



SAN BENITO COUNTY PLANNING COMMISSION

Vice-Chair Robert J Rodriguez II District No. 1	Julio Rodriguez District No. 2	Robert Scagliotti District No. 3	Chair Robert Gibson District No. 4	G.W. Devon Pack District No. 5
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*County Administration Building - Board of Supervisors Chambers, 481 Fourth Street, Hollister,
California*

REGULAR MEETING AGENDA July 21, 2021 6:00 PM

6 P.M. ~ CALL TO ORDER

1. NOTICE OF TEMPORARY PROCEDURES FOR PLANNING COMMISSION MEETINGS

Pursuant to California Governor Gavin Newsom's Executive Order N-29-20 issued on March 17, 2020, relating to the convening of public meetings in response to the COVID-19 pandemic, members of the County Planning Commission are allowed to attend the meeting via teleconference and to participate in the meeting to the same extent as if they were present. The July 21, 2021 Planning Commission meeting can be accessed in the following methods:

1. Public in-person attendance following the CDPH face covering guidelines; per instructions listed below.
2. Through Zoom (<https://zoom.us/join>) per the instruction stated below, and other methods as described further below; and

Webinar ID: 917 7610 0187
Webinar Password: 258901

3. Remote live stream on CMAP YouTube channel and the County's Social Media Page. (If available for the meeting).

Public Attendance in Person: at the Board of Supervisors Chambers: 481 4th St, Hollister, CA, 95023.

For the safety of public and County employees, please note the following. As of April 20, 2021, the Planning Commission meetings will be open to the public, following conditions listed below:

- A. All attendees must comply with the June 15, 2021 California Department of Public Health face covering requirements, found at:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>

B. Unvaccinated Members of the Public: Masks are required for unvaccinated individuals. If you are exempt from the CDPH face-covering guidance (above) and are not fully vaccinated, you must wear a face shield which will be provided to attend the meeting. If you cannot, or choose not to, wear a face covering or face shield, you may participate in the meeting by Zoom.

C. Fully Vaccinated Members of the Public. Masks are not required for fully vaccinated individuals.

D. All attendees must comply with any other rules of procedure/instructions announced by the Chair.

Three ways to attend Zoom meetings: **over the phone, on a web browser, or through the Zoom App.** Each webinar will have a webinar ID and password, which is a unique number associated with an instant or scheduled meeting (found at the top of this text).

A. Zoom on Web-browser or Zoom app for Tablet or Smartphone:

If joining through web-browser, launch the address <https://zoom.us/join> or open the web browser <https://zoom.us/s/97408053639?pwd=OU94NmIFTTZGNHhZZjhtS1hkS2V4Zz09>

Or launch the Zoom app on your Tablet or Smartphone:

1. Select **“JOIN A MEETING”**
2. The participant will be prompted to enter **Webinar ID: 917 7610 0187 and Webinar Password: 258901** and name to join the meeting. The meeting agenda can be found at <https://www.cosb.us/>
3. The participant can launch audio through their computer or set it up through the phone.
4. **Public Comment:** Select the **“Participants Tab”** and click **“Raise hand”** icon, and the Zoom facilitator will unmute you when your turn arrives.

B. Zoom Audio Only (phone):

If you are **calling in as audio-only**, please dial **US: +1 669 900 6833 or +1 408 638 0968 or +1 346 248 7799 or +1 253 215 8782 or +1 301 715 8592 or +1 312 626 6799 or +1 646 876 9923.**

1. It will ask you to enter the **Webinar ID, 917 7610 0187**, followed by the **“#” key** (pound key), then enter **Webinar Password, 258901** which can be found at the top page of the agenda. The meeting agenda can be found at <https://www.cosb.us/>
2. It will then ask for a **Participant ID**, press the **“#” key** (pound key) to continue.
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Remote Viewing:

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the meeting online through either the:

A. San Benito County Facebook

Page: <https://www.facebook.com/sbccalifornia>

B. Community Media Access Partnership (CMAP) YouTube Page:

https://www.youtube.com/channel/UCLj3iW3_dsDzbYqnY1KdCvA.

4. Written Comments & Email Public Comment

Members of the public may submit comments via email by 5:00 PM on the Tuesday prior to the Planning Commission meeting to the Resource Management Agency at sbcplan@cosb.us. Regardless of whether the matter is on the agenda, every effort will be made to provide Planning Commission members with your comments before the agenda item is heard.

Public Comment Guidelines

- The San Benito County Planning Commission welcomes your comments.
- If participating on Zoom, once you are selected you will hear that you have been unmuted: At this time, state your first name, last name, and county you reside in for the record.
- Each individual speaker will be limited to a presentation total of three (3) minutes.
- Please keep your comments, brief, to the point, and do not repeat prior testimony, so that as many people as possible can be heard. Your cooperation is appreciated.

FAILURE TO COMPLY WITH THE ABOVE GUIDELINES:

- 1) The individual will be asked to leave the Board Chamber.**
- 2) The Chair will call a recess of the Planning Commission meeting.**
- 3) If the recess does not result in the individual complying with the above requirements or leaving the meeting, the Planning Commission may close the meeting to the public and resume the meeting exclusively through Zoom and phone-in participation, at any point during the meeting.**

If you have any questions, please contact the Resource Management Agency at 831 637-5313 or at sbcplan@cosb.us.

PLEDGE OF ALLEGIANCE

ROLL CALL

DEPARTMENT ANNOUNCEMENTS

PUBLIC COMMENT

The San Benito County Planning Commission welcomes you to this meeting and encourages your participation.

- If you wish to speak on a matter which does **NOT** appear on the agenda, you may do so during the

Public Comment period at the beginning of the meeting. Please complete a Speaker Card and provide to the Clerk prior to the meeting. Except as otherwise provided by law; no action shall be taken on any item NOT appearing on the Agenda or items that have been continued to a future public hearing date. When addressing the Commission, **please state your name for the record**. Please address the Commission as a whole through the Chair. This open forum period is provided to allow members of the public an opportunity to address the Planning Commission on general issues of land use planning and community development. It is not intended for comments on items on the current agenda, any pending items.

- If you wish to speak on an item contained in the Agenda, please complete a Speaker Card identifying the Item(s) and provide it to the Clerk prior to consideration of the item.
- **Each individual speaker will be limited to a three (3) minute presentation.**

CONSENT AGENDA

ACKNOWLEDGEMENT OF PUBLIC HEARING

ACKNOWLEDGEMENT OF CERTIFICATE OF POSTING

ADOPTION OF ACTION MINUTES

- 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.

2. Acknowledgement of Public Hearing Notice

3. Acknowledgement of Certificate of Posting

4. Draft Meeting Minutes from June 16, 2021

- 5. PLN210026 (2680 Buena Vista Road Wireless Use Permit Renewal):**
OWNER: George H. and Ardyss A. Golden. APPLICANT: John Merritt.
LOCATION: 2680 Buena Vista Road, 2¼ miles west-northwest of Downtown Hollister. APN: 018-220-012. REQUEST: To renew approval of an existing wireless telecommunications facility with no changes to original approved antenna configuration, originally considered under Use Permit 994-08, resulting in a 66-foot false-tree monopole with 12 antennas and associated equipment. GENERAL PLAN LAND USE DESIGNATION: Agriculture (A). ZONING DISTRICT: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Exempt under State CEQA Guidelines Categorical Exemptions Class 1 (§15301, Existing Facilities) and Class 3 (§15303, New Construction or Conversion of Small Structures, as a utility extension). PLANNER: Michael Kelly (mkelly@cosb.us)

REGULAR AGENDA

PUBLIC HEARING

- 6. Amendment to MS 889-90 (Minor Subdivision)** APPLICANT: David Brigantino
OWNER: Christopher and Julie Brigantino, C & J Brigantino Family Trust, D & D Brigantino Family Trust, Demaggio Family Trust APN: 021-170-023, -024, -025, -026, -027, -028, and -029. LOCATION: 2253, 2257, and 2259 Union Road and adjacent properties, between San Justo Reservoir and San Juan Canyon Road, approximately 4 miles southwest of Hollister. REQUEST: To modify the

conditions of approval for Minor Subdivision (MS 889-90A), regarding road improvements that have been completed and accepted by the county. GENERAL PLAN: Agriculture (A). ZONING: Agricultural Rangeland/Open Space (AR/OS). ENVIRONMENTAL EVALUATION: State CEQA Guidelines Section: 15305 (Minor Alterations in Land Use Limitations). PLANNING STAFF: Robin Bolster-Grant (rbolster-grant@cosb.us).

7. PLN210033 Fireclay Variance

OWNER/APPLICANT/CONTACT: Eric Edelson. LOCATION: 521 Quarry Road, Hollister, CA 95004. APN: 011-390-006. REQUEST: Applicant is requesting a variance from Chapter 25, Section 25.17.084, of the County Code in order to allow a reduction in front yard setback requirement. GENERAL PLAN LAND USE DESIGNATION: Industrial Heavy (IH). ZONING DISTRICT: Heavy Industrial (M-2). ENVIRONMENTAL REVIEW: Categorically Exempt under State CEQA Guidelines Section §15305 (a) Minor lot line adjustments, side yard and set back variances not resulting in the creation of any new parcel. PLANNER: Arielle Goodspeed (agoodspeed@cosb.us)

8. PLN210023 Mendez Temporary Use Permit

OWNER/APPLICANT/CONTACT: Jorge Mendez. LOCATION: 7980 Lovers Lane, Hollister, CA. APN: 015-030-030. REQUEST: A temporary use permit to allow live music events that include food and beverages including alcoholic beverages. Events expect to range in 200-400 people once Covid restrictions have been lifted. There will be traffic coordinators and parking attendants. Music will be a mix of live and DJ with amplified sound powered by a generator but adhering to County ordinance sound requirements. There will be a licensed food truck to provide snacks and beverages. Accessory structures include a temporary stage set-up and taken down days of events, 42 folding tables and chairs and porta potties. No physical development is proposed as part of the project. GENERAL PLAN LAND USE DESIGNATION: Agriculture (A). ZONING DISTRICT: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Categorically Exempt under State CEQA Guidelines Section §15301 (Class 1, Existing Facilities), §15304 (Class 4, Minor Alterations to Land). PLANNER: Arielle Goodspeed (agoodspeed@cosb.us)

9. Public Hearing to review and provide recommendation to the Board of Supervisors on proposed amendments to the San Benito County Code allowing retail storefront cannabis businesses to operate on C-1 and C-2 zone districts in unincorporated San Benito County. Proposed amendments include revising section 7.02.030 and section 7.02.050, repealing section 7.02.120, amending the use chart within section 19.43.040, adding subsection 19.43.050 (F) and amending sections 25.17.044 and 25.17.063.

