ord. 974, § 1, 2018; Ord. 1032, § 3, 4, 2021; Ord. 1036, § 5, 2021)

#### § 7.02.051 APPLICATION REVIEW PROCEDURE; RESERVATION OF RIGHTS.

(A) The Board of Supervisors shall adopt a resolution and/or ordinance setting forth procedures which govern the application process.

(B) At the time of filing, each applicant shall pay an application fee established by resolution and/or ordinance of the Board of Supervisors to cover all costs incurred by the county in the application process.

(C) Appeals. Appeals from the decision of the Administrative Officer or his or her designee shall be handled pursuant to § 7.02.080.

(D) The county's reservation of rights. The county reserves the right to reject or deny any or all applications if it determines it would be in the best interest of the county, taking into account any health, safety, and welfare impacts on the community. Applicants shall have no right to a cannabis business permit until a permit is actually issued, and then only for as long as the permit is valid. Each applicant assumes the risk that, at any time prior to

the issuance of a permit, the Board of Supervisors may terminate or delay the cannabis business regulatory program created under this chapter. Prior to permit issuance, the county may also modify, postpone, or cancel any request for applications, or the entire cannabis business regulatory program under this chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under state law. Persons submitting applications assume the risk that the cannabis business regulatory program, or any part thereof, or any particular type of commercial cannabis activity permit potentially authorized under this chapter, may be cancelled at any time prior to permit issuance. The county further reserves the right to request and obtain additional information from any applicant. In addition to any other justification provided, an application risks being rejected or denied for any of the following reasons:

- (1) Failure to comply with the requirements in this chapter;
- (2) Proposal received after designated time and date;
- (3) Proposal not containing the required elements, exhibits, nor organized in the required format; or
- (4) Proposal considered not fully responsive to this request for permit application.

(Ord. 974, § 1, 2018; Ord. 1036, § 6, 2021)

§ 7.02.052 [RESERVED.]

§ 7.02.053 CANNABIS BUSINESS PERMIT ISSUANCE.

(A) Official issuance of a cannabis business permit is conditioned upon the following:

(1) Applicant shall execute an agreement, in a form approved by the County Counsel, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the county and its officers, officials, employees, representatives, and agents, harmless from any and all claims, losses, damages, injuries, liabilities, or losses which arise out of, or which are in any way related to, the county's issuance of the cannabis business permit, the county's decision to approve the operation of the cannabis business or activity, the process used by the county in making its decision, or the alleged violation of any federal, state, or local laws by the cannabis business or any of its officers, employees, or agents.

(2) Applicant shall maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate from time to time by the Administrative Officer or his/her designee.

(3) Applicant shall execute an agreement, in a form approved by the County Counsel, agreeing to reimburse the county for all costs and expenses, including but not limited to legal fees and costs and court costs, which the county may be required to pay as a result of any legal challenge related to the county's approval of the applicant's cannabis business

permit, or related to the county's approval of a commercial cannabis activity. The county may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

(4) Following the Administrative Officer's preliminary review of the application, the applicant shall apply to the Resource Management Agency to obtain any and all land use approvals or entitlements for the cannabis business site required under Title 25, if any. Land use approvals shall include compliance with all applicable provisions of CEQA.

(B) The Administrative Officer or his/her, designee(s) shall formally issue the cannabis business

permit(s) once all the foregoing requirements have been met, including certification from the Resource Management Agency Director or his/her designee(s) affirming that all of the required land use approvals have been obtained.

(C) Each person issued a cannabis business permit shall be required to pay the cannabis business permit fee established by resolution and/or ordinance of the Board of Supervisors to cover the costs of administering the cannabis business regulatory program created in this chapter.

(Ord. 974, § 1, 2018; Ord. 1036, § 8, 2021)

#### § 7.02.054 RENEWAL OF CANNABIS BUSINESS PERMIT.

(A) An application for renewal of a cannabis business permit shall be filed at least 60 calendar days prior to the expiration date of the current cannabis business permit.

(B) The renewal application shall contain all the required application information as set forth in § 7.02.051.

(C) The applicant shall pay a fee in an amount to be set by resolution and/or ordinance by the Board of Supervisors to cover the costs of processing the renewal application, together with any costs incurred by the county to administer the cannabis business regulatory program created under this chapter.

(D) A renewal application shall be denied for any of the reasons set forth in § 7.02.070.

(E) The Administrative Officer or his/her designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making their decision, the Administrative Officer or his/her designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety, or welfare. Appeals from the decision of the

Administrative Officer or his/her designee(s) shall be handled pursuant to § 7.02.080.

(F) If a renewal application is rejected or denied, a person may file a new application pursuant to this chapter no sooner than one year from the date of the rejection or denial.

(G) Processing of renewal applications shall be given priority over first-time applicants for a cannabis business, should the county have more than one application period.

(Ord. 974, § 1, 2018)

#### § 7.02.055 AMENDED APPLICATION; CHANGE IN LOCATION.

(A) Any time the cannabis business site specified in the cannabis business permit is changed, the permittee shall submit an amended application with information regarding the new location to the Administrative Officer or his/her designee(s).

(B) Within 15 calendar days of any other change in the information provided in the application form or any change in status of compliance with the provisions of this chapter, including any change in the cannabis business ownership or management members, the applicant shall file an amended application with the Administrative Officer or his/her designee(s) for review along with an amended application fee, as set forth in this section and § 7.02.090.

(Ord. 974, § 1, 2018)

#### § 7.02.056 TRANSFER OF CANNABIS BUSINESS PERMIT.

(A) Issuance of a cannabis business permit does not create an entitlement, interest of value, does not run with the land, is not transferable, and automatically terminates upon transfer of ownership.

(B) A permittee shall not transfer ownership or control of any cannabis business permit to another person. Any attempt to do so shall cause the cannabis business permit(s) to be automatically revoked.

(C) Whenever a permittee changes its business structure ownership or substantially changes the ownership of the cannabis business (changes that result in a change of more than 51% of the original ownership), must be approved by the Administrative Officer or his/her designee through the transfer process contained in this section. Failure to comply with this provision is grounds for permit revocation.

(D) A permittee may change the form of business entity without applying to the Administrative Officer or his/her designee for a transfer of permit, provided that either:

(1) The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical); or

(2) If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation, and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA and in compliance with § 7.02.055(B), provided that the Board of Directors (or in the case of an

unincorporated association, the individual(s) listed on the county permit application) of the original permittee entity are the same as the new business entity.

(3) Although a transfer is not required in these two circumstances, the permit holder is required to notify the Administrative Officer in writing of the change within ten days of the change. Failure to comply with this provision is grounds for permit revocation.

(E) No cannabis business permit may be transferred when the Administrative Officer or his/her designee has notified the permittee that the permit has been or may be suspended or revoked.

(F) Any attempt to transfer a cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

(Ord. 974, § 1, 2018)

§ 7.02.060 [RESERVED.]

§ 7.02.061 [RESERVED.]

§ 7.02.062 [RESERVED.]

§ 7.02.063 [RESERVED.]

§ 7.02.064 [RESERVED.]

§ 7.02.065 [RESERVED.]

§ 7.02.070 DENIAL, NON-RENEWAL, SUSPENSION, OR REVOCATION OF PERMIT.

(A) Grounds for denial or non-renewal. The Administrative Officer or his/her designee may deny an application for issuance or renewal of a cannabis business permit or a cannabis employee work permit to any of the following persons, including, but not limited to, any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular:

(1) Any person who, as of January 1, 2019, engages in commercial cannabis activity in the county in violation of local and/or state law;

(2) Any person whom any city, county, city and county, or the state has, for any reason, denied, suspended, or revoked any state license or local jurisdiction permit authorizing commercial cannabis activity, or employment by a cannabis business;

(3) Any person issued a notice of non-compliance for engaging in unlawful commercial cannabis activity in violation of this code, and/or other laws, codes, or requirements in which they failed to timely discontinue the unlawful activity;

(4) Any person who, after reasonable notice and time to cure, failed to timely pay all federal, state, or local taxes and/or fees owed as applicable; and/or

(5) Any person who enters into an agreement to lease, sublease, or otherwise agrees, regardless of whether it is verbally or in writing, to any terms of use of the premises from a property owner, commercial broker, or any third party, that is based on a term other than a monthly rate, or is in violation of § 7.02.060 unless that property is leased at fair market value and such lease, sublease, or agreement does not have any terms or conditions for the cannabis business to pay the property owner, commercial broker, or any third party a percentage of gross receipts, royalties, equity, or other unreasonable compensation as determined by the county.

(B) Furthermore, the Administrative Officer or his/her designee may deny an application for issuance or renewal of a cannabis business permit for any of the following reasons, as applicable:

(1) The application was not timely filed;

(2) Any cannabis business permit issued to the applicant was suspended or revoked at the time the renewal application was submitted;

(3) The permittee has not been in regular and continuous operation in the four months prior to submission of the renewal application;

(4) The applicant failed to conform to the requirements of this chapter, or of any regulations adopted pursuant to this chapter;

(5) The permittee fails or is unable to renew its state license;

(6) The applicant was notified that they were conducting commercial cannabis activity in non-compliance with Title 25, other provisions of this code and requirements in which they failed to discontinued operating in a timely manner;

(7) Evidence that the applicant was in non-compliance of properly paying federal, state, or local taxes and/or fees when notified by the appropriate agencies;

(8) As of January 1, 2019, applicant was conducting commercial cannabis activity in the county in violation of local and state law; or

(9) No person shall be issued a commercial cannabis permit to operate who enters into an agreement to lease, sublease, or any other agreement, regardless of whether it is verbally or in writing to any terms of use of the premises from a property owner, commercial broker, or any third party, that if an application is denied, a new application may not be filed for one year from the date of the denial or non-renewal.

(C) Suspension or revocation of cannabis business permit. A cannabis business permit may be suspended or revoked for any of the following reasons:

(1) Effect of state license suspension or revocation. Suspension of a license issued by the state, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the county, until the state, or its respective department or division, reinstates or reissues the state license. Should the state, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall also revoke or terminate the ability of a cannabis business to operate within the county.

(2) Revocation of permits. Cannabis business permits may be revoked for any violation of any law and/or any rule, regulation, and/or standard adopted pursuant to §§ 7.02.056 or 7.02.064, or pursuant to any policy, procedure, or regulation in this chapter. If the local permit is revoked, the county will notify the owner/operator in writing prior to revocation.

(3) Other grounds for suspension or revocation of cannabis business permit. Cannabis business permits may be suspended or revoked for any violation of any law and/or any rule, regulation, and/or standard adopted pursuant to this section or § 7.02.110, or pursuant to any policy, procedure, or regulation in this chapter.

(Ord. 974, § 1, 2018)

#### § 7.02.080 APPEAL PROCESS.

Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this chapter from a decision of the Administrative Officer or his/her designee(s), the appeal shall be conducted as prescribed in this chapter.

(A) Written request for appeal. Within ten calendar days after the date of a decision of the Administrative Officer or his/her designee(s) to revoke, suspend, not renew, or deny a permit, or to add conditions to a permit, an aggrieved party may appeal such action by filing a written appeal with the Clerk of the Board of Supervisors setting forth the reasons why the decision was not proper. At the time of filing the appellant shall pay the designated appeal fee, established by resolution and/or ordinance of the Board of Supervisors, which may be amended from time to time.

(B) Appeal hearing. Upon receipt of the written appeal, the Clerk of the Board of Supervisors shall set the matter for a hearing before the Hearing Officer. The Hearing Officer shall hear the matter de novo and shall conduct the hearing pursuant to the procedures set forth by the county. The appeal shall be held within a reasonable time after

the filing the appeal, but in no event later than 90 calendar days from the date of such filing. The county shall notify the appellant of the time and location at least ten calendar days prior to the date of the hearing. At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing. The decision of the Hearing Officer shall be final and conclusive.

(Ord. 974, § 1, 2018)

#### § 7.02.090 FEES AND CHARGES; DEBT OWED TO COUNTY.

(A) No permittee may commence or continue any commercial cannabis activity in the county, without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis activity shall be established by resolution and/or ordinance of the Board of Supervisors, which may be amended from time to time.

(B) All cannabis businesses shall pay all sales, use, business, and other applicable taxes, and all license, registration, and other fees required under federal, state, and local law. Each cannabis business shall cooperate with the county with respect to any reasonable request to audit the cannabis business' books and records for the purpose of verifying compliance with this section, including, but not limited to, a verification of the amount of taxes required to be paid during any period.

(C) Application fee. All work performed in reviewing applications, consulting with the applicant, conducting site inspections, reviewing changes in information contained in the initial application, and making determinations on the application shall be billed to the applicant on an at-cost basis. An application for a cannabis business permit must be accompanied by a deposit as set forth in the unified fee schedule. If the deposit is exhausted before work on the application is completed, the Administrative Officer or his/her designee shall obtain a further deposit before continuing to review the application. In the case of subsequent changes in the information contained in the initial application, an amended application fee shall apply. At the conclusion of the Administrative Officer's work, the Administrative Officer will either refund the remaining balance or bill the applicant for any overage. No cannabis business permit shall be granted until all application fees have been paid in full.

(D) Permit fee. A cannabis business permit shall not be granted to an applicant under this chapter until the applicant has paid a non-refundable cannabis business permit fee as set forth in the unified fee schedule. The purpose of this fee is to pay for the costs of administering and enforcing the cannabis

business regulatory program regulations related to permitting and enforcement that are not covered by application fees.

(E) Fees deemed debt to the county. The amount of any fee, cost, or charge imposed pursuant to this chapter shall be deemed a debt to the county that is recoverable via an



authorized administrative process as set forth in this code, or in any court of competent jurisdiction.

(Ord. 974, § 1, 2018)

#### § 7.02.100 GENERAL REQUIREMENTS APPLICABLE TO ALL CANNABIS BUSINESSES.

(A) Prior to issuance of a cannabis business permit, a cannabis business must meet all of the following requirements:

(1) Right to occupy and to use property. As a condition precedent to the county's issuance of a cannabis business permit pursuant to this chapter, any person intending to open and to operate a cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location will be leased from the property owner, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this chapter and consents to the operation of the cannabis business on the owner's property.

(2) Location and design of cannabis businesses. Cannabis businesses permitted to engage in cultivation, distribution, manufacturing, microbusiness (non-retail), and testing laboratories, for cannabis goods are subject to the zoning and locational requirements set forth in Chapter 19.43 of this code.

(B) Prior to commencing operations, notwithstanding the issuance of a cannabis business permit, a permittee must meet all of the following requirements:

(1) Obtain a state license and as set forth in § 7.02.050.

(2) Certification from the Resource Management Agency Director. Obtain a certification from the Resource Management Director or his/her designee(s) certifying that the cannabis business is located on a site that meets all of the requirements of division (A)(2) and Titles 19 and 25 of this code.

(3) Compliance with Chapter 19.43.

(4) The permittee shall cooperate with the county whenever the Administrative Officer or his/her designee(s) makes a request, with or without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this chapter.

(5) A permittee shall notify the Administrative Officer or his/her designee(s) within 24 hours after discovering any of the following:

(a) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the Administrative Officer or his/her designee(s);

(b) Diversion, theft, loss, or any criminal activity involving the cannabis business or any agent or employee of the cannabis business;

(c) The loss or unauthorized alteration of records related to cannabis, customers, or employees or agents of the cannabis business; or

(d) Any other breach of security.

(6) Compliance with the foregoing requirements shall be verified by the Administrative Officer or his/her designee prior to permittee commencing operations. The Administrative Officer or his/her designee may supplement the security requirements set forth in Chapter 19.43 once operations begin, subject to the Administrative Officer's review, if requested by the owner.

(7) The Administrative Officer or his/her designee may supplement the operational requirements set forth in Chapter 19.43 or regulations promulgated by the Board of Supervisors as are necessary to protect the public health, safety, and welfare. Such operating requirements include, but are not limited, to:

(a) Compliance with laws. Compliance with all state and local laws and regulations, including, but not limited to, the requirements of this chapter and of the cannabis business permit; and

(b) Age. No person under the age of 21 years old shall operate a cannabis business, or be issued a permit for any commercial cannabis activity of any kind.

(Ord. 974, § 1, 2018)

#### § 7.02.110 GENERAL OPERATING REQUIREMENTS.

Permittees shall at all times comply with the following:

(A) All applicable requirements set forth in Chapter 19.43 of this code;

(B) Cannabis businesses utilizing distribution services. Any permittee under this chapter requiring the services of a state licensed distributor shall, consistent with public safety, be required to, prior to any transportation of any cannabis goods, submit to the County Sheriff the following information for each distributor the permittee intends to utilize to transport cannabis good to or from the cannabis business site:

(1) The name, state license, and local authorization information of the distributor;

(2) A list of names of the distribution employees who will operate distribution vehicles within the county; and

(3) The make, model, license plate number, and VIN number of all distribution vehicles used within the county;

(C) Loitering. The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility both on the premises and within 50 feet of the premises. The cannabis business shall notify the Sheriff's Office if anyone continues to loiter around the

building or premises after reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner;

(D) Reporting and tracking of product and of gross sales. Each permittee shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale), and other information which may be deemed necessary by the county. The permittee shall ensure that such information is compatible with the county's recordkeeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the Administrative Officer or his/her designee(s) prior to being used by the permittee;

(E) All cannabis goods sold, distributed, or manufactured shall be cultivated, manufactured, and transported by state licensees that maintain operations in full conformance with the state and local regulations;

(F) Emergency contact. Each permittee shall provide the Administrative Officer or his/her designee(s) with the name and telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day;

(G) Community relations contact. Each permittee shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the cannabis business can be provided. Each permittee shall also provide the above information to all businesses and residences located within 100 feet of the cannabis business;

(H) Community relations meetings. During the first year of operation pursuant to this chapter, the owner, manager, and community relations representative from each permitted cannabis business shall attend meetings with the Administrative Officer or his/her designee(s), and other interested parties as deemed appropriate by the Administrative Officer or his/her designee(s), to discuss costs, benefits, and other community issues arising as a result of implementation of this chapter. After the first year of operation, the owner, manager, and community relations representative from each such cannabis business shall meet with the Administrative Officer or his/her designee(s) when and as requested by the Administrative Officer or his/her designee(s);

(I) Community relations outreach and education program. Permittees shall develop a county approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction;

(J) Minors. With the exception of persons aged 18-20 years who are in possession of a doctor's recommendation and intend to purchase medicinal cannabis for solely medicinal reasons, persons under the age of 21 years shall not be allowed on the premises of a cannabis business and shall not be allowed to serve as a driver for any delivery service. It shall be unlawful and a violation of this chapter for any cannabis business to employ any

person who is not at least 21 years of age. The entrance to the cannabis business shall be clearly and legibly posted with a notice that no person under the age of 21 years of age is permitted to enter upon the premises of the cannabis business;

(K) Display of cannabis business permit and state license. The original copy of any state license, cannabis business permit issued pursuant to Chapter 7.02, and any county issued business license shall be posted inside the cannabis business in a location readily visible to the public;

(L) Background check. Pursuant to Cal. Penal Code §§ 11105(b)(11) and 13300(b)(11), which authorizes county authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, supervisor, employee, contract employee, or who otherwise works in a cannabis business must submit fingerprints and other information deemed necessary by the Sheriff or his/her designee(s) for a background check by the Sheriff's Office. Pursuant to Cal. Penal Code §§ 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record. No person shall be issued a permit to operate a cannabis business or a related work permit unless they have first cleared the background check, as determined by the Sheriff or his/her designee, as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the county to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a cannabis business permit is submitted;

(M) Loitering. The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility both on the premises and within 50 feet of the premises. The cannabis business shall notify the Sheriff's Office if anyone continues to loiter around the building or premises after reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner;

(N) Permits and other approvals. Prior to the establishment and/or operation of any cannabis business, the applicant must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant government departments which may be applicable to the zoning district in which such cannabis business intends to establish and to operate;

(O) Training standards. Each cannabis business shall establish minimum training standards for employees. The Administrative Officer or his/her designee shall have the discretion to require other training for the cannabis business operations should the county identify deficiencies or non-compliance issues with county or state requirements;

(P) Records and recordkeeping. Each owner and/or operator of a cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a cannabis business permit issued

pursuant to this chapter), or at any time upon reasonable request of the county, each cannabis business shall file a sworn statement detailing the number of sales by the cannabis business during the previous 12-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes and fees paid or due to be paid. On an annual basis, each owner and operator shall submit to the county a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the Administrative Officer or his/her designee(s);

(Q) Each owner and/or operator of a cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents, and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this division shall be provided to the Administrative Officer or his/her designee(s) upon a reasonable request;

(R) Prior to state licensing, each cannabis business shall maintain a record of all persons, patients, collectives, and primary care givers served by the cannabis business, for a period of no less than four years. Once a state license is obtained, the cannabis business must maintain such records only to the extent permitted or required by MAUCRSA;

(S) All cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis goods for all stages of the growing and production or manufacturing, laboratory testing, and distribution processes until purchase as set forth in MAUCRSA; and

(T) Each cannabis business shall allow county officials access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than 24 hours after receipt of the county's request, unless otherwise stipulated by the county. The county may require the materials to be submitted in an electronic format that is compatible with the county's software and hardware.

(Ord. 974, § 1, 2018)

§ 7.02.120 [RESERVED.]

§ 7.02.130 OPERATING REQUIREMENTS FOR OUT OF COUNTY DELIVERY SERVICES.

(A) Out of county delivery services. Notwithstanding the provisions of this section, out of county delivery services are not expressly prohibited. Any out of county delivery service shall be required to obtain a cannabis business permit pursuant to this chapter prior to

delivering any cannabis and/or cannabis product to any customer or purchaser in the county.

(B) The delivery of cannabis goods within the county shall only be conducted by state licensed retailers located outside of the county, including microbusinesses with a retail component, which hold a valid authorization to engage in commercial cannabis activities from the local jurisdiction of origin.

(C) Prior to commencing operations within the county, an out of county delivery service shall be required to:

(1) Obtain a cannabis business permit from the county in order to deliver cannabis goods within the county regardless of whether the retailer or microbusiness is located in a local jurisdiction;

(2) Provide a list of all its delivery employees;

(3) Obtain cannabis employee work permits for any employee making deliveries within the county for the out of county delivery service, including those employees operating any motor vehicle used during delivery;

(4) Provide the make, model, license plate number, and VIN number of all delivery vehicles that will be used to deliver cannabis goods; and

(5) Ensure the delivery vehicles meet the requirements of division (H).

(D) The information listed in (C) (4) shall be required for any new delivery vehicle prior to using the delivery vehicle within the county.

(E) The out of county delivery services shall maintain an accurate list of all its delivery employees and delivery vehicles, and shall notify the county in writing within 30 calendar days whenever any changes to the information required by this section occur.

(F) Time, place, and manner requirements.

(1) An out of county delivery service shall be limited to operating within the county only during the hours of 7:00 a.m. through 9:00 p.m., seven days a week, or as set forth in the conditions of the cannabis business permit.

(2) An out of county delivery service shall not deliver cannabis goods to any address located on publicly owned land or any address on land or in a building leased by any public agency.

(3) All deliveries of cannabis goods shall be made in person. A delivery of cannabis goods shall not be made through the use of an unmanned vehicle.

(4) An out of county delivery service shall comply with all requirements of state and local law pertaining to the state license, the local jurisdiction of origin's authorization to engage in commercial cannabis activity, and the cannabis business permit, and all subsequent policies, procedures, and regulations which may be amended by the Administrative Officer from time to time in order to enforce this chapter.

(G) Conduct of out of county delivery service employees. While making deliveries within the county, an employee of an out of county delivery service shall:

(1) Only travel in an enclosed motor vehicle operated by themselves or by another employee of the out of county delivery service, each of whom are independently required to obtain a cannabis employee work permit;

(2) Only sell cannabis goods to a natural person 21 years of age or older, or a natural person 18 years of age or older who possesses a physician's recommendation for cannabis medical use only, as applicable and authorized by the state license;

(3) Ensure the cannabis goods are not visible to the public;

(4) Ensure the cannabis and/or cannabis goods are locked in a box that is secured to the inside of the delivery vehicle;

(5) Carry a valid copy of each of the following:

(a) The out of county delivery service's state license;

(b) The local jurisdiction of origin's authorization to operate;

(c) A valid cannabis business permit;

(d) Valid cannabis employee work permits for each employee making deliveries;

(e) The employee's government-issued identification; and

(f) An employer provided badge containing a picture and the name of the delivery employee;

(6) Carry proper shipping manifest documentation which includes the following information:

(a) The name of the out of county delivery service;

(b) The names of the authorized drivers;

(c) The type and quantity or amount of cannabis goods being transported;

(d) The unique identifiers issued by the Department of Food and Agriculture pursuant to Cal. Health and Safety Code § 11362.777;

(e) The quantity and weight or amount of cannabis goods being transported;

(f) The time and location of departure;

(g) The time and location of the expected arrival; and

(h) The make, model, and license plate number of the delivery vehicle;

(7) Not leave cannabis goods in an unattended motor vehicle unless the motor vehicle is equipped with an active vehicle alarm system; and

(8) Not carry cannabis goods valued in excess of \$5,000 at any time. This value shall be determined using the retail price of all cannabis goods carried by the out of county delivery service.

(H) Delivery vehicle requirements. Each delivery vehicle must be:

(1) Non-conspicuous and shall not display signs, logos, pictures, or any other form of advertisement which can be detectable by a bystander or observer that the delivery vehicle may be used for, or is, carrying cannabis goods; and

(2) Outfitted with a dedicated global positioning system ("GPS") device for the identifying the geographic location of the delivery vehicle. A dedicated GPS device does not include a phone or tablet. The GPS device shall be either permanently or temporarily affixed to the delivery vehicle and shall remain active and inside of the delivery vehicle at all times during the delivery. At all times, the licensed delivery service shall be able to identify the geographic location of the delivery vehicles that are making deliveries for the delivery service and shall provide the information to the county upon request.