DISCUSSION

COMMISSIONER ANNOUNCEMENTS

ADJOURN

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. 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.

**PROOF OF PUBLICATION
(2015.5 C.C.P.)
STATE OF CALIFORNIA
County of San Benito**

I am a resident of the State of California and over the age of eighteen years, and not a party to or interested in the above entitled matter.

I am the principal clerk of the publisher of the Free Lance, published in the city of Hollister, County of San Benito, State of California, **Friday, and on line** for which said newspaper has been adjudicated a newspaper of general circulation by the **Superior Court of the County of San Benito, State of California, under the date of June 19, 1952, Action Number 5330**, that the notice of which the annexed is a printed copy had been published in each issue thereof and not in any supplement on the following date(s):

July 9, 2021.

I, under penalty of perjury, that the foregoing is true and correct. This declaration has been executed on **July 9, 2021.**

**HOLLISTER FREE LANCE
615 San Benito Street, Suite 210
Hollister, CA 95023**


/s/ Juliana B. Pulcrano /

Legal Publications Specialist
Hollister Free Lance,
Gilroy Dispatch, Morgan Hill Times
Phone # (408) 709 3952
E-mail: jpulcrano@newsvmmedia.com
Website: www.sanbenito.com

**COUNTY OF SAN
BENITO**

**NOTICE OF PUBLIC HEARING
COUNTY OF SAN BENITO
PLANNING COMMISSION
MEETING OF JULY 21, 2021,
at 6:00 p.m.**

NOTICE IS HEREBY GIVEN that the San Benito County 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, JULY 21, 2021, 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 **917 7610 8187** AND Webinar Password 258901.

Agenda Packet can be viewed at <https://www.cosb.us/> or at <https://sanbenito.novusagenda.com/agendapublic/> by the Friday before the meeting.

PLN210033 Fireclay Variance
OWNER/APPLICANT/
CONTACT: Eric Edelson.
LOCATION: 521 Quarry Road,
Hollister, CA 95004. APN:
011-390-006. REQUEST:
Applicant is requesting a
variance from Chapter 25,
Section 25.17.084, of the
County Code in order to allow a
reduction in front yard setback
requirement. GENERAL PLAN
LAND USE DESIGNATION:
Industrial Heavy (IH). ZONING
DISTRICT: Heavy Industrial
(M-2). ENVIRONMENTAL
REVIEW: Categorically Exempt
under State CEQA Guidelines
Section §15305 (a) Minor lot
line adjustments, side yard
and set back variances not
resulting in the creation of any
new parcel.
PLANNER: Arielle Goodspeed
(agoodspeed@cosb.us)

PLN210026 (2680 Buena Vista Road Wireless Use Permit Renewal)

OWNER: George H. and Ardyss A. Golden. APPLICANT: John Merritt. LOCATION: 2680 Buena Vista Road, 2¼ miles west-northwest of Downtown Hollister. APN: 018-220-012. REQUEST: To renew approval of an existing wireless telecommunications facility with no changes to original approved antenna configuration, originally considered under Use Permit 994-08, resulting in a 66-foot false-tree monopole with 12 antennas and associated equipment. GENERAL PLAN LAND USE DESIGNATION: Agriculture (A). ZONING DISTRICT: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Exempt under State CEQA Guidelines Categorical Exemptions Class 1 (§15301, Existing Facilities) and Class 3 (§15303, New Construction or Conversion of Small Structures, as a utility extension). PLANNER: Michael Kelly (mkelly@cosb.us)

Property Acquisition for Additional Assembly of San Benito River Parkway and Regional Park Grounds

OWNER: Lantis & Ward Enterprises, LLC. APPLICANT: County of San Benito. LOCATION: 2100 Cienega Road, near San Benito River westward and downhill from 1850 through 2066 San Benito Street. APN: 020-170-046. REQUEST: Give report as to San Benito County 2035 General Plan conformance for potential future transfer of land property from private ownership to County of San Benito fee-title interest, said property containing 21.11 acres, and said report including recommendation of General Plan land use map amendment from Residential Rural (RR) to Parks (P). GENERAL PLAN DESIGNATION: Residential Rural (RR). ZONING DISTRICT: Rural Residential/Flood Plain/Seismic Safety (RR/FP/SS). ENVIRONMENTAL REVIEW: Exempt per State CEQA Guidelines Categorical Exemptions Class 25 (§15325(f), Transfers of Ownership in Land—acquisition of lands for park purposes). PLANNER: Michael Kelly (mkelly@cosb.us)

Cannabis Ordinance Amendments to Allow Retail Cannabis in C-1 and C-2 Zone Districts

Public Hearing to review and provide recommendation to the Board of Supervisors on proposed amendments to the San Benito County Code allowing retail storefront cannabis businesses to operate on C-1 and C-2 zone districts in unincorporated San Benito County. Proposed amendments include revising section 7.02.030 and section

7.02.050, repealing section 7.02.120, amending the use chart within section 19.43.040, adding subsection 19.43.050 (F) and amending sections 25.17.044 and 25.17.063. ENVIRONMENTAL REVIEW: Exempt per State CEQA Guidelines Section 15061(b)(3). PLANNER: Robin Bolster-Grant (rbolster-grant@cosb.us)

Amendment to MS 889-90 (Minor Subdivision)

APPLICANT: David Brigantino. OWNER: Christopher and Julie Brigantino, C & J Brigantino Family Trust, D & D Brigantino Family Trust, Demaggio Family Trust. APN: 021-190-023, -024, -025, -026, -027, -028, and -029. LOCATION: 2253, 2257, and 2259 Union Road and adjacent properties, between San Justo Reservoir and San Juan Canyon Road, approximately 4 miles southwest of Hollister. REQUEST: To modify the conditions of approval for Minor Subdivision (MS) 889-90A, regarding road improvements that have been completed and accepted by the County and to approve the revised Tentative Map. GENERAL PLAN: Agriculture (A). ZONING: Agricultural Rangeland/Open Space (AR/OS). ENVIRONMENTAL EVALUATION: State CEQA Guidelines Section 15305 (Class 5, Minor Alterations in Land Use Limitations). PLANNER: Robin Bolster-Grant (rbolster-grant@cosb.us)

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 Jennifer Frechette, Clerk of the Board, at jfrechette@cosb.us, or comments can be sent via U.S. mail to: Jennifer Frechette, 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.

Dated: July 2, 2021

PUBLISHED: Friday, July 9, 2021 - Hollister Free Lance (Pub HF 7/9)

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



CERTIFICATE OF AGENDA POSTING

Pursuant to Government Code §59454.2(a), I, Dana Serpa-Ostoja, certify that the **REGULAR AGENDA** for the **SAN BENITO COUNTY PLANNING COMMISSION MEETING** scheduled for July 21, 2021, was posted at the following locations, freely accessible to the public, on this day July 14, 2021:

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

San Benito County website <https://www.cosb.us/> in the Events Calendar and Quicklinks – NOVUS Agenda and Minutes sections of the webpage.

Dana Serpa-Ostoja
Office Assistant II
County of San Benito



SAN BENITO COUNTY AGENDA ITEM TRANSMITTAL FORM

Vice-Chair Robert J Rodriguez II District No. 1	Julio Rodriguez District No. 2	Robert Scagliotti District No. 3	Chair Robert Gibson District No. 4	G.W. Devon Pack District No. 5
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Item Number: 4.

MEETING DATE: 7/21/2021

DEPARTMENT: RESOURCE MANAGEMENT AGENCY

DEPT HEAD/DIRECTOR: M. CHAMBLESS, INTERIM RMA DIRECTOR

AGENDA ITEM PREPARER: Dana Serpa-Ostoja

SBC DEPT FILE NUMBER: 790.2

SUBJECT:

Draft Meeting Minutes from June 16, 2021

AGENDA SECTION:

CONSENT AGENDA

BACKGROUND/SUMMARY:

BUDGETED:

No

SBC BUDGET LINE ITEM NUMBER:

CURRENT FY COST:

STAFF RECOMMENDATION:

ADDITIONAL PERSONNEL: No

ATTACHMENTS:

Description	Upload Date	Type
Draft Meeting Minutes from June 16, 2021	7/14/2021	Minutes



SAN BENITO COUNTY PLANNING COMMISSION

Vice-Chair Robert J Rodriguez II District No. 1	Julio Rodriguez District No. 2	Robert Scagliotti District No. 3	Chair Robert Gibson District No. 4	G.W. Devon Pack District No. 5
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County Administration Building - Board of Supervisors Chambers, 481 Fourth Street, Hollister, California

REGULAR MEETING MINUTES June 16, 2021 6:00 PM

6 P.M. ~ CALL TO ORDER

This meeting was called to order at 6:00 p.m. by Chair Commissioner Robert Gibson. Four Commissioners were present, Chair Robert Gibson, Julio Rodriguez, Robert Scagliotti and G.W. Devon Pack, Vice Chair Robert Rodriguez II was absent. County staff members present included County Counsel Joel Ellinwood, Principal Planner Taven M. Kinison Brown, Senior Planner Arielle Goodspeed, Office Assistant II Dana Serpa-Ostoja, Assistant Director of Building and Planning Robin Bolster-Grant, and RMA Assistant Director Michael Chambless.

- 1. Pursuant to California Governor Gavin Newsom's Executive Order N-29-20 issued on March 17, 2020, relating to the convening of public meetings in response to the COVID-19 pandemic, members of the County Planning Commission are allowed to attend the meeting via teleconference and to participate in the meeting to the same extent as if they were present. The June 16, 2021 Planning Commission meeting can be accessed in the following methods:**
 - 1. Public in person attendance following physical distancing guidelines and using a face coverings; per instructions listed below.**
 - 2. Through Zoom (<https://zoom.us/join>) per the instruction stated below, and other methods as described further below; and**

Webinar ID: 974 0805 3639
Webinar Password: 343209

- 3. Remote live stream on CMAP YouTube channel and the County's Social Media Page. (If available for the meeting).**

**Public Attendance in Person: at the Board of Supervisors Chambers:
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https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID19/Guidance-for-Face-Coverings_06-18-2020.pdf

- B. All attendees must follow physical distancing (6 feet) requirements while in-line and inside the County Administrative Building.**

- C. If you are exempt from the state face covering guidance (above), you must wear a**

face shield which will be provided to attend the meeting. If you cannot, or choose not to, wear a face covering or face shield, you may participate in the meeting by Zoom.