(Ord. 974, § 1, 2018)

#### § 7.02.140 OPERATING REQUIREMENTS FOR CULTIVATORS.

(A) Cultivators permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.

(B) Cultivators shall only be permitted under this chapter and/or any subsequently created state license for cultivation as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.150 OPERATING REQUIREMENTS FOR DISTRIBUTORS.

(A) Distributors permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.

(B) Distributors shall only be permitted under this chapter and/or any subsequently created state license for distribution as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.160 OPERATING REQUIREMENTS FOR TESTING LABORATORIES.

(A) Testing laboratories permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.



(B) Testing laboratories shall only be permitted under this chapter and/or any subsequently created state license for testing laboratories as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.170 OPERATING REQUIREMENTS FOR MANUFACTURERS.

(A) Manufacturers permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.

(B) Manufacturers shall only be permitted under this chapter and/or any subsequently created state license for manufacturing as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.180 OPERATING REQUIREMENTS FOR MICROBUSINESSES.

(A) Microbusinesses permitted under this chapter shall at all times comply with all applicable requirements set forth in Chapter 19.43 of this code.

(B) Microbusinesses shall only be permitted under this chapter and/or any subsequently created state license for microbusinesses as defined in MAUCRSA, and may be permitted to operate only within those zone districts as set forth in Title 25 of this code.

(Ord. 974, § 1, 2018)

#### § 7.02.190 [RESERVED.]

#### § 7.02.200 INSPECTION AND ENFORCEMENT.

(A) The enforcing officer charged with enforcing the provisions of this code, may enter a cannabis business site at any time, without notice, and inspect the location of any cannabis business as well as any recordings and records required to be maintained pursuant to this chapter or under applicable provisions of state law.

(B) It is unlawful for any person having responsibility over the operation of a cannabis business to impede, obstruct, interfere with, or otherwise not to allow the county to conduct an inspection, review, or copy records, recordings, or other documents required to be maintained by a cannabis business under this chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings, or other documents required to be maintained by a cannabis business under this chapter or under state or local law.

(C) The enforcing officer charged with enforcing the provisions of this chapter may enter a cannabis business site at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the county shall be logged, recorded, and maintained in accordance with established procedures by the Administrative Officer or these regulations.

(D) Each and every violation of the provisions of this chapter is hereby deemed unlawful and a public nuisance.

(E) Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the county. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, any permit issued pursuant to this chapter being deemed null and void, disgorgement and payment to the county for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The county may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety, or welfare, the Administrative Officer, or his/her designee(s), may take immediate action to temporarily suspend a cannabis business permit issued by the county, pending a hearing before the Administrative Officer, or his/her designee(s).

(F) Each and every violation of the provisions of this chapter may in the discretion of the District Attorney or County Attorney be prosecuted as a misdemeanor, and upon conviction be subject to a fine not to exceed \$10,000 **daily**, or imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

- (1) A fine not exceeding \$250.00 per live cannabis plant in excess of six plants.
- (2) A fine not exceeding \$250.00 per package of cannabis product.
- (3) A fine not exceeding \$250.00 per gram of cannabis concentrate.
- (4) A fine not exceeding \$250.00 per pound of cannabis biomass.
- (5) A fine not exceeding \$500.00 per pound of cannabis flower.

(G) The remedies provided herein are not to be construed as exclusive remedies. The county is authorized to pursue any proceedings or remedies provided by law.

(Ord. 974, § 1, 2018)

#### § 7.02.210 COMPLIANCE WITH STATE AND LOCAL LAWS.

It shall be the responsibility of the owners and employees of the cannabis business to ensure that the cannabis business is, at all times, operating in a manner compliant with all

applicable state and local laws, including the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), and any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed by the county as conditions of approval. Nothing in this chapter shall be construed as authorizing any actions that violate state or local law regarding the operation of a cannabis business.

(Ord. 974, § 1, 2018)

#### § 7.02.220 PERMIT HOLDER RESPONSIBLE FOR VIOLATIONS.

The person to whom any permit is issued pursuant to this chapter shall be responsible for any and all violations of the state and/or local laws, as well as any the regulations promulgated under this chapter, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the cannabis business site whether or not said violations occur within the permittee's presence.

(Ord. 974, § 1, 2018)

#### § 7.02.230 LIMITATIONS ON COUNTY'S LIABILITY.

To the fullest extent permitted by law, the county shall not assume any liability whatsoever with respect to having issued a cannabis business permit pursuant to this chapter or otherwise authorizing a commercial business to engage in commercial cannabis activity.

(Ord. 974, § 1, 2018)

## CHAPTER 19.43: CANNABIS BUSINESS LAND USE REGULATIONS

### Section

- 19.43.010 Purpose, intent, and applicability
- 19.43.020 Definitions
- 19.43.030 Supplemental findings for cannabis business land uses
- 19.43.040 Permit requirements for all cannabis businesses
- 19.43.050 Supplemental requirements for certain cannabis businesses
- 19.43.060 Fees
- 19.43.070 General development standards applicable to all cannabis businesses; restrictions
- 19.43.071 Supplemental development standards applicable to cultivation sites
- 19.43.080 Operating requirements applicable to all cannabis businesses
- 19.43.090 Supplemental operating requirements for cultivators
- 19.43.100 Supplemental operating requirements for distributors
- 19.43.110 Supplemental operating requirements for testing laboratories
- 19.43.120 Supplemental operating requirements for manufacturing sites
- 19.43.130 Supplemental operating requirements for microbusinesses
- 19.43.140 [Reserved]
- 19.43.150 Non-compliance with operational requirements
- 19.43.160 Inspection and enforcement

### § 19.43.010 PURPOSE, INTENT, AND APPLICABILITY.

(A) Purpose. This chapter establishes cannabis business standards that are designed to protect the public health, safety, and welfare; enact strong and effective regulatory and enforcement controls as a result of and in compliance with state law; protect neighborhood character; and minimize potential for negative impacts on people, communities, and the environment; by establishing minimum land use requirements for cannabis businesses engaging in commercial cannabis activity in the county.

(B) Intent. Commercial cannabis activities are already highly regulated by both the state and federal governments, and their regulation of commercial cannabis activities is subject to rapid change. Therefore, the Board of Supervisors intends to reserve all of its statutory planning and zoning authority concerning cannabis businesses and commercial cannabis activities. This

chapter recognizes that, due to the unique federal and state constraints on commercial cannabis activity, as well as the potential environmental and social impacts associated with commercial cannabis activity, certain land use controls pertaining to cannabis businesses are necessary. Cannabis businesses with facilities within the county shall be subject to the zoning and land use regulations of the zoning district in which such cannabis business facility is established and will operate as set forth in Title 25 of this code, and as otherwise established by the county.

(C) Nothing in this chapter is intended, nor shall it be construed, to allow persons to engage in conduct that endangers others or causes a public nuisance.

(D) Nothing in this chapter is intended, nor shall it be construed, to exempt the commercial cultivation of cannabis from compliance with all other applicable county zoning and land use regulations, as well as other applicable provisions of this code, state and local commercial cannabis business permitting requirements, or compliance with any applicable state laws.

(E) All persons operating facilities and conducting commercial cannabis activities, as defined in this chapter, are subject to possible federal prosecution, regardless of state licensure or local permitting. Any land use or other entitlement from the county does not assert or provide any federal protections. The provisions of this chapter shall not be construed to protect any person from prosecution pursuant to any laws that may prohibit the cultivation, sale, distribution, possession, use of, and/or any other activity associated with controlled substances, or to authorize conduct that is unlawful under state or federal law. Moreover, cultivation, sale, possession, distribution, and use of cannabis remain violations of federal law as of the date of adoption of this chapter and this chapter is not intended to, and does not authorize, conduct or acts that violate federal law, and does not protect any person from arrest or prosecution under those federal laws. Persons engaged in commercial cannabis activities assume any and all risk and any and all liability that may arise or result under state and federal laws from the cultivation, sale, possession, distribution, use of cannabis, and/or any other commercial cannabis activity.

(F) Applicability. The standards of this chapter shall apply to all cannabis businesses required to obtain the applicable land use permit identified in Title 25, and which engage in commercial cannabis activity as defined in § 19.43.020 and regulated pursuant to Chapter 7.02.

(G) Certain cannabis businesses shall only be permitted in the AP, AR, C-1, C-2, CM, M-1 and AS zoning districts, depending on the type of commercial cannabis activity in which it is engaged, as set forth in, and in compliance with, Title 25.

(Ord. 975, § 1, 2018; Ord. 1036, § 10, 2021)

#### § 19.43.020 DEFINITIONS.

For the purpose of this chapter the definitions set forth in § 7.02.020 of this code are hereby incorporated by reference.

**CANNABIS BUSINESS LAND USE.** The type of cannabis business and corresponding commercial cannabis activity in which the cannabis business is engaged on real property in the county.

(Ord. 975, § 1, 2018)

§ 19.43.030 SUPPLEMENTAL FINDINGS FOR CANNABIS BUSINESS LAND USES.

The Planning Commission shall make supplemental conditional use permit findings in writing prior to approval of any cannabis business land use. All cannabis business land use proposals shall demonstrate compliance with § 19.43.070(A) (4).

(Ord. 975, § 1, 2018)

§ 19.43.040 PERMIT REQUIREMENTS FOR CERTAIN CANNABIS BUSINESSES.

(A) Permit required. Commercial cannabis activities may only occur in compliance with the approval of the applicable permit identified in division (B) of this section and in Title 25. The required permit shall be obtained prior to the commencement of any commercial cannabis activity. All conditions of the permit for the cannabis business shall be satisfied prior to the commencement of the commercial cannabis activity or as otherwise specified in the conditions of the permit.

(B) The following table identifies the cannabis business land uses allowed by zone and the type of permit required to establish each use pursuant to Title 25. Designation of zoning districts in this section does not give any owner, occupant, or lessor of real property any rights to operate, or provide that any permit applied for under Title 25 shall be granted.

<b>San Benito County Cannabis Business Permit Types/Land Use by Commercial Cannabis Activity</b>	<b>State License Type</b>	<i>P</i>	<i>Permitted Use, Land Use Permit Required</i>													
		<i>MCUP</i>	<i>Minor Use Permit Required</i>													
		<i>CUP</i>	<i>Conditional Use Permit Required</i>													
		----	<i>Use Not Allowed</i>													
		<i>N/A</i>	<i>Not Applicable</i>													
		*	<i>Use is permitted pending limits in 19.43.090, 19.43.100, 19.43.110, 19.43.120, 19.43.130, and 25.02-A</i>													
		<b>PERMIT REQUIRED BY ZONE</b>														
		<i>Agricultural Districts</i>		<i>Rural Districts</i>			<i>Residential Districts</i>		<i>Commercial Thoroughfare and Neighborhood Commercial</i>		<i>Controlled Manufacturing, Light Industrial, Heavy Industrial, and Resources Recovery Park</i>				<i>Airport Safety District</i>	
<i>AR</i>	<i>AP</i>	<i>R</i>	<i>RT</i>	<i>RR</i>	<i>R1</i>	<i>RM</i>	<i>C-1</i>	<i>C-2</i>	<i>CM</i>	<i>M-1</i>	<i>M-2</i>	<i>RRP</i>	<i>AS</i>			
Cultivation (Includes Indoor, Outdoor, and Mixed-Light)	1A, 1B, 1C, 2A, 2B, 3A, 3B, 4, 5A, 5B, Specialty Cottage, Specialty, Small,	CUP*	CUP*	---	----	----	----	----	----	CUP	CUP	CUP	----	CUP		

	Medium, Large, Nursery, and Processor														
Manufacturing	6, 7, N, P, S	CUP	CUP	---	---	---	---	---	---	---	CUP	CUP	CUP	---	CUP (non-volatile)
Testing	8	CUP	CUP	---	---	---	---	---	---	---	CUP	CUP	CUP	---	---
Retailer (out-of-county delivery)	9	NAP	NAP	---	---	---	---	---	---	---	NAP	NAP	NAP	---	NAP
Retail (storefront)	10	---	---	---	---	---	---	---	CUP	CUP	CUP	CUP	CUP	---	CUP
Distributor	11, 13	CUP	CUP	---	---	---	---	---	---	---	CUP	CUP	CUP	---	---CUP
Microbusiness (non-storefront retail)	12	CUP	CUP	---	---	---	---	---	---	---	CUP	CUP	CUP	---	---

(C) Notice and public hearing. Entitlements for cannabis business uses and/or development shall be subject to the applicable noticing requirements set forth in Chapters 25.43 and 25.49, except that a mailed notice regarding a pending action or hearing regarding a cannabis business entitlement shall be provided to all owners of property located within a 1,000-foot radius of the exterior boundaries of the subject parcel.

(D) Indemnification. The applicant shall enter into an indemnification agreement with the county in accordance with Chapter 19.41.

(Ord. 975, § 1, 2018; Ord. 984, § 2, 2019; Ord. 1032, § 6, 2021; Ord. 1036, § 11, 2021)

§ 19.43.050 SUPPLEMENTAL REQUIREMENTS FOR CERTAIN CANNABIS BUSINESSES.

(A) Cultivation site. In reviewing an application submitted under Title 25 and order Chapter 7.02 to operate a cultivation-type cannabis business facility, the applicant shall provide the following additional information as requested. The plans shall be in accordance with best practices regulations as established by resolution:

- (1) A pest management plan;
- (2) A waste management plan;
- (3) A landscape plan that considers scenic highway protection and may involve the installation of mature landscape;
- (4) Preservation of agricultural lands, including preservation of prime agricultural lands in compliance with the general plan;

(5) A water management plan, including the proposed water supply, proposed conservation measures, and any water off-set requirements. Such plan may include an estimate of water demand for the cultivation site prepared by a licensed professional engineer or other expert on water demand and a detailed description of how the new water demand will be offset. New water demands shall be offset at a 1:1 ratio;

(6) An energy management plan, including proposed energy conservation measures;

(7) An air quality management plan for controlling odor;

(8) A security plan. The plan shall include all measures provided in § 19.43.070(C) subject to initial review and approval by County Sheriff staff.

(9) No cannabis cultivation site shall be permitted within the exclusion zone specified in § 7.04.003(C) applicable to industrial hemp.

(B) Distributor. In reviewing the application submitted under Title 25 and order Chapter 7.02 to operate a distribution-type cannabis business facility, the applicant shall provide the following additional information as requested:

(1) A written statement detailing how, and from where, cannabis will be received, how any storage or transportation operations will be secured to prevent theft and trespass, and to whom the cannabis will be taken;

(2) A quality control inspection and requirements plan;

(3) Storage and handling plans;

(4) Proof of ownership or a valid lease for any and all commercial vehicles that will be used to transport cannabis;

(5) The year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all commercial vehicles that will be used to transport cannabis; and

(6) Proof of insurance in the amount of \$1,000,000 for any and all commercial vehicles being used to transport cannabis.

(C) Manufacturing site. [RESERVED]

(D) Testing laboratory. [RESERVED]

(E) Microbusiness. [RESERVED]

(F) Retail. Applicant shall provide the following information:

(1) Security plan for the premises.

(2) Lighting plan.

(3) Cannabis storage and handling plan.

(4) Proof of property owner concurrence.



(Ord. 975, § 1, 2018; Ord. 984, § 3, 2019; Ord. 1032, § 7, 2021; Ord. 1036, § 12, 2021)

§ 19.43.060 FEES.

The permit application and processing fee required under Title 25 is non-refundable, and is due and payable in full at the time any permit application is submitted. This fee covers the costs of accepting and processing the application, including reviewing and investigating the completeness and accuracy of the information contained therein, and determining eligibility for issuance of a permit under Title 25.

(Ord. 975, § 1, 2018)

§ 19.43.070 GENERAL DEVELOPMENT STANDARDS APPLICABLE TO ALL CANNABIS BUSINESSES; RESTRICTIONS.

No permit created under Chapter 7.02 or Title 25 may be issued for any cannabis business on any premises, unless all the following requirements are met.

(A) Location and design of cannabis businesses. Cannabis businesses proposing to engage in commercial cannabis activity are subject to the following zoning and locational requirements.

(1) Location. Cannabis businesses engaging in cultivation, distribution, manufacturing, microbusinesses, and/or testing laboratories must be properly located within zones that allow such uses in accordance with Title 25 and must meet all of the requirements for development in these zones.

(2) Setbacks. Except as provided in a variance granted in accordance with division (A)(3) of this section, cannabis businesses must also meet all of the following setback requirements:

(a) Less than 100 feet from any boundary line of the premises. This setback requirement shall not apply to any permitted cannabis business facility located in an industrial zone;

(b) It shall be no closer than 1,000 feet from any zoned parcel containing a sensitive use that is in existence at the time the application for the applicable permit identified in § 19.43.040(B) and Title 25 is submitted, unless the state licensing authority or the county specifies a different radius. The distance measured shall be the horizontal distance measured in a straight line from the property line of those parcels containing the sensitive use to the closest property line of the parcel on which the cannabis business is located; and

(c) It shall be no closer than 300 feet from any residentially zoned parcel in the county, including any legal non-conforming residential uses as of the date the application for the applicable permit identified in § 19.43.040(B) and Title 25 is submitted. The distance between the cannabis business and the residential parcel shall be measured from the outer boundaries of the residential parcel to the first structure on the property seeking the applicable permit identified in § 19.43.040(B) and Title 25. This setback requirement shall not apply to any permitted cannabis business facility located in an industrial zone. For outdoor cannabis

cultivation businesses, the residential setback shall be 500 feet, measured from the cultivation area to the nearest residential structure.

(3) At the time of application, the applicant may submit a written application for an exception to the Resources Management Agency for consideration with the applicable permit application under Title 25 for consideration of modification to any provision of division (A)(2) of this section. Exception requests shall be referred to the Planning Commission to determine whether or not to grant an exception, subject to a finding that granting the exception will not significantly affect the public health and safety based on the particular circumstances present at the location and nature of the cannabis activity and the sensitive use, subject to all application forms and fees being received by the Resources Management Agency. The Planning Commission may decide whether the exception should be granted or denied, as well as whether to impose certain reasonable conditions upon any exception granted. If granted, the exception shall remain valid for the time period specified by the Planning Commission. Notwithstanding the foregoing, the Planning Commission:

(a) Shall not grant an exception to reduce the sensitive use setback requirement any less than 600 feet from any sensitive use as measured from the location of the cannabis use and the sensitive use; and

(b) Shall not grant an exception to reduce the off-parcel residence setback requirement any less than 100 feet from any off-parcel residence, if the cannabis business facility is located on a parcel that is ten acres or less.

(4) Each proposed cannabis business shall:

(a) Conform to the county's general plan goals and policies, any applicable specific plans, master plans, and design requirements;

(b) Be located within an appropriately zoned district for the particular cannabis business land use;

(c) Comply with all applicable zoning and related development standards, including general development standards for cannabis business land use, the applicable supplemental requirements for cannabis business land use, and the operational standards for cannabis business land use;

(d) Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties;

(e) Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping, and all items required for the development;

(f) Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate;

(g) Be provided with adequate electricity, sewerage, disposal, water, fire protection, and storm drainage facilities for the intended purpose;

(h) Have appropriate security measures planned for and incorporated into design and operations; and

(i) Have an appropriate record keeping and reporting program in place to assure compliance with operational standards.

(B) Building permits and inspection. Submit to a mandatory building inspection and obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes, but is not limited to, obtaining any required building permit(s), the contract Fire Department approvals, Health Department approvals, and other zoning and land use permit(s) and approvals.

(C) Security measures. An applicant shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis goods, and to deter and prevent the theft of cannabis goods at the cannabis business site. Except as may otherwise be determined by the Administrative Officer or his/her designee, these security measures shall include, but shall not be limited to, all of the following:

(1) Alarm system (perimeter, fire, and panic buttons);

(2) Remote monitoring of alarm systems by licensed security professionals;

(3) Perimeter lighting systems (including motion sensors) for after-hours security;

(4) Perimeter security and lighting as approved by the Sheriff and Director of the Resource Management Agency or his/her designee(s);

(5) Preventing individuals from remaining on the premises of the cannabis business if they are not engaging in an activity directly related to the permitted operations of the cannabis business;

(6) Establishing limited access areas accessible only to authorized cannabis business personnel;

(7) Except for live cannabis plants which are being cultivated at a cultivation site, all cannabis goods shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis goods, including live cannabis plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss;

(8) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash, or currency is being stored for any period of time on a regular basis, and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weatherproof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Administrative Officer or his/her designee(s), and that it is compatible with the county's software and hardware. In addition, remote and real-time live

access to the video footage from the cameras shall be provided to the Administrative Officer or his/her designee(s). Video recordings shall be maintained for a minimum of 90 days and shall be made available to the Administrative Officer or his/her designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the cannabis business and shall be capable of enlargement via projection or other means. Internet protocol address information shall be provided to the Sheriff's Office by the cannabis business to facilitate remote monitoring of security cameras by the Office or its designee;

(9) Sensors shall be installed to detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services;

(10) Panic buttons shall be installed in all cannabis businesses with direct notification to the Sheriff's Office dispatch and shall be configured to immediately alert dispatch for the Sheriff's Office;

(11) Having a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services;

(12) Any bars installed on the windows or the doors of the cannabis business shall be installed only on the interior of the building;

(13) Security personnel shall be on-site 24 hours a day or alternative security as authorized by the Administrative Officer or his/her designee(s), and must have a verified response security patrol when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the Sheriff's Office or his/her designee(s), with such approval not to be unreasonably withheld. Firearms may be carried by security personnel while they are on duty if authorized by the Sheriff's Office;

(14) Each cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage;

(15) Entrance areas are to be locked at all times and under the control of a designated responsible party that is either an employee of the cannabis business or a licensed security professional;

(16) Each cannabis business shall have an accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable;

(17) Each cannabis business shall demonstrate to the Sheriff's Office and Administrative Officer or their designees, compliance with the state's track and trace system for cannabis goods, as soon as it is operational;

(18) Each cannabis business shall have state of the art network security protocols in place to protect computer information and all digital data;

(19) Exterior vegetation shall be planted, altered, and maintained in a fashion that precludes its use as a hiding place for persons on the premises;

(20) Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards; and

(21) Each permittee shall identify a designated security representative/liaison to the county, who shall be reasonably available to meet with the Administrative Officer or his/her designee(s) regarding any security related measures and/or operational issues. The designated security representative/liaison shall, on behalf of the cannabis business, annually maintain a copy of the current security plan on the premises of the business to present to the Administrative Officer or his/her designee upon request that meets the following requirements:

(a) Confirms that a designated manager will be on duty during business hours and will be responsible for monitoring the behavior of employees;

(b) Identifies all managers of the cannabis business and their contact phone numbers;

(c) Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the manager's office;

(d) Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company;

(e) Identifies a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the cannabis business, the parking lot, and any adjacent property under the business' control; and

(f) Confirms that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are free of individuals loitering or causing a disturbance and are cleared of employees and their vehicles one-half hour after closing.

(D) Storage and transportation plan. A cannabis business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting any cannabis goods, hazardous materials that may be used by the business, and/or currency.

(E) Floor plan designating limited access areas. The floor plan shall clearly designate limited access areas in which non-employees must be escorted at all times, to the degree they are granted access. Limited access areas include areas in which product, cash, office spaces, and security or surveillance equipment are stored or contained.

(Ord. 975, § 1, 2018; Ord. 1036, § 13, 2021)

#### § 19.43.071 SUPPLEMENTAL DEVELOPMENT STANDARDS APPLICABLE TO CULTIVATION SITES.

In addition to the development standards under § 19.43.070, all cultivation-type cannabis businesses shall, except as provided in a variance granted in accordance with § 19.43.070(A) (3), be no closer than 300 feet from any off-parcel permitted residence in any zone that is in existence at the time the application for the applicable permit identified in § 19.43.040(B) and Title 25 is submitted, if the cannabis business facility is located on a parcel that is ten acres or less. The distance between the cannabis business and the off-parcel residence shall be measured from the outer boundaries of the residential parcel to the first structure on the property seeking the applicable permit identified in § 19.43.040(B) and Title 25. This setback requirement shall not apply to any permitted cannabis business facility located in an industrial zone.

(Ord. 975, § 1, 2018)

#### § 19.43.080 OPERATING REQUIREMENTS APPLICABLE TO ALL CANNABIS BUSINESSES.

(A) All commercial cannabis activities occurring at a cannabis business site shall comply with the provisions of this chapter, as well as all applicable state and local laws.

(B) Each cannabis business shall operate in a reasonable manner such that the effects on the health or safety of nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts of commercial cannabis activities are minimized.

(C) Commercial cannabis activities shall not create hazards due to the use or storage of materials, processes, products, chemicals, fertilizers, or wastes.

(D) Exterior lighting at the cannabis business site shall ensure the safety of the public and the members and employees of the facility while not disturbing surrounding residential or commercial areas, and shall comply with all applicable provisions of Chapter 19.31 regarding exterior lighting in furtherance of the preservation and protection of "dark skies" within the county. Illumination of any portion of the cannabis business site between the hours of darkness by lighting that is visible from the exterior of the cannabis business site, except such lighting as is reasonably utilized for the security of the cannabis business site, is prohibited.

(E) Driveways, sidewalks, parking strips, fire access roads and streets on or adjacent to the premises shall be kept in a clean and safe condition.

(F) Loitering. The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility both on the premises and within 50 feet of the premises. The cannabis business shall notify the Sheriff's Office if anyone continues to loiter around the building or premises after reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner.

(G) Restriction on alcohol. The sale, dispensing, or consumption of alcoholic beverages on or about a cannabis business facility or in its parking area is prohibited.

(H) Hours of operation. A cannabis business may operate only during the hours specified in the conditional use permit issued under Title 25 and/or the cannabis business permit issued by the county under Chapter 7.02.

(I) Age. No person under the age of 21 years shall operate a cannabis business, or be issued a permit for any commercial cannabis activity of any kind.