D. All attendees must comply with any other rules of procedure/instructions announced by the Chair.

E. Due to Physical Distancing Requirements, only 10 Audience Chairs are available for the Public. They will be provided on a first-come first serve, basis, except any members of recognized press entities shall be given priority.

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If you have any questions, please contact the Resource Management Agency at 831 637-5313 or at sbcplan@cosb.us.

Dana Serpa-Ostojka, Office Assistant II, provided instructions on how to access the Planning Commission meeting through Zoom and how to make a public comment through Zoom.

PLEDGE OF ALLEGIANCE

Chair Commissioner Robert Gibson led the meeting into the pledge of allegiance.

ROLL CALL

Four Commissioners were present in chambers. Chair Robert Gibson, Julio Rodriquez, Robert Scagliotti and G.W. Devon Pack. Vice Chair Robert Rodriquez II was absent and not in chambers.

DEPARTMENT ANNOUNCEMENTS

Assistant Director of Planning and Building, Robin Bolster-Grant, had two department announcements to make.

First announcement was apologizing for the size of the Planning Commission Packet for the meeting and assured next time a packet was on the larger side there would be dividers to make it easier for the commissioners to navigate.

Second announcement was the resignation of RMA director Benny J. Young, his last day with the county will be June 30, 2021.

PUBLIC COMMENT

No Public Comment on Zoom or Gallery.

CONSENT AGENDA

- 1. ACKNOWLEDGEMENT OF PUBLIC HEARING**
- 2. ACKNOWLEDGEMENT OF CERTIFICATE OF POSTING**

MOTION:

Motion to Consent Agenda: Made by Robert Scagliotti and seconded by G.W. Devon Pack

4 - 0

For (4): Against (0):

Ayes: Gibson, Pack, Rodriguez, Scagliotti

2. ACKNOWLEDGEMENT OF CERTIFICATE OF POSTING

MOTION:

Motion to approve certificate of posting: Made by **Robert Scagliotti** and seconded by **G.W. Devon Pack**

Passed 4 - 0

For (4): Against (0):

Ayes: Gibson, Pack, Rodriguez, Scagliotti

ADOPTION OF ACTION MINUTES

MOTION:

Motion to approve action minutes: Made by **Robert Scagliotti** and seconded by **G.W. Devon Pack**

Passed 4 - 0

For (4): Against (0):

Ayes: Gibson, Pack, Rodriguez, Scagliotti

3. Draft Meeting Minutes from May 19, 2021

MOTION:

Motion to approve May 19, 2021 Draft Meeting Minutes: Made by **Robert Scagliotti** and seconded by **G.W. Devon Pack**

Passed 4 - 0

For (4): Against (0):

Ayes: Gibson, Pack, Rodriguez, Scagliotti

REGULAR AGENDA

4. CIP Program Consistency Determination and Recommendation to the Board of Supervisors

Robin Bolster Grant, Assistant Director of Planning and Building, gave a brief background on CIP and gave the staff recommendation.

Richard Bettencourt, 4140 Southside Rd, was upset that this was first on the agenda and stated it should have been last.

Karen Gumin, Capital Project Manager, summarized the different projects the county is currently working on.

Commissioner G.W. Devon Pack asked about the child support centers location and funding, also he inquired about the New Idria Road Crossing.

Karin Grunin responded that those projects secured funding from state grants and department funding, also she said she did not have the information on her containing the New Idria Road Crossing.

Assistant Director of Planning and Building, Robin Bolster-Grant reminded the Commissioners that we didn't have all the information for specific projects on us at this time and that they were only to make a decision on the proposed resolution in the staff recommendation.

Commissioner Julio Rodriguez asked for the scope of work being done on San Benito Street- Nash to Union with intersection control.

Interim RMA Director, Michael Chambless, answered that it's a design project and the design is not currently done.

Chair Commissioner, Robert Gibson, motioned to adopt resolution No. 2021-03.

Commissioner Robert Scagliotti seconded Chair Robert Gibson's motion.

All Commissioners present approved, resolution passed 4-0.

MOTION:

Motion to adopt resolution: Made by **Robert Gibson** and seconded by **Robert Scagliotti**

Passed 4 - 0

For (4):

Against (0):

Ayes: Gibson, Pack, Rodriguez, Scagliotti

PUBLIC HEARING

5. PLN190056 Kawahara Agricultural Facility Use Permit

OWNER/APPLICANT: Clinton Wu. Contact: Allen Andrade, MH Engineering Co, Morgan Hill CA. LOCATION: 0 Anzar Road, Aromas, CA. APN: 012-030-045. REQUEST: The applicant proposes the development of the proposed Kawahara Agricultural Facility. The project is for a wholesale nursery that does not include onsite retail. The year-round wholesale nursery will grow an assortment of plants including but not limited to annuals, perennials, herbs, vegetables, ground covers, ornamental grasses, hanging baskets, and container garden. The project would include the construction of several buildings and site improvements in support of the agricultural facility project, including a 18,000 square-foot ("sq. ft.") covered shipping/staging area, a 36,000 sq. ft. shipping and handling greenhouse, a 18,000 sq. ft. production greenhouse and a total of 518,400 sq. ft. of growing block greenhouses in three main blocks. Other project improvements would include widening San Juan Highway/Chittenden Road at the project entrance. GENERAL PLAN LAND USE DESIGNATION: Agriculture (A). ZONING DISTRICT: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Initial Study/Mitigated Negative Declaration. PLANNER: Arielle Goodspeed (agoodspeed@cosb.us)

Senior Planner, Arielle Goodspeed, gave a brief introduction of her proposed project The Kawahara Agricultural Facility Use Permit, PLN210056.

The meeting experienced a minor technical difficulty.

Chair Commissioner Gibson proposed and brief ten-minute recess.

Meeting came back to order and Senior Planner Arielle Goodspeed continued to present her project with a PowerPoint presentation.

No public comment via zoom or gallery.

Commissioner G.W Devon Pack asked about the drainage for proposed project.

Senior Planner Arielle Goodspeed explained where the drainage would be going and assured it could not be going into the river.

Commissioner Julio Rodriquez asked if it was too late to do a developmental agreement.

County Counsel Joel Ellinwood let the Commissioners know that a developmental agreement are usually only for longer term projects. The Commission can request one but it is not required.

Commissioner Julio Rodriquez then asked what revenue this project will bring to the county and where will the applicant be buying their equipment and supplies.

Engineer, Allen Andrade, let the commissioner know that his applicant will not commit to buy all their necessary materials from companies in the county just for the county to gain financially, that is not in our county's ordinance. He said his client's company will bring financially forward what other businesses in the county doing the same scope of work bring in.

Commissioner G.W Devon Pack moved to adapt the proposed plan.

Commissioner Robert Scagliotti seconded the motion.

All commissioners present approved, passed 4-0

MOTION:

Motion to approve PLN190056 Kawahara Agricultural Facility Use Permit: Made by G.W. Devon Pack and seconded by Robert Scagliotti

Passed 4 - 0

For (4):

Against (0):

Ayes: Gibson, Pack, Rodriguez, Scagliotti

6. PLN210023 Mendez Temporary Use Permit

OWNER/APPLICANT/CONTACT: Jorge Mendez. LOCATION: 7980 Lovers Lane, Hollister, CA. APN: 015-030-030. REQUEST: A temporary use permit to allow live music events that include food and beverages including alcoholic beverages. Events expect to range in 200-400 people once COVID restrictions have been lifted. There will be traffic coordinators and parking attendants. Music will be a mix of live and DJ with amplified sound powered by a generator but adhering to County ordinance sound requirements. There will be a licensed food truck to provide snacks and beverages. Accessory structures include a temporary stage set-up and taken down days of events, 42 folding tables and chairs and porta potties. No physical development is proposed as part of the project. GENERAL PLAN LAND USE DESIGNATION: Agriculture (A). ZONING DISTRICT: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Categorically Exempt under State CEQA Guidelines Section §15301 (Class 1, Existing Facilities), §15304 (Class 4, Minor Alterations to Land). PLANNER: Arielle Goodspeed (agoodspeed@cosb.us)

Senior Planner Arielle Goodspeed gave a PowerPoint presentation on PLN210023 Mendez Temporary Use Permit. The request of the applicant is to retain a temporary use permit to allow live music events that include food and beverages, including alcoholic beverages. During the presentation Arielle made the Commissioners aware that there were several neighbor concerns. The three main concerns were noise, traffic including parking, and driving under the influence. All concerns were being addressed to accommodate the neighbors.

Mr. Jorge Mendez, property owner and applicant, came to the podium and gave his reassurance that he would make his events safe for the community, and fully comply to the county's recommendations.

Commissioner G.W Devon Peck asked Mr. Mendez about making acoustic walls for the sound concerns and about the traffic concerns because of the big crowds.

Mr. Mendez explained he does have a sound engineer but at this point it is just a temporary project and he wants to see how the neighborhood works out. Traffic concerns he has been working with the fire department as well as code enforcement for best possible traffic solution.

Commissioner Julio Rodriguez brought up his traffic concern about the left turn going into Lovers Lane from Fairview Rd.

Senior Planner Arielle Goodspeed reassured the Commission that there will be traffic control right there and the fire department went to make sure there was proper signage where necessary.

Chair Commissioner Robert Gibson wanted to know about the Decibel levels and if they have been measured.

Senior Planner Arielle Goodspeed commented that county has a machine to measure the decibel and would be using it to measure the projects current level when they have events.

Commissioner Robert Scagliotti asked applicant if he has had any sheriffs called out to the property for fighting or anything like that.

Mr. Mendez responded with a yes and said no one has been arrested for fighting or anything like that.

Carlos Azlone, Lovers Lane neighbor expressed his concern based on previous events that have taken place at the Mendez property noise and traffic were a problem.

Michelle Schroeder, Lovers Lane neighbor expressed her concerns like Carlos Azlone based on previous events held at the Lovers Lane property. The noise and drunk drivers were her main concerns.

Mark Schroeder, Lovers Lane neighbor, let the commission hear a voicemail left by the Sheriff stating that he had just shut down one of Mr. Mendez's concerts for a laser light show and amplified music over 1000 watts. The base is so intense that it vibrates his house, that is a quarter mile away.

Mr. Mendez attested that he has a whole row of trees in-between the light shows and his neighbors and does not see how the light show could be seen by them. He also addressed the Sheriff phone call and said that call had taken place before working with the county and getting the recommendations provided by staff for the temporary use permit.

Chair Robert Gibson asked if Mr. Mendez has measured his decibel levels.

Senior Planner Arielle Goodspeed responded that the county does have the ability to measure decibels and two weeks prior to events applicant must call and set up a time for that to take place. If applicant fails to do so permit will be revoked for not complying.