(J) Records and recordkeeping. Each owner and/or operator of a cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a cannabis business permit issued pursuant to this chapter), or at any time upon reasonable request of the county, each cannabis business shall file a sworn statement detailing the number of sales by the cannabis business during the previous 12-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes and fees paid or due to be paid. On an annual basis, each owner and operator shall submit to the county a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the Administrative Officer or his/her designee.

(K) Each owner and/or operator of a cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents, and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this paragraph shall be provided to the Administrative Officer or his/her designee(s) upon a reasonable request.

(L) All cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis goods for all stages of the growing and production, or manufacturing, laboratory testing, and distribution processes until purchase as set forth in MAUCRSA and 18 Cal. Code of Regulations §§ 3702 et seq., 3 Cal. Code of Regulations §§ 8407 et seq., and other applicable regulation adopted by the State of California.

(M) Each cannabis business shall allow county officials access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than 24 hours after receipt of the county's request, unless otherwise stipulated by the county. The county may require the materials to be submitted in an electronic format that is compatible with the county's software and hardware.

(N) Restriction on alcohol and tobacco sales.

(1) No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business.

(2) No person shall cause or permit the sale or tobacco products on or about the premises of the commercial cannabis business.

(3) No person shall consume cannabis, cannabis products, tobacco, or alcohol on the premises of any commercial cannabis business.

(O) Restriction on consumption. Cannabis shall not be consumed by any employee of any cannabis business at the cannabis business site, or during any commercial transfer, including, but not limited to, delivery and/or distribution.

(P) No cannabis goods or graphics depicting cannabis goods shall be visible from the exterior of any cannabis business, or on any of the vehicles owned or used as part of the cannabis business.

(Q) No outdoor storage of cannabis goods is permitted at any time.

(R) Signage and notices. In addition to the requirements otherwise set forth in this section, business identification signage for a cannabis business shall conform to the requirements of this code including, but not limited to, seeking the issuance of a sign permit from the county.

(1) No signs placed on the premises of a cannabis business shall obstruct any entrance or exit to the building or any window.

(2) Each entrance to a cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited.

(3) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the cannabis business or elsewhere including, but not limited to, the public right-of-way.

(4) Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards, or other prohibited signs may be used at any time.

(5) In accordance with state law and regulations or as stipulated in the applicable permit issued pursuant to Title 25 and/or Chapter 7.02, a cannabis business shall agree that, as an express and ongoing condition of operating, the holder of the permit shall be prohibited from utilizing any of the following to advertise any cannabis business located in the county, including, but not limited to, a billboard (fixed or mobile), bus shelter, placard, aircraft, and/or other similar forms of advertising. This division is not intended to place limitations on the ability of a cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.

(S) Odor control. Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site. Cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis business. As such, cannabis businesses must install and maintain the following equipment, or any other equipment which the Resource Management Director or his/her designee determine is a more effective method or technology:



(1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;

(2) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

(T) Display of permit and county business license. The original copy of any state license, cannabis business permit issued pursuant to Chapter 7.02 , and any county-issued business license shall be posted inside the cannabis business in a location readily-visible to the public.

(Ord. 975, § 1, 2018; Ord. 1036, § 14, 2021)

#### § 19.43.090 SUPPLEMENTAL OPERATING REQUIREMENTS FOR CULTIVATORS.

(A) Outdoor cultivation shall be prohibited in areas of the exclusion zone specified in § 7.04.003(C) applicable to hemp. No cannabis business permit shall be issued pursuant to this chapter for outdoor cultivation within the exclusion zone. Outdoor cultivation of any kind within the exclusion zone is expressly prohibited in the county and shall be subject to all applicable enforcement. It shall be unlawful and a violation of this chapter, for any person to engage in any outdoor cultivation of cannabis or hemp of any kind within the exclusion zone.

(B) In any area within the exclusion zone, all commercial cultivation shall be conducted inside enclosed buildings or structures, and any and all cannabis, regardless of stage of growth, shall not be visible from the exterior of the building or structure within which cannabis is cultivated. Any cultivation occurring within greenhouse structures shall require additional steps be taken toward screening, shielding, darkening, obscuring, or rendering opaque the structure to ensure the cannabis cultivated within is not visible. Structures that are exempt from building permits shall not be used for cultivation purposes, including structures previously permitted under an "agricultural building exemption" as defined in Chapter 21.01.

(C) Under no circumstances shall a building intended for residential use be used for the cultivation of cannabis.

(D) In no case, shall cannabis plants be visible from a public or private road, sidewalk, park, or any common public viewing area within the exclusion zone.

(E) Cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.

(F) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from pests, rodents, or other wildlife.

(G) Cultivation shall at all times be conducted in such a way as to ensure the health, safety, and welfare of the public, the employees working at the cannabis business, visitors to the cultivation site, neighboring properties, and the end users of the cannabis being cultivated, to

protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.

(H) All cultivators shall submit to the following in addition to the information generally otherwise required for a cannabis business:

(1) Cultivation and operations plan. A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation, and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel; and a description of the cultivation activities and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting;

(2) A description of a legal water source, irrigation plan, and projected water use;

(3) Identification of the source of electrical power and plan for compliance with applicable building codes and related codes; and

(4) Odor mitigation plan. Plan for addressing odor and other public nuisances that may derive from the cultivation site.

(I) Use of water from any water source that is not located on the parcel on which cultivation is taking place is prohibited.

(J) All irrigation runoff, fertilizer, and contaminants on site shall be contained as specified in the cannabis business operation plan.

(K) A cultivator shall only propagate immature plants at their own corresponding cultivation site in the designated propagation areas, except that a cultivator shall not be prohibited from propagating immature plants or seeds for distribution to another cannabis business.

(L) The propagation areas shall contain only immature plants.

(M) Mother plants used for propagation shall be maintained as immature plants and located in the designated propagation area.

(N) Compliance with the labeling and track and trace program requirements promulgated by the responsible state department.

(Ord. 975, § 1, 2018; Ord. 1036, § 15, 2021)

#### § 19.43.100 SUPPLEMENTAL OPERATING REQUIREMENTS FOR DISTRIBUTORS.

(A) A distributor shall neither store nor distribute any non-cannabis goods and/or non-cannabis accessories that are to be sold to another party, on any permitted cannabis business premises. For the purposes of this section, non-cannabis goods are any goods that do not meet the definition of cannabis goods as defined in Cal. Code of Regulations, § 5000(c).

(B) After taking physical possession of a cannabis goods batch, the distributor shall contact a testing laboratory and arrange for a laboratory employee to come to the distributor's state-licensed premises to select a representative sample for laboratory testing.

(C) A distributor shall ensure that all cannabis and/or cannabis product batches are stored separately and distinctly from other cannabis and/or cannabis product batches on the distributor's premises.

(D) The distributor shall ensure that the batch size from which the sample is taken meets the requirements of state law, specifically the testing provisions within the California Code of Regulations.

(E) A distributor or a distributor's employee shall be physically present to observe the laboratory employee obtain the sample of cannabis goods for testing and shall ensure that the increments are taken from throughout the batch. The sampling shall be video recorded, and the recording kept available to state and local authorities for a minimum of 180 days, pursuant to 4 Cal. Code of Regulations § 15305, or other applicable regulation adopted by the State of California Department of Cannabis Control.

(F) A distributor shall not transport cannabis goods to a state licensed retailer unless and until it has verified that the cannabis goods have been tested and certified by a state licensed testing laboratory as being in compliance with state health and safety requirements pursuant to 4 Cal. Code of Regulations §§ 15306 and 15307 or other applicable regulation adopted by the State of California Department of Cannabis Control.

(G) A distributor shall comply with all requirements promulgated by the applicable state department or agency, including, but not limited to, all bonding and insurance requirements, as well as those requirements for any commercial vehicles or trailers used for transporting cannabis goods.

(Ord. 975, § 1, 2018; Ord. 1036, § 21, 2021)

#### § 19.43.110 SUPPLEMENTAL OPERATING REQUIREMENTS FOR TESTING LABORATORIES.

(A) Testing laboratories shall be required to conduct all testing of cannabis goods in a manner pursuant to Cal. Business and Professions Code § 26100 and shall be subject to state and local law. Each testing laboratory shall be subject to additional regulations as determined from time to time as more regulations are developed under this chapter, and any subsequent state legislation regarding the same.

(B) Testing laboratories shall conduct all testing of cannabis goods in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling using verified methods.

(C) All testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control.

(D) Testing laboratories shall destroy any harvest batch which testing sample indicates non-compliance with health and safety standards required by the Bureau unless remedial measures can bring the cannabis goods into compliance with quality standards as specified by law and implemented by the Bureau.

(E) Each testing laboratory shall ensure that a testing laboratory employee takes the sample of cannabis goods from the distributor's premises for testing required by state law and that the testing laboratory employee transports the sample to the testing laboratory.

(F) Except as provided by state law, a testing laboratory shall not acquire or receive cannabis goods except from a state licensee in accordance with state law, and shall not distribute, sell, or dispense cannabis goods from the state licensed premises from which the cannabis goods were acquired or received. All distribution shall be performed pursuant to a specified chain of custody protocol.

(G) A testing laboratory may receive and test samples of cannabis goods from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purpose. A testing laboratory shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of the cannabis goods received.

(H) Testing laboratories shall be required to conduct all testing in a manner pursuant to Cal. Business and Professions Code § 26100, applicable regulations adopted by the State of California Department of Cannabis Control, and shall be subject to state and local law.

(Ord. 975, § 1, 2018; Ord. 1036, § 16, 2021)

#### § 19.43.120 SUPPLEMENTAL OPERATING REQUIREMENTS FOR MANUFACTURING SITES.

(A) Any compressed gases used in the manufacturing process shall not be stored on any property within the county in containers that exceed the amount which is approved by the contracted Fire Department and authorized by the regulatory permit. Each site or parcel subject to a permit under Title 25 and Chapter 7.02 shall be limited to a total number of tanks as authorized by the contract Fire Department on the property at any time.

(B) Manufacturing facilities may use heat, screens, presses, steam distillation, ice water, ethanol, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(C) If an extraction process uses a professional grade closed loop CO2 gas extraction system every vessel must be certified by the manufacturer for its safe use as referenced in division (E). The CO2 must be of at least 99% percent purity.

(D) Closed loop systems for compressed gas extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

(E) Certification from an engineer licensed by the state or by a certified industrial hygienist must be provided to the Resource Management Agency for a professional grade closed loop system used by any commercial cannabis manufacturing manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including, but not limited to:

- (1) The American Society of Mechanical Engineers (ASME);
- (2) American National Standards Institute (ANSI);
- (3) Underwriters Laboratories (UL); or
- (4) The American Society for Testing and Materials (ASTM).

(F) The certification document must contain the signature and stamp of the professional engineer or industrial hygienist and serial number of the extraction unit being certified.

(G) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the contracted Fire Department and meet any required fire, safety, and building code requirements specified in the California Building Reference Codes.

(H) Manufacturing facilities may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

(I) Manufacturing facilities creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.

(J) Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets, and handle and store the solvents and gases safely.

(K) Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.

(Ord. 975, § 1, 2018)

#### § 19.43.130 SUPPLEMENTAL OPERATING REQUIREMENTS FOR MICROBUSINESSES.

Microbusinesses shall be required to comply with the supplemental operating requirements, as set forth in this chapter, applicable to each commercial cannabis activity in which the microbusiness engages. Microbusinesses operating in any AP, A, CM, M-1, or M-2 District which include retail activities shall be limited to delivery-only retail.

(Ord. 975, § 1, 2018; Ord. 1036, § 17, 2021)

§ 19.43.140 [RESERVED.]

§ 19.43.150 NON-COMPLIANCE WITH OPERATIONAL REQUIREMENTS.

Any violation of this chapter shall result in the immediate suspension of any cannabis business permit issued pursuant to Chapter 7.02, and pending investigation and a hearing, shall result in revocation of the cannabis business permit at the Cannabis Coordinator's discretion, subject to review by the Hearing Officer. Under no circumstances shall a cause of action for monetary damages be allowed against the county, the Cannabis Coordinator, or any county employee or representative, as a result of a suspension or revocation of a cannabis business permit.

(Ord. 975, § 1, 2018)

§ 19.43.160 INSPECTION AND ENFORCEMENT.

(A) The Administrative Officer or his/her designee, including, but not limited to the Resources Management Agency Director, shall have the primary responsibility and authority to administer and enforce this chapter.

(B) The Administrative Officer or his/her designee may inspect and enforce the requirements of this chapter in accordance with the provisions set forth in § 7.02.190.

(C) In addition, if the Administrative Officer or his/her designee has reasonable cause to believe that there exists any condition on the property unsafe or dangerous which may require immediate inspection to safeguard the public safety, the Administrative Officer or his/her designee shall have the right to immediately enter and inspect such property and may use any reasonable means required to effect such entry and make such inspection. The cannabis business operator shall permit such entry and hold harmless and indemnify the Administrative Officer or his/her designee and the county from any liability in connection with lawful entry hereunder.

(D) In the event the Administrative Officer or his/her designee is unable to obtain compliance with any of the terms and provisions of this chapter or a condition of approval, related to health and safety, he or she may order immediate cessation of operations. In the event of non-compliance with this chapter or of a condition of approval not involving a health and safety risk, the Administrative Officer or his/her designee may request that the Planning Commission issue an order for the immediate cessation of operations. In the event that an order to cease operations is issued, the Administrative Officer shall coordinate with the operator to ensure that the operator completes the shutdown as soon it can be safely accomplished, and may require that the operator provide a schedule, subject to the Administrative Officer approval, of the timeline and events necessary to accomplish the shutdown. If such operations are not stopped or if resumed prior to written approval of the Administrative Office, the Administrative Officer may request civil action by the Office of County Counsel, criminal prosecution by the Office of the District Attorney, or both such remedies, or may utilize any other available remedies available under the law.

(Ord. 975, § 1, 2018)

**Comparison to other jurisdictions**

Jurisdiction	Cannabis Activities	Permitted zones	Limitations to permissions
<p><b>San Luis Obispo County</b></p> <p><a href="#">Cannabis Rules in SLO County</a></p> <p><a href="#">SLO Cannabis Services</a></p> <p><a href="#">SLO Cannabis Activities Ordinance</a></p>	<p>Cultivation (including ancillary uses of nurseries and processor)</p>	<p>Agriculture (AG), Rural Lands (RL) Residential Rural (RR), and Industrial (IND)</p>	<ul style="list-style-type: none"> <li>• <b>All cultivation activities require a Minor Use Permit</b></li> <li>• Outdoor cultivation prohibited in Industrial (IND) and Residential Rural (RR)</li> <li>• Limit of 141 cultivation sites in the county</li> <li>• Outdoor cultivation in AG on sites no less than 10 acres</li> <li>• Outdoor cultivation in RL on sites no less than 50 acres</li> <li>• Indoor cultivation in AG on sites no less than 10 acres</li> <li>• Indoor cultivation in RR on sites no less than 20 acres</li> <li>• Indoor cultivation in RL on sites no less than 50 acres</li> <li>• Sites between 10-25 acres maximum area of outdoor canopy is two (2) acres</li> <li>• Sites greater than 25 acres maximum area of outdoor canopy is three (3) acres</li> <li>• Sites within RL zoning is limited to a maximum area of outdoor canopy of one (1) acre</li> <li>• Indoor cultivation limited to 22,000 square feet per site.</li> <li>• All operations limited to a single state license.</li> <li>• Nurseries cannot exceed 25% of approved cultivation area</li> </ul>
	<p>Processor (If not ancillary to cultivation/vertical integration)</p>	<p>Commercial Service (CS) Industrial (IND), and Agriculture (AG), and Rural Lands (RL)</p>	<ul style="list-style-type: none"> <li>• <b>All processor activities require a Minor Use Permit</b></li> <li>• No limits on minimum acreage or canopy</li> <li>• Cannot be located in Flood Hazard Zone, Sensitive Resource Area, or High Fire Hazard Severity Zone</li> <li>• Cannot be located on prime ag land or Williamson act land</li> </ul>
	<p>Manufacturing (non-volatile only)</p>	<p>Commercial Service (CS) Industrial (IND), and Agriculture (AG)</p>	<ul style="list-style-type: none"> <li>• <b>Manufacturing activities for non-volatile facilities of less than 40,000 square feet require a Minor Use Permit</b></li> <li>• <b>Manufacturing activities for non-volatile facilities of 40,000 square feet or more require a Conditional Use Permit</b></li> <li>• Eligible sites located in CS are limited to sites within the Urban Reserve Line (URL)</li> <li>• Manufacturing of cannabis grown on site only for sites located in AG</li> <li>• Facilities located in AG limited to maximum gross floor area of 2,500 square feet</li> </ul>



			<ul style="list-style-type: none"> <li>• Prohibits type 7 licenses (volatile)</li> <li>• In AG land cannot be located in Flood Hazard Zone or Sensitive Resource Area, prime ag land, or land under Williamson Act.</li> </ul>
	Testing	Commercial Service (CS) and Industrial (IND)	<ul style="list-style-type: none"> <li>• <b>Testing facilities less than 20,000 square feet require a Minor Use Permit</b></li> <li>• <b>Testing facilities greater than 20,000 square feet require a Conditional Use Permit</b></li> <li>• Eligible sites in CS are limited to those within an Urban Reserve Line (URL)</li> </ul>
	Retail (type 9 only)	Agriculture (AG), Commercial Service (CS), Industrial (IND), Residential Rural (RR), and Rural Lands (RL)	<ul style="list-style-type: none"> <li>• <b>All retail activities require a Minor Use Permit</b></li> <li>• Delivery only dispensaries (mobile delivery)</li> <li>• Prohibits type 10 licenses (storefront)</li> <li>• Eligible sites in CS limited to those within an Urban Reserve Line (URL)</li> <li>• Dispensaries in AG, RR, and RL limited to only the cannabis grown on site</li> </ul>
	Distributor	Commercial Service (CS) and Industrial (IND)	<ul style="list-style-type: none"> <li>• <b>Distribution facilities of less than 40,000 square feet require a Minor Use Permit</b></li> <li>• <b>Distribution facilities of 40,000 square feet or more require a Conditional Use Permit</b></li> <li>• Eligible sites in CS limited to those within an Urban Reserve Line (URL)</li> </ul>
	Microbusiness	Not permitted/Regulated	Not permitted/Regulated
<p><b>Mendocino County</b></p> <p><a href="#">Mendocino Zoning Districts</a></p> <p><a href="#">Mendocino Cannabis Cultivation Ordinance</a></p> <p><a href="#">Mendocino Cannabis</a></p>	Cultivation	Rural Residential (RR), Agriculture (AG), Upland Residential (UR), Limited Industrial (I1), General Industrial (I2) Pinoleville Industrial (PI)	<ul style="list-style-type: none"> <li>• Limit of two cannabis business licenses per parcel</li> <li>• Small cultivation licenses limited to 2,500 square feet of canopy</li> <li>• Medium licenses limited to 5,000 square feet on parcels no less than 5 acres</li> <li>• Large licenses limited to 10,000 square feet on a parcel no less than 10 acres</li> <li>• Nursery limited to 22,000 square feet of canopy on a parcel no less than 5 acres</li> <li>• <b>A Use Permit is required for small indoor cultivation of 2,500 square feet in RR, AG, and UR zones.</b></li> <li>• <b>An Administrative Permit is required for small indoor of 500 square feet in RR, AG, and UR, zones.</b></li> <li>• Small indoor requires a Zone Clearance in I1, I2, and PI zones</li> </ul>

<p><a href="#">Cultivation Sites Ordinance</a></p> <p><a href="#">Mendocino Cannabis Facilities Ordinance</a></p>			<ul style="list-style-type: none"> <li>• Small outdoor and mixed light requires a Zone Clearance in RR, AG, UR, I1, I1, and PI zones</li> <li>• <b>Indoor artificial light not exceeding 2,500 square feet requires a Minor Use Permit</b></li> <li>• Medium outdoor requires a Zone Clearance in RR, AG, and UR zones</li> <li>• Medium and large indoor require a Zone Clearance from I1, I2, and PI zones</li> <li>• Large outdoor requires a Zone Clearance in RR, AG, and UR zones</li> <li>• Large mixed light and nursery require a Zone Clearance in RR, Ag, UR, I1, I2, and PI zones.</li> <li>• Mixed light cultivation not exceeding 2,500 square feet requires Zoning Clearance.</li> </ul>
	Processing	Rural Community (RC), Agriculture (AG), Upland Residential (UR), Rangeland (RL), Forest Land (FL), Limited Commercial (C1), General Commercial (C2), Limited Industrial (I1), General Industrial (I2), Pinoleville Industrial (PI)	<ul style="list-style-type: none"> <li>• <b>Processing activities require an Administrative Permit in RC, AG, UR, RL, FL, C1, C2 zones</b></li> <li>• <b>Processing activities require a Zoning Clearance in I1, I2, and PI Zones</b></li> </ul>
	Manufacturing (Non-Volatile)	Rural Community (RC), General Commercial (C2), Limited Industrial (I1), General Industrial (I2), Pinoleville Industrial (PI)	<ul style="list-style-type: none"> <li>• <b>Requires Administrative Permit in RC zones</b></li> <li>• <b>Requires Use Permit in C2 zoning</b></li> <li>• <b>Requires Zoning Clearance in I1, I2, PI zones</b></li> </ul>
	Manufacturing (Volatile)	Rural Community (RC), General Commercial (C2), Limited Industrial (I1), General Industrial (I2), Pinoleville Industrial (PI)	<ul style="list-style-type: none"> <li>• <b>Requires Use Permit in RC zones</b></li> <li>• <b>Requires Administrative Permit in I1, I2, and PI Zones</b></li> </ul>

	Testing	Rural Community (RC), General Commercial (C2), Limited Industrial (I1), General Industrial (I2), Pinoleville Industrial (PI)	<ul style="list-style-type: none"> <li>• <b>Requires Use Permit in RC Zones</b></li> <li>• <b>Requires Zoning Clearance in C2, I1, I2, and PI zones</b></li> <li>• Licensee may not hold license for more than one facility</li> <li>• Owner may not hold interest in more than one facility</li> </ul>
	Retail	Rural Community (RC), Limited Commercial (C1), General Commercial (C2), Limited Industrial (I1), General Industrial (I2), Pinoleville Industrial (P-I)	<ul style="list-style-type: none"> <li>• <b>Requires Use Permit in RC I1, I2, and PI Zones</b></li> <li>• <b>Requires Zoning Clearance in C1 and C2 zones</b></li> </ul>
	Distributor	Rural Community (RC), General Commercial (C2), Limited Industrial (I1), General Industrial (I2), Pinoleville Industrial (PI)	<ul style="list-style-type: none"> <li>• <b>Requires Use Permit in RC and C2 Zones</b></li> <li>• <b>Requires Zoning Clearance in I1, I2, and PI zones</b></li> <li>• If as accessory to cultivation, then distribution limited to only cannabis grown on site.</li> </ul>
	Microbusiness	Rural Community (RC), General Commercial (C-2), Limited Industrial (I1), General Industrial (I2), Pinoleville Industrial (PI)	<ul style="list-style-type: none"> <li>• <b>Requires Use Permit in RC Zones</b></li> <li>• <b>Requires Administrative Permit in C2, I1, I2, and PI Zones</b></li> <li>• Microbusiness in C2 must demonstrate that the retail component is the primary use.</li> <li>• All activities of the microbusiness must be conducted on the same premises</li> </ul>
<a href="#">Humboldt County</a>  <a href="#">Humboldt Zoning Districts</a>  <a href="#">Humboldt County Cannabis Services</a>	Cultivation	Agriculture Exclusive (AE), Agriculture General (AG), Forestry Recreation (FR), Industrial Commercial (C-3), Limited Industrial (ML), Heavy Industrial (MH)	<ul style="list-style-type: none"> <li>• Requires conditional use permit if located in SOI or Community Planning Areas.</li> <li>• Limit of 8 acres of commercial cultivation per applicant</li> <li>• Limit of 10 applicants granted permits authorizing 3 or more acres.</li> <li>• Permits expire annually and must be renewed</li> <li>• Activities permitted with a zoning clearance on parcels of 5 or more acres of up to 2,000 square feet</li> <li>• For all cultivation activities (excluding indoor) on parcels between 5-10 acres in AE, AG, FR: <ul style="list-style-type: none"> <li>○ <b>Up to 5,000 square feet of cultivation permitted with Zoning Clearance</b></li> </ul> </li> </ul>