Mr. Mendez expressed that he is trying to do the proper thing by applying for a use permit, he knows he had events before without permits and he is now handling the consequences by paying off the fines he received. Even if he needs to hire deputy's to be onsite, he does not mind doing that at all. He reminded the commission that it is a temporary permit and it can be revoked at any time if he doesn't follow the recommendations put forth.

Commissioner Julio Rodriguez asked staff about the ramifications if client is denied but continues to have events.

Assistant Director of Planning and Building Robin Bolster-Grant replied by stating the resident would get red tagged sanctioned and fined if he was to violate a code compliance.

Commissioner Devon G.W Pack recommended making amendments to the project. He then stated he would like 1) no hard liquor just beer and wine 2) water tank on site 3) the presences of Sheriffs for security 4) Temporary sound barriers 5) no excessive lighting.

Commissioner Julio Rodriguez asked if the fire concern with the grass and dirt was addressed.

Senior Planner Arielle Goodspeed answered that fire had them do a weed abatement and that they could if needed work with Fire to get additional appropriate storage for water.

Fire Districts Battalion Chief, Charlie Bedolla, gave additional information and confirmation of the fire inspections that were conducted out at the Mendez property via zoom.

Chair Robert Gibson asked why there were mitigation measures.

Senior Planner Arielle Goodspeed said they could go back and include a condition for sound barriers.

Commissioners motioned to table hearing until next PC meeting, July 21,2021.

Item tabled 3-1. Commissioner Scagliotti was the (1) vote that was against item.

MOTION:

Motion to table item for July 21,2021 for further review once the five recommended amendments have been added.:

Made by **G.W. Devon Pack** and seconded by **Julio Rodriguez**

Other 3 - 1

For (3):

Against (1):

Ayes: Gibson, Pack, Rodriguez Nays: Scagliotti

7. Mine ID 91-35-015 Nash Road / Sandman Interim Management Plan (IMP)

OWNER/APPLICANT: Sandman Inc.. Contact: Allen Andrade, MH Engineering Co, Morgan Hill CA. LOCATION: Nash Road Quarry, CA Mine ID No. 91-35-0015 is in the unincorporated San Benito County on eight contiguous parcels north of Nash Road identified as Assessor's Parcel Numbers ("APNs") 021-040-010, 021-050-011, 021-050-012, 021-050-013, 021-050-019, 021-050-025, 020-060-042, and 020-060-043. REQUEST: Sandman, Inc., (Owner/Applicant) is the owner of the Nash Road Quarry (CA Mine ID # 91-35-0015) and is requesting County approval of an Interim Management Plan (IMP) for the Nash Road Quarry site. The Nash Road Quarry has been idle since 1989; and has certain vested rights for surface mining that have been established through legal proceedings, but re-initiation of mining at the site requires additional administrative and environmental review

processes that will not proceed until such time as the Owner submits a complete application for an amendment to the previously approved 1977 Reclamation Plan. The IMP provides sufficient explanation of existing site conditions and site maintenance activities to be undertaken for the five-year period of IMP applicability. No surface mining or other activities not specifically prescribed in the IMP are permitted by the IMP. The IMP complies with applicable SMARA requirements. GENERAL PLAN LAND USE DESIGNATION: Agriculture (A), Residential Rural (RR) and Residential Mixed (RM). ZONING DISTRICT: Rural Residential (RR), Agricultural Productive (AP), and Heavy Industrial (M-2). ENVIRONMENTAL REVIEW: SMARA section 2770(h)(1) specifies that, "review and approval of an interim management plan shall not be considered a project for purposes of the California Environmental Quality Act" (CEQA), and, thus County's approval of the proposed IMP is statutorily exempt from environmental review under CEQA. PLANNER: Arielle Goodspeed and Contract Benchmark Resources Bob Delp / Presenter: Bob Delp with Benchmark Resources (agoodspeed@cosb.us)

Arielle Goodspeed, Senior Planner, presented Bob Delps PowerPoint slide presentation and the Staff Recommendation since zooms microphone was not working and he could not be heard.

Engineer Allen Andrade stated that condition 14 was provided too late being 4:00pm the date of the meeting. He feels it was inappropriate the time it was provided for him to even consider it appropriately. He proposed for the Commission to remove condition 14 for the inappropriate time it was presented to him.

Commissioner G.W Devon Pack asked Allen Andrade about the current security taking place at the Quarry.

Engineer Allen Andrade answered that the sheriffs are the security when there's a issue. All other measures such as signing and fences get taking down after putting up, there is a trailer as a residence on the property for when there are security issues the owners know about them.

Public Comment via zoom.

Ms. Vanderpool, Nash Road resident, agrees with the owners that it is impossible to keep trespassers out. She is disappointed that the city has not done more as far as security is concerned.

Public Comment in Gallery.

Alfred Valenzuela, owner of Valenzuela Camp, his concern is the contaminated water and what the mining will do to it next. Mr. Valenzuela also is concerned about the wild life in the area if there is mining taking place.

Richard Bettencourt, spoke of growing up with Sandman Quarry and all it did was cost the county money. He does though want to help the owner open the right way.

Deleta Jones, Nash Road resident, spoke of all the homeless and the problems on going in the river, also if it does re open she is concerned on the safety of the children walking to school using Nash Road.

Engineer Allen Andrade reiterated that the mine is not re opening at this time, it is just so the owners can do routine maintenance while the mine is idle.

Commissioner G.W Devon Pack asked about a likely timeline of when they will be submitting a new reclamation plan.

Engineer Allen Andrade said they have applied every year and have been deemed incomplete so giving a time estimate it would be totally inappropriate.

Senior Planner Arielle Goodspeed stated there could be some language mitigation to condition 14.

Approved resolution as has been amended. 4-0

MOTION:

Motion to approve Resolution as has been amended:

Made by G.W. Devon Pack and seconded by Robert Scagliotti

Passed 4 - 0

For (4):

Against (0):

Ayes: Gibson, Pack, Rodriguez, Scagliotti

DISCUSSION

8. Preliminary discussion regarding amending the San Benito County Code to allow Retail Cannabis Businesses

Assistant Director of Planning and Building Robin Bolster-Grant presented a PowerPoint presentation on amending the San Benito County Code to allow retail cannabis businesses.

No public comment via zoom or in gallery.

Chair Robert Scagliotti asked what will the Agricultural Commissioner's role in this ordinance be, and if the Agricultural Commissioners roll is eliminated will it speed up the process.

Assistant Director of Planning and Building Robin Bolster-Grant explained the current code involving the Ag Commissioners role and that the application process is a different ordinance.

Commissioner G.W Devon Pack wanted to know about the other counties cannabis businesses codes.

Assistant Director of Planning and Building Robin Bolster-Grant explained every county is different and most of her experience is in Santa Cruz and she has not done a comprehensive comparison to other counties yet.

In conclusion the Planning Commission decided there should be no limit in the number of storefronts or use buffers/setbacks, signage size limit being 50 square feet and maintain consistency with existing cannabis regulations currently applied toward non-retail. The level of review required is a conditional use permit, keep zoning districts to C-1 and C-2.

COMMISSIONER ANNOUNCEMENTS

Chair Commissioner Robert Gibson asked if next meeting the other commissioners would comment on their virtual conference since he could not participate.

Commissioner Robert Scagliotti asked for his packet earlier.

Assistant Director of Planning and Building Robin Bolster-Grant said we always shoot for the Thursday, we will try harder to meet that deadline.

ADJOURN

Chair Commissioner Robert Gibson adjourned the meeting at 9:37pm.



SAN BENITO COUNTY AGENDA ITEM TRANSMITTAL FORM

Vice-Chair Robert J Rodriguez II District No. 1	Julio Rodriguez District No. 2	Robert Scagliotti District No. 3	Chair Robert Gibson District No. 4	G.W. Devon Pack District No. 5
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Item Number: 5.

MEETING DATE: 7/21/2021

DEPARTMENT: RESOURCE MANAGEMENT AGENCY

DEPT HEAD/DIRECTOR: Michael Chambless, Interim RMA Director

AGENDA ITEM PREPARER: Michael Kelly

SBC DEPT FILE NUMBER: 790

SUBJECT:

PLN210026 (2680 Buena Vista Road Wireless Use Permit Renewal): OWNER: George H. and Ardyss A. Golden. APPLICANT: John Merritt. LOCATION: 2680 Buena Vista Road, 2¼ miles west-northwest of Downtown Hollister. APN: 018-220-012. REQUEST: To renew approval of an existing wireless telecommunications facility with no changes to original approved antenna configuration, originally considered under Use Permit 994-08, resulting in a 66-foot false-tree monopole with 12 antennas and associated equipment. GENERAL PLAN LAND USE DESIGNATION: Agriculture (A). ZONING DISTRICT: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Exempt under State CEQA Guidelines Categorical Exemptions Class 1 (§15301, Existing Facilities) and Class 3 (§15303, New Construction or Conversion of Small Structures, as a utility extension). PLANNER: Michael Kelly (mkelly@cosb.us)

AGENDA SECTION:

CONSENT AGENDA

BACKGROUND/SUMMARY:

Project. The project would renew the prior approval of a wireless telecommunications facility at

2680 Buena Vista Road. No changes are proposed to the original antenna configuration as approved under Use Permit 994-08 and as subsequently modified within the permit's terms.

In 2008 approval was granted for a 70-foot monopole with three sectors of four antennas each, or 12 antennas, plus ground-level power equipment. Also included were a diesel-powered backup generator and an equipment shelter. The facility was to be located within a 2,500-square-foot lease area enclosed by chain-link fencing. A 15-foot easement for electricity, communications wiring, and access were also proposed. Upon approval, the proposal was found to comply with County Code Chapter 7.11, governing wireless telecommunications facilities. The construction that followed resulted in the same except that the tower was built in a false-tree style at 66 feet in height.

The applicant has submitted a site plan showing that no changes to the site are currently proposed. The existing equipment would remain as it has since initial construction (building permit 2008-314), except that the antennas affixed to the structure were replaced in 2014 under a building permit (2014-128). The applicant has also submitted a radio frequency emissions compliance report dated October 2020 (enclosed). The report states that the facility operates under the maximum permissible exposure to electromagnetic field (EMF) radiation, in compliance with federal standards for the facility's range of operating frequencies.

Both the original use permit and the Wireless Communications Facilities Standards (County Code Chapter 7.11) include requirements that the use permit be renewed. Approval of the present request would satisfy those requirements.

Site. The tower site is on a five-acre property under Agricultural Productive (AP) zoning. The property is primarily residential. One quarter-mile west of the site is the intersection of Buena Vista Road and State Route 156, with Wright Road also meeting Buena Vista Road near that intersection. Surrounding parcels, also zoned AP, are used for residential and agricultural purposes, though the immediately adjacent parcel at 2790 Buena Vista Road is used for business involving farm supplies and equipment.

Planning and zoning. Under the County General Plan Land Use Element, the site is designated as Agriculture (A), which is intended for "productive lands of various types, including crop land, vineyards, and grazing lands" and "allows agricultural support uses, such as processing, wineries, and other necessary public utility and safety facilities and one principal residential dwelling unit per lot." The site's zoning district of Agricultural Productive (AP) allows telecommunications facilities with the approval of a conditional use permit.

Wireless facilities are governed by County Code Chapter 7.11, which is intended "to provide ... for the orderly development, operation and maintenance of wireless telecommunications facilities" and "to provide the community with the benefits of this technology without unduly restricting service providers" in accordance with "promot[ing] public health, safety and welfare and the aesthetic quality of the county." County Code §7.11.016 provides standards for freestanding monopoles and similar structures. New facilities are generally required to be located at least 1,500 feet from schools and 500 feet from residential areas; this project site complies with that standard, as residences in the vicinity all stand beyond 500 feet from the tower.

The County General Plan also gives policy on wireless telecommunications. General Plan Policy ED-3.4 encourages wireless facilities for economic development purposes. Public Facilities and Services Element Goal PFS-9 envisions that the County will "facilitate the orderly and appropriate

development and expansion of telecommunications facilities” and gives policies for encouraging these services and for discretion on proposals to add new facilities. Among the policies associated with the goal, Policy PFS-9.1 “support[s] the development and expansion of telecommunication facilities and services to facilitate the use of the best available technology for businesses, households, and government.” This tower permit renewal would satisfy these intentions of extending telecommunications services to the public for economic development and other functional benefits.

Environmental evaluation. The proposed project can be considered exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Categorical Exemptions Class 1 (§15301, Existing Facilities), as the use permit renewal would allow “operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures [and] facilities ... involving negligible or no expansion of existing or former use.” The project is also eligible for Class 3 of Categorical Exemptions (California Code of Regulations §15303, New Construction or Conversion of Small Structures). This class exempts utility extensions such as the wireless telecommunications provided by the current facility proposed for renewal. A finding to this effect can be found in the draft resolution.

BUDGETED:

SBC BUDGET LINE ITEM NUMBER:

CURRENT FY COST:

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission adopt the attached resolution for approval of PLN210026 subject to the findings and conditions of approval included within the resolution.

ADDITIONAL PERSONNEL:

ATTACHMENTS:

Description	Upload Date	Type
Planning Commission Resolution 2021-__ (draft)	7/14/2021	Resolution
Use Permit 994-08 Original Approval by Planning Commission, August 20, 2008	7/14/2021	Backup Material
Vicinity Map	7/14/2021	Map
Radio Frequency Emissions Compliance Report, October 2020, indicating standards compliance	7/14/2021	Backup Material

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

RESOLUTION 2021-___

A RESOLUTION OF THE SAN BENITO COUNTY PLANNING COMMISSION APPROVING COUNTY PLANNING FILE **PLN210026**, A RENEWAL OF USE PERMIT 994-08 APPROVAL OF A WIRELESS TELECOMMUNICATIONS FACILITY.

WHEREAS, the subject property, 2680 Buena Vista Road (Assessor's Parcel 018-220-012), is located in unincorporated San Benito County, California, 2¼ miles west-northwest of Downtown Hollister, and contains five acres with two residences; and

WHEREAS, John Merritt filed the use permit application PLN210026 on May 7, 2021, to renew the prior approval granted under Use Permit (UP) 994-08 and continue operation of the existing wireless telecommunications facility composed of a 66-foot-tall tower on a 2,500-square-foot lease area (**as illustrated in Exhibit B to this resolution**); and

WHEREAS, the Planning Commission approved UP 994-08 on August 20, 2008, with conditions of approval including periodic renewal; and

WHEREAS, the said property currently has a General Plan land use designation of Agriculture (A) and a zoning designation of Agricultural Productive (AP); and

WHEREAS, the Planning Commission of the County of San Benito reviewed the use permit at its regularly scheduled meeting held on July 21, 2021; and

WHEREAS, the Planning Commission of the County of San Benito reviewed all information presented to them by County staff and the public; and

WHEREAS, the Planning Commission finds the layout and intensity of the activity proposed under the use permit consistent with the Agriculture (A) land use designation currently in effect for the property under the General Plan Land Use Element; and

WHEREAS, the project assists economic development per County General Plan Policy ED-3.4, facilitates the use of telecommunications technology for the public per Policy PFS-9.1, allows co-location by multiple carriers per Policy PFS-9.6, and extends or boosts rural broadband per Policy PFS-9.10; and

WHEREAS, the Planning Commission of the County of San Benito, in its independent judgment, regards the proposed activity as qualifying for an exemption from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Class 1 (California Code of Regulations §15301, Existing Facilities) and Class 3 of Categorical Exemptions (California Code of Regulations §15303, New Construction or Conversion of Small Structures), provided compliance with conditions of approval; 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 follows:

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 Guidelines Categorical Exemptions Class 1 (California Code of Regulations §15301, Existing Facilities) and Class 3 (California Code of Regulations §15303, New Construction or Conversion of Small Structures).

Evidence: *The use permit renewal would allow “operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures [and] facilities ... involving negligible or no expansion of existing or former use” in accordance with Class 1 of Categorical Exemptions. The wireless facility is not proposed for changes beyond this level.*

*Class 3 of Categorical Exemptions considers “[w]ater main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction” to have an insignificant effect on the environment. The wireless facility would continue to serve this function as a result of use permit renewal. The tower site is located 900 feet from State Route 156, which is not designated as a scenic highway at the local or State level, although it is eligible for State status. In both *Aptos Residents Association v. County of Santa Cruz* and *Don’t Cell Our Parks v. City of San Diego*, the use of categorical exemption §15303(d) was sustained by the court for cell towers as the projects did not pose cumulative impacts, and unusual circumstances did not apply. The proposed use would not exceed the limits stated in State CEQA Guidelines §15303 nor qualify for State CEQA Guidelines §15300.2’s exceptions to Categorical Exemptions. No hazardous waste site listed according to State Government Code §65962.5 (the Cortese List) is currently located within San Benito County. Conditions of project approval, including those of UP 994-08 referenced in Exhibit A, would minimize the degree of effect on the environment.*

Use Permit Findings

Finding: The proposed use is properly located in relation to the general plan and to the community as a whole and to other land uses, transportation and service facilities in the vicinity.

Evidence: *The General Plan Land Use Element designates the site Agriculture (A), intended to “maintain the productivity of agricultural land” while at the same time “allow[ing] agricultural support uses, such as ... necessary public utility and safety facilities.”*

General Plan Goal PFS-9 instructs that the County “facilitate the orderly and appropriate development and expansion of telecommunications facilities,” and General Plan policies associated with the goal further support the presence of these facilities. In addition, the site’s General Plan Land Use Element designation of Agriculture (A) “allows agricultural support uses,” of which this telecommunications facility can be considered for its service to the residents and agriculturalists of the surrounding area. The site is zoned Agricultural Productive (AP); San Benito County Code §25.07.022 allows (by reference to §25.07.005) “[m]icrowave, radio and television transmission and/or relay structures” in an AP zone with a conditional use permit. The use would continue to provide wireless telephone and broadband internet service, serving area residents and industry including agriculture. County General Plan Policy PFS-10 supports expansion of rural broadband access that this facility offers, and the tower’s potential for co-location under future permits satisfies General Plan Policy PFS-9.6.

The proposed use does not generate substantial traffic affecting transportation systems in the vicinity beyond maintenance personnel. The project would allow existing use in the area to continue as before.

Finding: The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard or nuisance to persons or property.

Evidence: *The use has been present on the property since 2008. The facility’s location satisfies the requirement for 1,500 feet of setback from schools, and 500 feet of setback would remain from all existing residences. The agricultural setting is low in residential density, with seven residences located within a quarter-mile of the tower site. Although located among agricultural lands and sufficiently set back from*

residences according to County Code, the tower site is in a relatively built area with comparatively small properties. These include residences and other buildings clustered toward Buena Vista and Wright Roads, with these sites adorned with mature trees. Neighboring the tower are numerous additional trees screening the adjacent property, the site of a commercial farm supply business. These trees in the tower site's environment obscure and soften views of the facility. County departments and responsible agencies have reviewed the current application and also reviewed the original UP 994-08 application; these reviewed resulted in 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 present use as approved by the County shall require further permit review.

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 A to this resolution**.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 21ST DAY OF JULY 2021 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair
San Benito County Planning Commission

ATTEST:

Robin M. Bolster-Grant, Assistant Director, Planning and Building
Resource Management Agency of San Benito County

Exhibit A to Resolution

Conditions of Approval

Planning:

1. **Use Permit 994-08:** The applicant and owner shall maintain compliance with the conditions of approval of Use Permit 994-08, the use permit approved on August 20, 2008, for the wireless communications facility at 2680 Buena Vista Road, with the exception of condition 10, regarding use permit renewal.
2. **Use Permit Renewal:** In accordance with San Benito County Code §7.11.004(J), renewal of the use permit shall be required every five years. The Planning Director may issue an administrative approval for this renewal.
3. **Compliance Documentation:** Prior to any approved use permit activity, 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]
4. **Agreement with All Conditions of Approval:** Prior to or upon approval 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: _____