<p><a href="#">Humboldt County Cannabis Permitting</a></p> <p><a href="#">Humboldt Permit Limits</a></p> <p><a href="#">Medical Cannabis Dispensary Code</a> (Adult Use Retail Facilities)</p> <p><a href="#">Commercial Cultivation Code</a></p>			<ul style="list-style-type: none"> <li>○ <b>Up to 10,000 square feet of cultivation permitted with a Special Permit</b></li> <li>● For all cultivation activities (excluding indoor) on parcels 10 acres or more in AE, AG, and FR <ul style="list-style-type: none"> <li>○ <b>Up to 10,000 square feet of cultivation permitted with Zoning Clearance</b></li> <li>○ <b>Up to 43,560 square feet of cultivation permitted with a Special Permit</b></li> </ul> </li> <li>● For all cultivation activities (excluding indoor) on 320 acres or more in AE, AG, and Fr <ul style="list-style-type: none"> <li>○ <b>up to 8 acres can be permitted with a Use Permit</b></li> </ul> </li> <li>● For all cultivation activities (excluding indoor) in C-3, ML, MH <ul style="list-style-type: none"> <li>○ 2-acre minimum parcel size allowed</li> <li>○ <b>1-acre of cultivation permitted with Zoning Clearance</b></li> <li>○ <b>More than 1-acre permitted with Use Permit</b></li> </ul> </li> <li>● For all indoor cultivation activities in AE, AG, and FR <ul style="list-style-type: none"> <li>○ <b>Up to 5,000 square feet of indoor cultivation may be permitted with a Zoning Clearance</b></li> <li>○ <b>On parcels of 320 acres or more, 10,000 square feet may be permitted with a Special Permit</b></li> </ul> </li> <li>● Requires renewable energy source</li> <li>● Requires stored water from nondiversinary sources</li> <li>● Confined to areas where the slope is 15% or less</li> <li>● <b>Must be located on paved roads with painted center lines</b></li> </ul>
	Manufacturing	Agriculture Exclusive (AE), Agriculture General (AG), Forestry Recreation (FR), Highway Service Commercial (CH), Community Commercial (C-2), Industrial Commercial (C-3), Limited Industrial (ML), Business Park (MB), Limited Industrial (ML), Heavy Industrial (MH)	<ul style="list-style-type: none"> <li>● Flammable Extraction: <ul style="list-style-type: none"> <li>○ <b>Special Permit: MH</b></li> <li>○ <b>Conditional Use Permit: AE, AG, FR, C-3, ML</b></li> </ul> </li> <li>● Nonflammable Extraction <ul style="list-style-type: none"> <li>○ <b>Zoning Clearance: C-3, ML, MH</b></li> <li>○ <b>Special Permit: AE, AG, FR, CH, C-2, C-3, MB, ML, MH</b></li> </ul> </li> <li>● Infusion <ul style="list-style-type: none"> <li>○ <b>Zoning Clearance: CH, C-2, C-3, MB, ML, MH</b></li> </ul> </li> <li>● Requires renewable energy source</li> <li>● Requires stored water from nondiversinary sources</li> <li>● Confined to areas where the slope is 15% or less</li> <li>● Sites located on prime ag land shall not exceed 20% of the prime soil</li> </ul>

			<ul style="list-style-type: none"> <li>• Located on paved roads with centerline</li> <li>• Must be conducted in commercial building</li> </ul>
	Testing	Community Commercial (C-2), Industrial Commercial (C-3), Business Park (MB), Limited Industrial (ML), Heavy Industrial (MH)	<ul style="list-style-type: none"> <li>• <b>Permitted with a Zoning Clearance</b></li> <li>• Requires stored water from nondiversionary sources</li> <li>• Confined to areas where the slope is 15% or less</li> <li>• Sites located on prime ag land shall not exceed 20% of the prime soil</li> </ul>
	Retail	Neighborhood Commercial (C-1), Community Commercial (C-2), Industrial Commercial (C-3), Business Park (MB), Limited Industrial (ML), Heavy Industrial (MH)	<ul style="list-style-type: none"> <li>• <b>Requires Conditional Use Permit</b></li> <li>• Delivery services from a storefront are only allowed in commercial or industrial zones with a conditional use permit</li> <li>• Hours of operation limited to 6:00am to 10:00pm</li> </ul>
	Distribution	Agriculture Exclusive (AE), Agriculture General (AG), Forestry Recreation (FR), Industrial Commercial (C-3), Limited Industrial (ML), Heavy Industrial (MH), Community Commercial (C-2), Business Park (MB)	<ul style="list-style-type: none"> <li>• <b>Permitted with a Zoning Certificate</b></li> <li>• Requires renewable energy source</li> <li>• Requires stored water from nondiversionary sources</li> <li>• Confined to areas where the slope is 15% or less</li> <li>• Sites located on prime ag land shall not exceed 20% of the prime soil</li> </ul>
	Microbusiness	Requires a special permit in any zone where cannabis activities are permitted (except FP and TPZ)	<ul style="list-style-type: none"> <li>• <b>Requires a Special Permit</b></li> <li>• Located on paved roads with centerline</li> </ul>
<b>Santa Cruz County</b> <a href="#">Licenses for Non-Retail</a>	Fines		Administrative Citations Issued for Unlawful Activities—Non-Licensees. In addition to any other applicable remedies, any person or entity engaging in commercial cannabis activity without a Santa Cruz County cannabis business license who violates any provision of this chapter shall be liable for civil penalties. Upon the issuance of an administrative citation and at the discretion

<p><a href="#">Commercial Cannabis</a></p> <p><a href="#">Zoning Regulations</a></p> <p><a href="#">Retail Licensing</a></p> <p><a href="#">Delivery Services</a></p>			<p>of the Licensing Official, the following fines may be immediately imposed upon each and every unlawful activity, up to \$10,000 per day:</p> <p>(a) A fine not exceeding \$100.00 per live cannabis plant in excess of six plants.</p> <p>(b) A fine not exceeding \$100.00 per package of cannabis product.</p> <p>(c) A fine not exceeding \$100.00 per gram of cannabis concentrate.</p> <p>(d) A fine not exceeding \$100.00 per pound of cannabis biomass.</p> <ul style="list-style-type: none"> <li>• (e) A fine not exceeding \$500.00 per pound of cannabis flower.</li> </ul>
<p><b>State Licenses</b></p> <p>A- Licenses are for Adult Use cannabis activities</p> <p>M- Licenses are for Medical cannabis activities</p>	<p>Cultivation</p>	<p><b>Outdoor licenses</b> are for cultivators who grow cannabis outside without using any artificial lighting on mature plants.</p> <p><b>Indoor licenses</b> are for cultivators who grow cannabis in a permanent structure using at least 25 watts of artificial light per square foot.</p> <p><b>Mixed-light licenses</b> are for cultivators who grow cannabis in a: Greenhouse, Hoop-house, Glasshouse, Conservatory, Hothouse, Other similar structure</p> <ul style="list-style-type: none"> <li>• <b>Tier 1</b> – Up to 6 watts per square foot of artificial light</li> <li>• <b>Tier 2</b> – 6 to 25 watts per square</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Specialty cottage</b> <ul style="list-style-type: none"> <li>○ Specialty cottage outdoor – up to 25 mature plants or up to 2,500 square feet of canopy</li> <li>○ Specialty cottage indoor – up to 500 square feet of canopy</li> <li>○ Specialty cottage mixed-light tier 1 and 2 – up to 2,500 square feet of canopy</li> </ul> </li> <li>• <b>Specialty</b> <ul style="list-style-type: none"> <li>○ Specialty outdoor – up to 50 mature plants or up to 5,000 square feet of canopy</li> <li>○ Specialty indoor – 501 to 5,000 square feet of canopy</li> <li>○ Specialty mixed-light tier 1 and 2 – 2,501 to 5,000 square feet of canopy</li> </ul> </li> <li>• <b>Small</b> <ul style="list-style-type: none"> <li>○ Small outdoor – 5,001 to 10,000 square feet of canopy</li> <li>○ Small indoor – 5,001 to 10,000 square feet of canopy</li> <li>○ Small mixed-light tier 1 and 2 – 5,001 to 10,000 square feet of canopy</li> </ul> </li> <li>• <b>Medium</b> <ul style="list-style-type: none"> <li>○ Medium outdoor – 10,001 square feet to 1 acre of canopy</li> <li>○ Medium indoor – 10,001 to 22,000 square feet of canopy</li> <li>○ Medium mixed-light tier 1 and 2 – 10,001 to 22,000 square feet of canopy</li> </ul> </li> <li>• <b>Large</b> <ul style="list-style-type: none"> <li>○ Large outdoor – more than 1 acre of total canopy</li> <li>○ Large indoor – more than 22,000 square feet of total canopy</li> </ul> </li> </ul>

		foot of artificial light	<ul style="list-style-type: none"> <li>○ Large mixed-light – mixed-light site with more than 22,000 square feet of total canopy</li> <li>• <b>Nursery</b> – for cultivators that only grow clones, immature plants, seeds or other types of cannabis used for propagation</li> <li>• <b>Processor</b> – for cultivators that only trim, sift, cure, dry, grade, package or label cannabis</li> </ul>
	Manufacturing	<p><b>Type 7: Volatile Solvent Manufacturing</b></p> <p><b>Type 6: Non-Volatile Solvent Manufacturing</b></p> <p><b>Type N: Infusion of Products</b></p> <p><b>Type P: Packaging and Labeling</b></p> <p><b>Type S: Shared-Use Facilities</b></p>	<p><b>Type 7 manufacturers can:</b></p> <ul style="list-style-type: none"> <li>• Use volatile solvents for extraction or post-extraction processing of cannabis extract</li> <li>• Use non-volatile solvents for extraction or post processing</li> <li>• Use mechanical methods for extraction</li> <li>• Make cannabis products through infusion</li> <li>• Package and label cannabis products</li> </ul> <p>Volatile solvents are chemicals that produce a flammable gas or vapor. Examples include Butane, Heptane, Hexane, Propane</p> <p><b>Type 6 manufacturers can:</b></p> <ul style="list-style-type: none"> <li>• Use non-volatile solvents for extraction or post-extraction processing</li> <li>• Use mechanical methods for extraction</li> <li>• Make cannabis products through infusion</li> <li>• Package and label cannabis products</li> </ul> <p>Non-volatile solvents are chemicals that do not produce a flammable gas or vapor. Examples include Ethanol, Carbon dioxide, Cooking oils, Butter</p> <p>Mechanical extraction uses pressure, heat or cold to extract cannabinoids instead of using chemicals. Examples include Rosin presses, Dry ice</p> <p><b>Type N manufacturers can:</b></p> <ul style="list-style-type: none"> <li>• Make cannabis products through infusion</li> <li>• Package and label cannabis</li> </ul> <p>Infusion mixes cannabis extract or plant material with other ingredients to make a cannabis product.</p>

			<p><b>Type P manufacturers can</b> only package and label cannabis products.</p> <p><b>Type S manufacturers operate in shared-use facilities and can:</b></p> <ul style="list-style-type: none"> <li>• Extract cannabis using butter or food-grade oils, water, glycerin, vegetable oil, animal fat, or using mechanical methods</li> <li>• Make cannabis products through infusion</li> <li>• Package and label cannabis</li> </ul> <p>Shared-use facilities are places where multiple Type S manufacturers rotate on a schedule and share space and equipment. A Type 7, 6 or N license can register all or part of their manufacturing premises as a shared-use facility.</p>
	Distribution	<p><b>Type 11: Distributor</b></p> <p><b>Type 13, Transport-Only Distributor</b></p>	<p><b>Type 11 distributors can:</b></p> <ul style="list-style-type: none"> <li>• Move cannabis and cannabis products between cultivation, manufacturing or distribution premises</li> <li>• Move finished cannabis goods to retail premises</li> <li>• Provide storage services to other licensees</li> <li>• Arrange for testing of cannabis goods</li> </ul> <p><b>Type 13 distributors can</b> move cannabis and cannabis products between cultivation, manufacturing or distribution premises. Reduced fees are available if you only want to transport the goods you cultivate or manufacture.</p>
	Testing	<b>Type 8: Laboratory</b>	<p><b>The Type 8 license is</b> for laboratories that test cannabis goods prior to sale at a retailer.</p> <p>Testing laboratories must obtain and maintain ISO/IEC 17025 accreditation. You can use an interim testing license while you work on your accreditation.</p>
	Retail	<p><b>Type 9: Non-Storefront (Delivery Only)</b></p> <p><b>Type 10: Storefront Retailer</b></p>	<p><b>Type 9 non-storefront retailer</b> sells cannabis goods to customers only through delivery.</p> <p><b>Type 10 storefront retailer</b> has a physical location where cannabis goods are sold. Storefront retailers can also deliver cannabis goods.</p>



	Microbusiness	<b>Type 12: Microbusiness</b>	<b>The Type 12 license is for businesses that do at least three of the following activities at one location:</b> <ul style="list-style-type: none"><li>• Cultivation – up to 10,000 total square feet</li><li>• Manufacturing – use of non-volatile solvents, mechanical extraction or infusion</li><li>• Distribution or distribution transport-only</li><li>• Retail – storefront or non-storefront</li></ul>
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**SAN BENITO COUNTY  
AGENDA ITEM  
TRANSMITTAL FORM**

**Vincent  
Ringheden**  
District No. 1

**Richard  
Way**  
District No. 2

**Robert  
Scagliotti**  
District No. 3  
- Vice-Chair

**Robert  
Gibson**  
District No. 4  
- Chair

**Celeste Toledo-  
Bocanegra**  
District No. 5

**Item Number: 8.4**

**MEETING DATE:** 09/18/2024

**DEPARTMENT:** RESOURCE MANAGEMENT AGENCY

**AGENDA ITEM PREPARER:** Stephanie Reck

**SUBJECT:**

**RESOURCE MANAGEMENT AGENCY- A.PRADO, PLANNING AND BUILDING DIRECTOR -  
Review San Benito Country's Farmworker Housing locations.  
SBC FILE NUMBER: 790**

**AGENDA SECTION:**

REGULAR AGENDA

**BACKGROUND/SUMMARY:**

Staff to provide a review of San Benito Country's Farmworker Housing locations and the process of establishing a Farmworker Housing site.

This site: <https://casas.hcd.ca.gov/casas/ehFacilityQuery/onlineQuery/?f=YQmRS7ictnpz+AESYQI1GP2YyS6PLkLHWZmAce4IQck=> allows you to look up employee housing developments regulated by the California Department of Housing and Community Development's (HCD) Employee Housing Program.