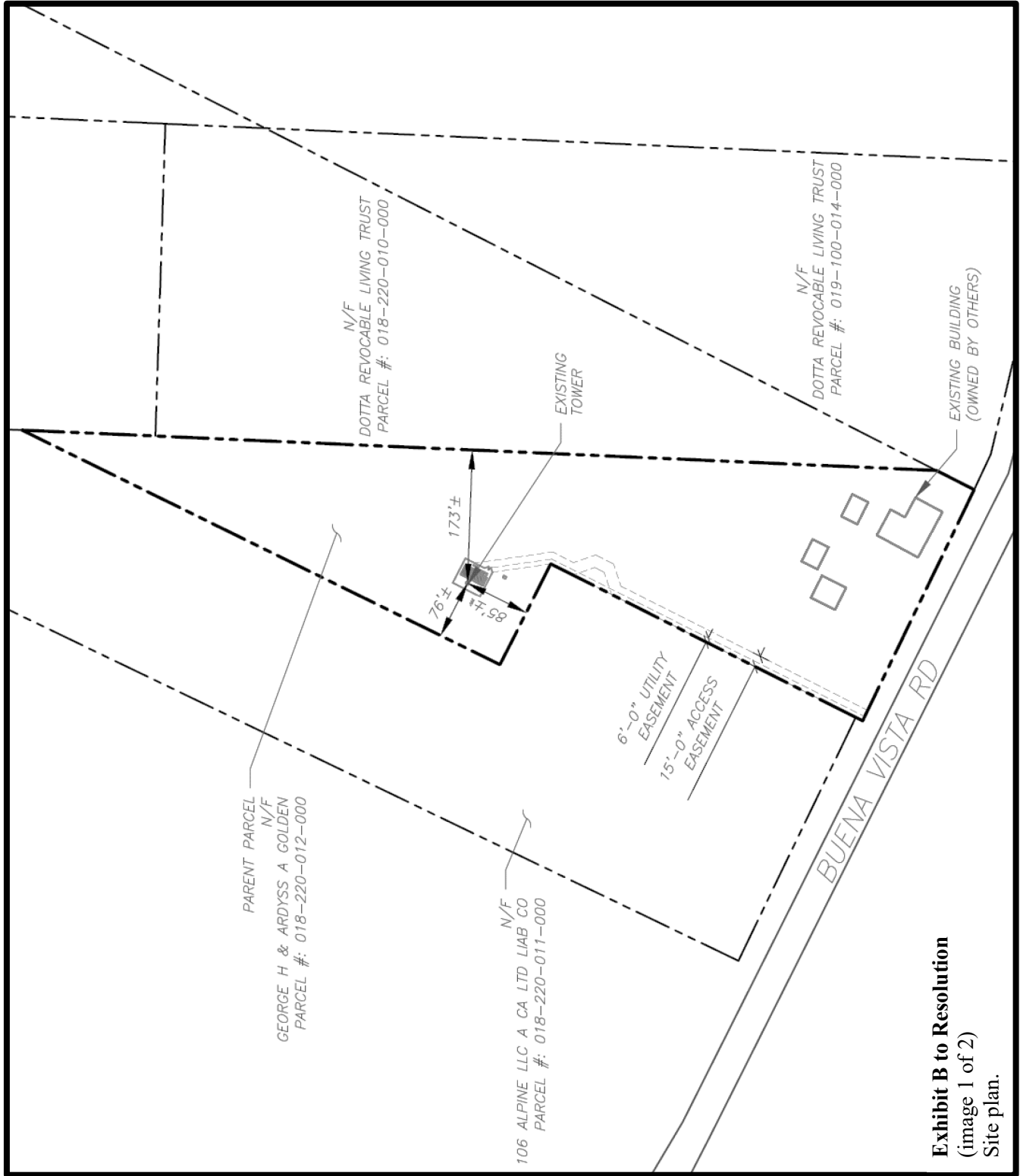
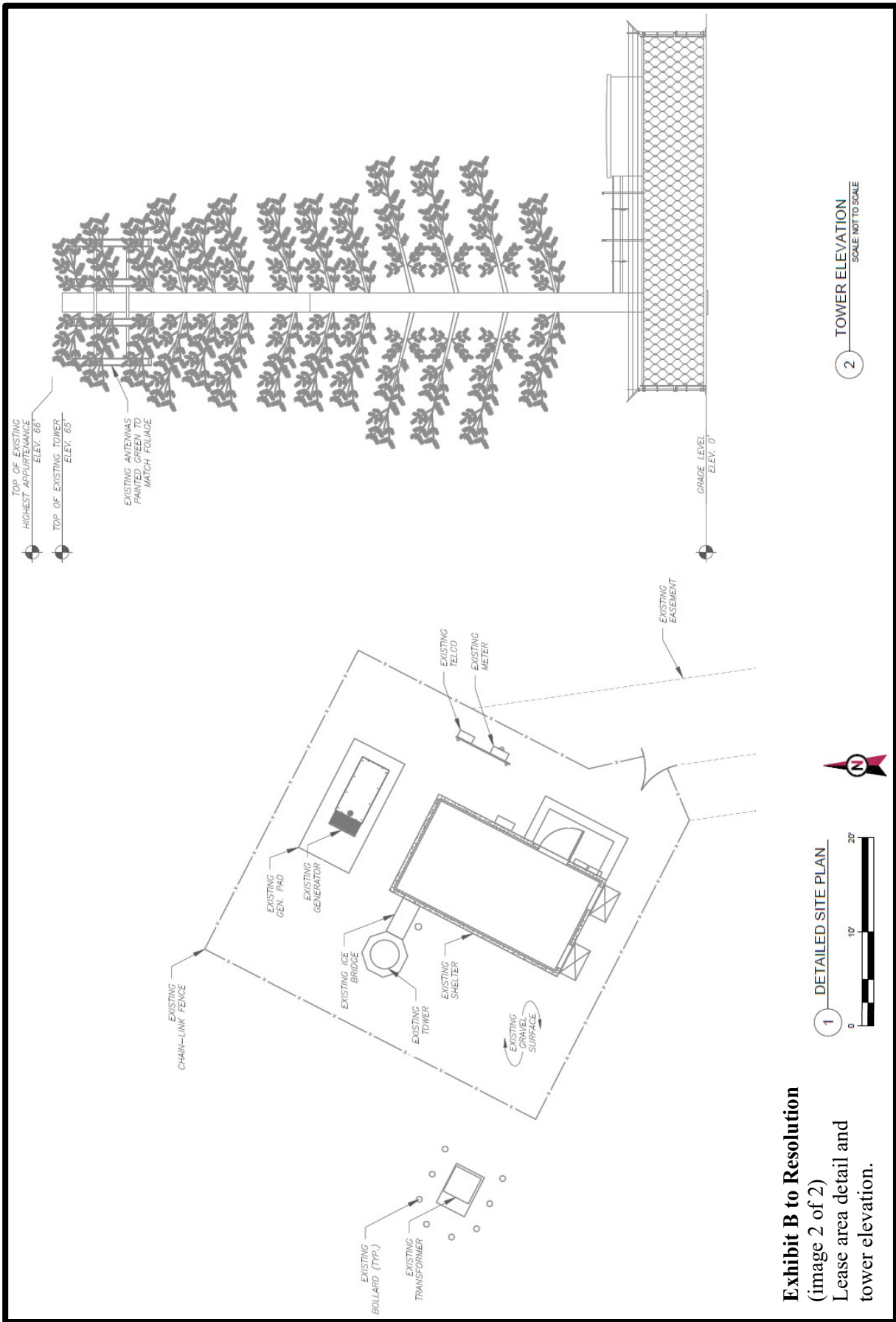


Exhibit B to Resolution
(image 1 of 2)
Site plan.





COUNTY OF SAN BENITO
PLANNING & BUILDING INSPECTION SERVICES

3224 Southside Road
Hollister, CA 95023
e-mail: sbcplan@planning.co.san-benito.ca.us

Phone: 831-637-5313
Fax: 831-637-5334

NOTICE OF DECISION

Application:	Use Permit 994-08
Date of Hearing:	August 20, 2008
Applicant/Owner:	Verizon Wireless/George & Ardyss Golden
Location:	2680 Buena Vista Road, Hollister
APN:	018-22-0-012-0
Zoning:	Agricultural Productive (AP)
Project Planner:	Ann Dolmage

APPROVED BY THE PLANNING COMMISSION THIS 20th DAY OF AUGUST, 2008,
WITH THE FOLLOWING CONDITIONS OF APPROVAL.

IMPORTANT NOTICE: Attention is called to the provisions of Section 51, Ordinance No. 479 which reads in part: "Any person aggrieved by any decision of the Planning Commission made under the provisions of this Ordinance may, within ten days from the date of such decision, appeal to the Board of Supervisors by written notice of appeal filed in duplicate with the County Clerk, etc." Appeal forms can be obtained from the County Clerk's Office, County Courthouse, Hollister.

REQUIRED FINDINGS:

Finding 1: That the proposed use is properly located in relation to the General Plan, and the community as a whole and to other land uses, transportation, and service facilities in the vicinity.
Evidence: *The General Plan Land Use Element of the property is Agricultural Productive (AP). The San Benito County Zoning Ordinance allows for "Radio, television, microwave and other transmitters..." in an AP zone with a Conditional Use Permit (San Benito County Code, Zoning Ord. §18-164(m)). The wireless telecommunications facility will not impact transportation systems or service facilities in the vicinity.*

Finding 2: That the proposed use, if it complies with the conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard, or nuisance to persons or property.
Evidence: *The proposed facility will be located at least 500 feet from all residences in the area, including the residence on the subject parcel, and 1,500 feet from all schools, as required in Section 34.5(a) of the San Benito County Code. Conditions of Approval #5, 6, and 14 require measures to reduce the visual impact of the facility, while #7 requires measures to reduce light output; therefore, the facility will not adversely affect other properties or cause damage, hazard or nuisance to persons or property.*

CONDITIONS OF APPROVAL:

1. **Hold Harmless:**

Upon written notice by the County, the applicant shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul the approval of the use permit and applicable proceedings. [PLANNING]

2. **Compliance Documentation:**

Prior to issuance of a building permit, the applicant shall submit a summary response to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [PLANNING, BUILDING]

3. **Conformity with Plan:**

The development and use of the site shall conform substantially with the proposed site plan and the Conditions of Approval as declared by the Planning Commission. [PLANNING]

4. **Improvement Plans:** Prior to issuance of a building permit, the applicant shall submit building and improvement plans to the County Building Department for approval. [BUILDING]

5. **Exterior Color:** Any color applied to the exterior of the equipment shelter or generator shall be non-reflective. The exterior appearance of the equipment cabinets shall be maintained at all times. [PLANNING, BUILDING]

6. **Lighting:** Any exterior equipment lighting shall be installed with a manual on/off switch and shall only be lighted while maintenance personnel are working at the site. Exterior lights shall be shielded to direct light downward. [PLANNING, BUILDING]

7. **Visual Screening:** The applicant shall screen the facility to minimize the visual impact of the equipment cabinet and generator, either by installing landscaping around the proposed chain link fence, or by selecting a fencing type that is more opaque than chain link. If the applicant chooses to install landscaping, a landscaping plan shall be provided to the Planning Department before issuance of a building permit. Any introduced vegetation shall be native, drought-tolerant species and shall be visually compatible with existing vegetation in the vicinity. [PLANNING, BUILDING]

8. **Fire:** The project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, the Uniform Building Code, the San Benito County Code, and other related codes as they apply to a project of this type and size. [FIRE]

9. **Equipment Removal:** Applicant shall remove the equipment and equipment shelter no later than six (6) months after operation of the communication facility ceases. [PLANNING]

10. **Renewal:** Renewal of the Use Permit shall be required every 10 years from the date of approval. [PLANNING]

11. **County Right of Way:** Pursuant to 14-3 of the San Benito County Code, prior to commencement of any improvements associated with this project, the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County right-of-way. [PUBLIC WORKS]

12. **Driveway Approach:** The driveway approach shall meet County standards for residential driveways. These standards are available as a handout that will be part of the required Encroachment Permit. [PUBLIC WORKS]

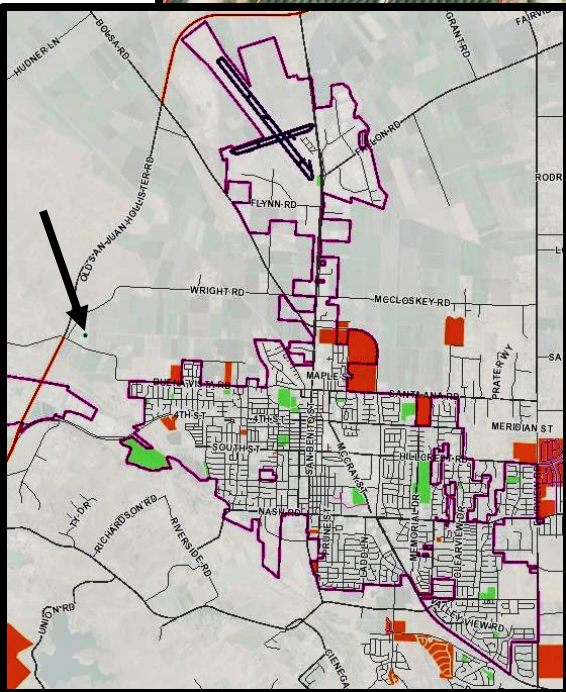
13. **Hazardous Materials:** The applicant shall complete a Hazardous Materials Business Plan form and submit it to Environmental Health. [ENVIRONMENTAL HEALTH]
14. **Visual Impact of Tower:** The applicant shall incorporate stealth techniques to camouflage the tower as a tree without extending its height past 70 feet. The stealth design shall be approved by Planning Staff. [PLANNING]

Sincerely,



Ann Dolmage
Assistant Planner
San Benito County

cc: Katie Belmonte, Complete Wireless Consulting
George & Ardyss Golden



Tower site within 2680 Buena Vista Road.



**Lawrence Behr
Associates** INC
www.lbagroup.com

NIER Study Report

SITE NAME:

415989 West Hollister - candidate D CA

LOCATION:

Hollister, California

COMPANY:

**American Tower Corporation
Woburn, Massachusetts**

October 12th, 2020

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DISCLAIMER NOTICE

This work is based upon our best interpretation of available information. However, these data and their interpretation are constantly changing. Therefore, we do not warrant that any undertaking based on this report will be successful, or that others will not require further research or actions in support of this proposal or future undertaking. In the event of errors, our liability is strictly limited to replacement of this document with a corrected one. Liability for consequential damages is specifically disclaimed. Any use of this document constitutes an agreement to hold Lawrence Behr Associates, Inc. and its employees harmless and indemnify it for any and all liability, claims, demands, and litigation expenses and attorney's fees arising out of such use.

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LAWRENCE BEHR ASSOCIATES, INC.
GREENVILLE, NORTH CAROLINA

NIER STUDY REPORT
415989 West Hollister - candidate D CA
Hollister, California

INTRODUCTION

Lawrence Behr Associates, Inc. (LBA) has been retained by American Tower Corporation (ATC) of Woburn, Massachusetts to evaluate the RF emissions of an existing tower at this location.

SITE AND FACILITY CONSIDERATIONS

Site 415989 West Hollister - candidate D CA is located at 2680 Buena Vista Road in Hollister, California at coordinates 36.86408, -121.44035. The support structure is a 66' monopole. The installation consists of one antenna level with a radiation center of 61' above ground level. All antennae will have a radiation center as described above. There are no transmit antennae on this tower. All data used in this study was provided by one or more of the following sources:

1. ATC furnished data
2. Compiled from carrier and manufacturer standard configurations
3. Empirical data collected by LBA

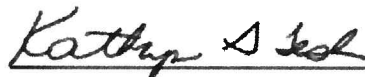
A topographic map of the study area is located in Appendix 1. A satellite view of the study area is located in Appendix 2.

The load list may be seen in Appendix 3.

POWER DENSITY CALCULATIONS

Graphs of the power density at different distances from the transmitter, compared to FCC MPE general population and occupational limits, may be seen in Appendix 4. These limits are based upon the Information Relating to MPE Standards found in Appendix 6. Study methodology may be seen in Appendix 7, which describes the Non-Ionizing Radiation Prediction Models. Approximate radiation patterns may be found in Appendix 5. This site **IS** in compliance with FCC OET-65 MPE limits.

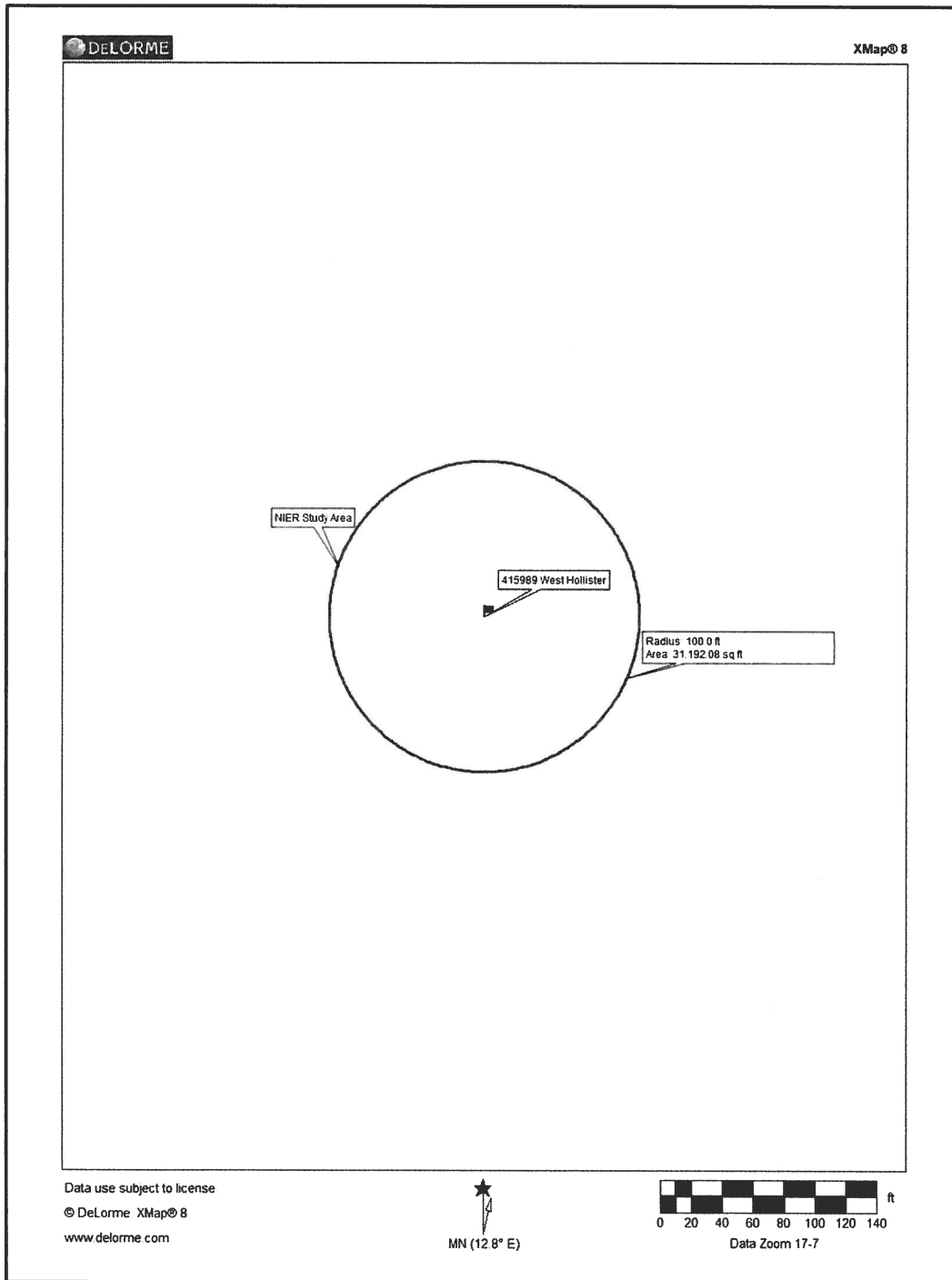
October 12th, 2020



Kathryn G. Tesh
Wireless Services Manager

APPENDIX 1

Topographic Map



APPENDIX 2

Satellite Photo



APPENDIX 3

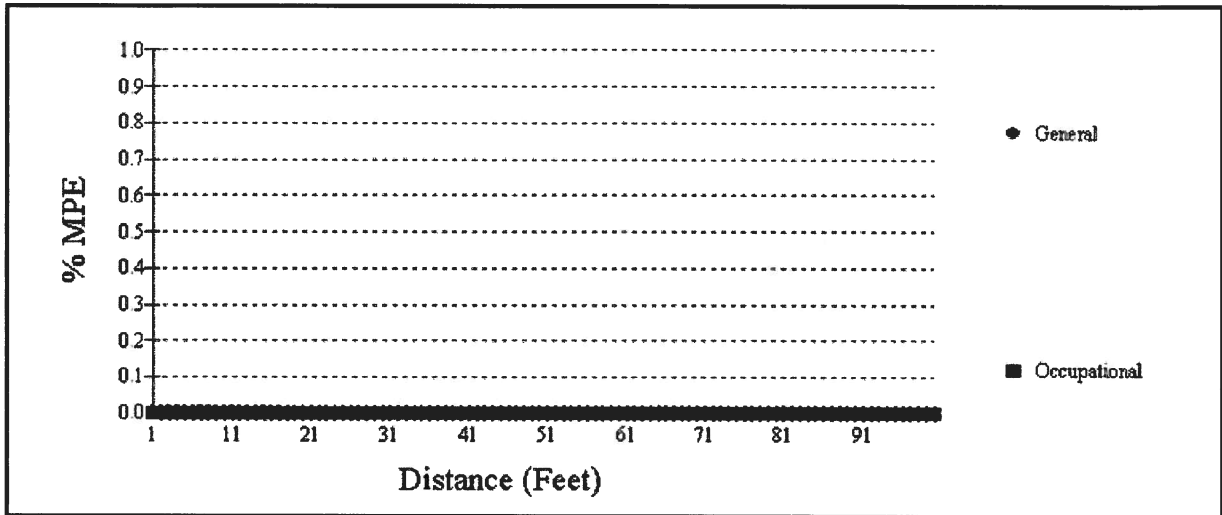
Load List

Proposed	Customer	RAD Height (ft)	Equipment Quantity	Equipment Type	Manufacturer	Model Number	Line Quantity	Line size	Mount Type	Azimuths	TX Power	ERP	TX Frequency	RX Frequency
No	VERIZON WIRELESS	61	6	PANEL	Generic	96" x 14" Panel	12	7/8" Coax	T-Arm	60/180/240				
No	VERIZON WIRELESS	61	3	PANEL	Generic	96" x 12" x 7" Panel			T-Arm	60/180/240				
No	VERIZON WIRELESS	61	3	PANEL	Generic	96" x 6" Panel	6	7/8" Coax	T-Arm	60/180/240				