**STRATEGIC PLAN GOALS: 1. Operational Development & Excellence**

Yes

**STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth**

Yes

**STRATEGIC PLAN GOALS: 3. Technology**

No

**STRATEGIC PLAN GOALS: 4. Community Engagement**

Yes

**STRATEGIC PLAN GOALS: 5. Health & Safe Community**

No

**STAFF RECOMMENDATION:**

Staff recommends the Planning Commission receive an update on the local Farmworker Housing sites.

**ATTACHMENTS:**

[Employee Housing Search - CASAS.pdf](#)



## Search Results

37 results returned

[Return to Search](#)

Facility Name/Address	Facility Type	Facility Operator Name/Address	PTO Status	Permit Expire Date	EH Enforcement Agency	Structure Count	Employee Count
SAN BENITO LABOR CAMP (35-0003-EH) 3239 SOUTHSIDE ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	LUIS DIAZ 3239 SOUTHSIDE RD HOLLISTER, CA 95023			HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	0	0
LICO LABOR CAMP (35-0007-EH) 213 ENTERPRISE RD. HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing	LICO & GRECO PROPERTIES, LLC PO BOX 2583 HOLLISTER, CA 95024	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	8	8
FOUR OAKS FARMING, LLC (35-0024-EH) 5292 FAIRVIEW ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FRESH HARVEST, INC. 101 E MAIN STREET HEBER, CA 92249 (760) 352-2364	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	8	38
LAZY BEE FARMS, LLC (35-0022-EH) 1645 MCCLOSKEY RD. HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing	LAZY BEE FARMS, LLC 25031 BUCKBOARD LANE LAGUNA HILLS, CA 92653 (949) 278-4920	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	8	15
GARCIA LABOR CAMP (35-0001-EH) 710 SALINAS RD. SAN JUAN BAUTISTA, CA 95045 Location: <a href="#">Map</a>	Employee Housing	BRISIO GARCIA 313 WILLOW DR HOLLISTER, CA 95023 (831) 801-1129	Expired	12/31/2019	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	14	17
CAL PRO LLC (35-0025-EH) 800 MISSION VINEYARD RD. SAN JUAN BAUTISTA, CA 95045 Location: <a href="#">Map</a>	Employee Housing	CAL PRO LLC 305 BLOOMFIELD AVE GILROY, CA 95020 (408) 848-4257	Expired	12/31/2023	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	8	10
HERNANDEZ LABOR CAMP (35-15244-EH) 882 FALLON ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing	FRESH HARVEST, INC. 101 E MAIN STREET HEBER, CA 92249 (760) 352-2364	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	16	79
FHI - HOLLISTER INN (35-15918-EH) 152 SAN FELIPE ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FRESH HARVEST, INC. 101 E MAIN STREET HEBER, CA 92249 (760) 352-2364	Expired	12/31/2021	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	10	30
SURE STAY HOTEL (35-15916-EH) 660 SAN FELIPE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	LUCKY AG, INC. PO BOX 7662 SPRECKELS, CA 93962 (831) 455-9544	Expired	11/01/2022	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	14	53
HOLLISTER INN RANCHO NUEVO HARVESTING (35-15933-EH) 152 SAN FILIPE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	RANCHO NUEVO HARVESTING PO BOX 1640 SANTA MARIA, CA 93456 (805) 928-7598	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	3	8



FHI WIEBE MOTEL (35-15935-EH) 1271 SAN FELIPE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FRESH HARVEST, INC. 101 E MAIN STREET HEBER, CA 92249 (760) 352-2364			HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	0	0
NANCY JULIETA CARDIEL HUERTA (35-15929-EH) 1448 RANCHO DR HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	EMPIRE FARM LABOR CONTRACTOR, LLC 17450 AVENIDA LOS ALTOS SALINAS, CA 93907 (831) 272-3523	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	3	7
ORCHARD RANCH SABOR FARMS (35-15934-EH) 8555 FAIRVIEW RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	SABOR FARMS 387 W MARKET ST SALINAS, CA 93901 (831) 424-0870	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	4	12
WEIBE MOTEL - ELKHORN (35-15919-EH) 1271 SAN FELIPE ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	ELKHORN PACKING CO., LLC PO BOX 239 SALINAS, CA 93902 (831) 676-3833	Expired	12/31/2022	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	3	14
CINDERELLA MOTEL RANCHO NUEVO HARVESTING (35-15932-EH) 110 SAN FELIPE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	RANCHO NUEVO HARVESTING PO BOX 1640 SANTA MARIA, CA 93456 (805) 928-7598	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	6	24
WEIBE MOTEL - FOOTHILL PACKING (35-15914-EH) 1271 SAN FELIPE ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FOOTHILL PACKING INC PO BOX 2613 SALINAS, CA 93902 8317841453 130			HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	0	0
PAICINES RANCH (35-15925-EH) 13388 AIRLINE HWY PAICINES, CA 95043 Location: <a href="#">Map</a>	Employee Housing (H-2A)	ELKHORN PACKING CO., LLC PO BOX 239 SALINAS, CA 93902 (831) 676-3833	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	1	12
SANTA ANA RANCH (35-15928-EH) 632 SANTA ANA RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	SABOR FARMS 387 W MARKET ST SALINAS, CA 93901 (831) 424-0870	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	8	25
CINDERELLA MOTEL ROYAL OAK AG (35-15931-EH) 110 SAN FILEPE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	ROYAL OAK AG SERVICES PO BOX 2729 ORCUTT, CA 93457 (805) 862-2102	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	14	58
HOLLISTER INN - ROYAL OAK AG (35-15922-EH) 152 SAN FELIPE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	ROYAL OAK AG SERVICES PO BOX 2729 ORCUTT, CA 93457 (805) 862-2102	Canceled	12/31/2023	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	11	32
RIVERSIDE HOLLISTER HOME - OROZCO FARMS (35-15923-EH) 920 RIVERSIDE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	OROZCO FARMS PO BOX 297 WATSONVILLE, CA 95077 (831) 269-9826	Expired	11/30/2022	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	1	34
SAN JUAN BAUTISTA BREEN HOUSING (35-15917-EH) 460 BREEN RD	Employee Housing (H-2A)	FOOTHILL PACKING INC PO BOX 2613 SALINAS, CA 93902	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR	1	10



Location: <a href="#">Map</a>		(800) 952-8356			(800) 952-8356		
SAN JUAN BAUTISTA BREEN HOUSING (35-15917-EH) 460 BREEN RD SAN JUAN BAUTISTA, CA 95045 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FOOTHILL PACKING INC PO BOX 2613 SALINAS, CA 93902 (831) 975-6351	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	1	10
CARR AVE HOUSE (35-15926-EH) 1044 CARR AVE AROMAS, CA 95004 Location: <a href="#">Map</a>	Employee Housing (H-2A)	EL RANCHITO BERRY LLC PO BOX 297 WATSONVILLE, CA 95077 (831) 269-9826	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	1	16
HOLLISTER RANCH HOUSE - ROYAL OAK (35-15927-EH) 920 RIVERSIDE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	ROYAL OAK AG SERVICES PO BOX 2729 ORCUTT, CA 93457 (805) 862-2102	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	3	84
AROMAS HOME (35-15921-EH) 2440 SAN JUAN RD AROMAS, CA 95004 Location: <a href="#">Map</a>	Employee Housing	PACIFIC COAST FARMS LLC 1961 MAIN ST. #227 WATSONVILLE, CA 95076 (831) 585-7562	Expired	12/31/2022	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	1	14
920 RIVERSIDE HOUSE - FRESH HARVEST (35-15924-EH) 920 RIVERSIDE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FRESH HARVEST, INC. 101 E MAIN STREET HEBER, CA 92249 (760) 352-2364	Expired	12/31/2022	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	3	44
WIEBE MOTEL - LUCKY AG (35-15920-EH) 1271 SAN FELIPE ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	LUCKY AG, INC. PO BOX 7662 SPRECKELS, CA 93962 (831) 455-9544	Pending	10/04/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	37	32
BARRERA MALDONADO PROPERTIES LUCY BROWN (35-15930-EH) 225 LUCY BROWN RD SAN JUAN BAUTISTA, CA 95045 Location: <a href="#">Map</a>	Employee Housing (H-2A)	EMPIRE FARM LABOR CONTRACTOR, LLC 17450 AVENIDA LOS ALTOS SALINAS, CA 93907 (831) 272-3523	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	2	80
SAN BENITO LABOR CAMP - FRESH HARVEST (35-15607-EH) 3239 SOUTHSIDE ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FRESH HARVEST, INC. 101 E MAIN STREET HEBER, CA 92249 (760) 352-2364	Other	12/31/2020	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	34	0
HOLLISTER INN - FOOTHILL PACKING (35-15612-EH) 152 SAN FELIPE ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FOOTHILL PACKING INC PO BOX 2613 SALINAS, CA 93902 (831) 975-6351	Expired	05/02/2019	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	5	10
VILLA ROBLES (35-15915-EH) 4660 SAN JUAN RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	AGEMPLOO LLC 1700 E FIFTH STREET OXNARD, CA 93030 (805) 889-3558	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	12	96
SAN FELIPE RD (35-15609-EH) 130 SAN FELIPE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing	EMPIRE FARM LABOR CONTRACTOR, LLC 17450 AVENIDA LOS ALTOS SALINAS, CA 93907 (831) 272-3523	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	11	50
VALENZUELA LABOR CAMP (35-15606-EH) 4500 MAGUI RD		YOLANDA TORRES PO BOX 1070	Active	12/31/2010	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR	7	7



Location: <a href="#">Map</a>		(760) 352-2364			(800) 952-8356		
WIEBE MOTEL - LUCKY AG (35-15920-EH) 1271 SAN FELIPE ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	LUCKY AG, INC. PO BOX 7662 SPRECKELS, CA 93962 (831) 455-9544	Pending	10/04/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	37	32
BARRERA MALDONADO PROPERTIES LUCY BROWN (35-15930-EH) 225 LUCY BROWN RD SAN JUAN BAUTISTA, CA 95045 Location: <a href="#">Map</a>	Employee Housing (H-2A)	EMPIRE FARM LABOR CONTRACTOR, LLC 17450 AVENIDA LOS ALTOS SALINAS, CA 93907 (831) 272-3523	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	2	80
SAN BENITO LABOR CAMP - FRESH HARVEST (35-15607-EH) 3239 SOUTHSIDE ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FRESH HARVEST, INC. 101 E MAIN STREET HEBER, CA 92249 (760) 352-2364	Other	12/31/2020	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	34	0
HOLLISTER INN - FOOTHILL PACKING (35-15612-EH) 152 SAN FELIPE ROAD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FOOTHILL PACKING INC PO BOX 2613 SALINAS, CA 93902 (831) 975-6351	Expired	05/02/2019	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	5	10
VILLA ROBLES (35-15915-EH) 4660 SAN JUAN RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing (H-2A)	AGEMPLOO LLC 1700 E FIFTH STREET OXNARD, CA 93030 (805) 889-3558	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	12	96
SAN FELIPE RD (35-15609-EH) 130 SAN FELIPE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing	EMPIRE FARM LABOR CONTRACTOR, LLC 17450 AVENIDA LOS ALTOS SALINAS, CA 93907 (831) 272-3523	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	11	50
VALENZUELA LABOR CAMP (35-15606-EH) 1500 NASH RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>		YOLANDA TORRES PO BOX 1070 HOLLISTER, CA 95024 (831) 664-6304	Active Conditional	12/31/2019	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	7	5
BENITO VALLEY FARM, LLC (35-15585-EH) 8100 FRAZER LAKE RD HOLLISTER, CA 95023 Location: <a href="#">Map</a>	Employee Housing	BENITO VALLEY FARM 8100 FRAZER LAKE RD HOLLISTER, CA 95023 (408) 415-4205	Pending	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	1	8
ANTHONY BOTELHO (35-15608-EH) 2171 OLD SAN JUAN HWY SAN JUAN BAUTISTA, CA 95045 Location: <a href="#">Map</a>	Employee Housing (H-2A)	LUCKY AG, INC. PO BOX 7662 SPRECKELS, CA 93962 (831) 455-9544	Active	11/15/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	3	19
A OSEGUERA COMPANY INC - OLYMPIA (35-15610-EH) 471 OLYMPIA AVE SAN JUAN BAUTISTA, CA 95045 Location: <a href="#">Map</a>	Employee Housing (H-2A)	A OSEGUERA COMPANY INC 1099 ROGGE ROAD SALINAS, CA 93906 (831) 970-9926	Expired	12/01/2019	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	1	28
SAN JUAN HOLLISTER HOUSING (35-15611-EH) 1210 SAN JUAN HOLLISTER ROAD SAN JUAN BAUTISTA, CA 95045 Location: <a href="#">Map</a>	Employee Housing (H-2A)	FOOTHILL PACKING INC PO BOX 2613 SALINAS, CA 93902 8317841453 130	Active	12/31/2024	HCD EMPLOYEE HOUSING PROGRAM 9342 TECH CENTER DR SACRAMENTO CA 95827 (800) 952-8356	1	10