APPENDIX 4

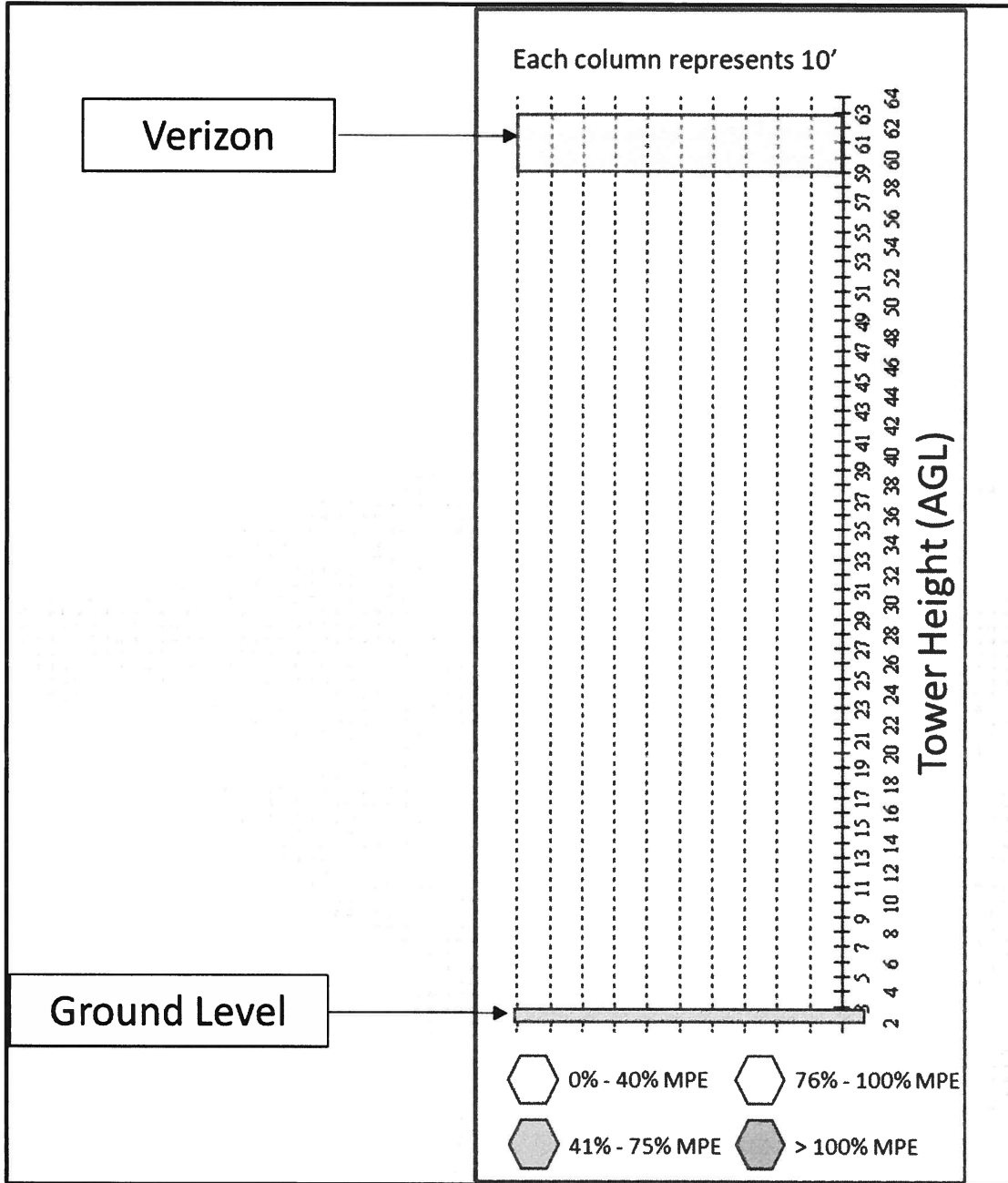
FCC OET-65 MPE Limit Study



General Population MPE (@1'):	0.00%
Occupational MPE (@1'):	0.00%
Maximum Power Density (@1'):	0.0000 mW/cm ²

APPENDIX 5

Tower Radiation Patterns



APPENDIX 6

Information Pertaining to MPE Studies

In 1985, the FCC first adopted guidelines to be used for evaluating human exposure to RF emissions. The FCC revised and updated these guidelines on August 1, 1996, as a result of a rule-making proceeding initiated in 1993. The new guidelines incorporate limits for Maximum Permissible Exposure (MPE) in terms of electric and magnetic field strength and power density for transmitters operating at frequencies between 300 kHz and 100 GHz.

The FCC's MPE limits are based on exposure limits recommended by the National Council on Radiation Protection and Measurements (NCRP) and, over a wide range of frequencies, the exposure limits were developed by the Institute of Electrical and Electronics Engineers, Inc., (IEEE) and adopted by the American National Standards Institute (ANSI) to replace the 1982 ANSI guidelines. Limits for localized absorption are based on recommendations of both ANSI/IEEE and NCRP.

The FCC's limits, and the NCRP and ANSI/IEEE limits on which they are based, are derived from exposure criteria quantified in terms of specific absorption rate (SAR). The basis for these limits is a whole-body averaged SAR threshold level of 4 watts per kilogram (4 W/kg), as averaged over the entire mass of the body, above which expert organizations have determined that potentially hazardous exposures may occur. The MPE limits are derived by incorporating safety factors that lead, in some cases, to limits that are more conservative than the limits originally adopted by the FCC in 1985. Where more conservative limits exist, they do not arise from a fundamental change in the RF safety criteria for whole-body averaged SAR, but from a precautionary desire to protect subgroups of the general population who, potentially, may be more at risk.

The FCC exposure limits are also based on data showing that the human body absorbs RF energy at some frequencies more efficiently than at others. The most restrictive limits occur in the frequency range of 30-300 MHz where whole-body absorption of RF energy by human beings is most efficient. At other frequencies, whole-body absorption is less efficient, and consequently, the MPE limits are less restrictive.

MPE limits are defined in terms of power density (units of milliwatts per centimeter squared: mW/cm^2), electric field strength (units of volts per meter: V/m) and magnetic field strength (units of amperes per meter: A/m). The far-field of a transmitting antenna is where the electric field vector (E), the



magnetic field vector (H), and the direction of propagation can be considered to be all mutually orthogonal ("plane-wave" conditions).

Occupational/controlled exposure limits apply to situations in which persons are exposed as a consequence of their employment and in which those persons who are exposed have been made fully aware of the potential for exposure and can exercise control over their exposure. Occupational/controlled exposure limits also apply where exposure is of a transient nature as a result of incidental passage through a location where exposure levels may be above general population/uncontrolled limits (see below), as long as the exposed person has been made fully aware of the potential for exposure and can exercise control over his or her exposure by leaving the area or by some other appropriate means.

General population/uncontrolled exposure limits apply to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their employment may not be made fully aware of the potential for exposure or cannot exercise control over their exposure. Therefore, members of the general public would always be considered under this category when exposure is not employment-related, for example, in the case of a telecommunications tower that exposes persons in a nearby residential area. Additional details can be found in FCC OET 65.



APPENDIX 7

MPE Standards Methodology

This study predicts RF field strength and power density levels that emanate from communications system antennae. It considers all transmitter power levels (less filter and line losses) delivered to each active transmitting antenna at the communications site. Calculations are performed to determine power density and MPE levels for each antenna as well as composite levels from all antennas. The calculated levels are based on where a human (Observer) would be standing at various locations at the site. The point of interest where the MPE level is predicted is based on the height of the Observer.

Compliance with the FCC limits on RF emissions are determined by spatially averaging a person's exposure over the projected area of an adult human body, that is approximately six-feet or two-meters, as defined in the ANSI/IEEE C95.1 standard. The MPE limits are specified as time-averaged exposure limits. This means that exposure is averaged over an identifiable time interval. It is 30 minutes for the general population/uncontrolled RF environment and 6 minutes for the occupational/controlled RF environment. However, in the case of the general public, time averaging should not be applied because the general public is typically not aware of RF exposure and they do not have control of their exposure time. Therefore, it should be assumed that any RF exposure to the general public will be continuous.

The FCC's limits for exposure at different frequencies are shown in the following Tables.

Limits for Occupational/Controlled Exposure				
Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (H) (A/m)	Power Density (S) (mW/cm ²)	Averaging Time |E|², |H|² or S (minutes)
0.3 - 3.0	614	1.63	100*	6
3.0 - 30	1842/f	4.89/f	900/F ²	6
30 - 300	61.4	0.163	1.0	6
300 - 1500	--	--	f/300	6
1500 - 100,000	--	--	5	6

f = frequency



* = Plane-wave equivalent power density

Occupational/controlled limits apply in situations in which persons are exposed as a consequence of their employment provided those persons are fully aware of the potential for exposure and can exercise control over their exposure. Limits for occupational/controlled exposure also apply in situations when an individual is transient through a location where occupational/controlled limits apply provided he or she is made aware of the potential for exposure.

Limits for General Population/Uncontrolled Exposure				
Frequency Range (MHz)	Electric Field Strength (E) (V/m)	Magnetic Field Strength (H) (A/m)	Power Density (S) (mW/cm²)	Averaging Time |E|², |H|² or S (minutes)
0.3 - 1.34	614	1.63	100*	30
1.34 - 30	824/f	2.19/f	180/F ²	30
30 -300	27.5	0.073	0.2	30
300 -1500	--	--	f/1500	30
1500 -100,000	--	--	1.0	30

f = frequency

* = Plane-wave equivalent power density

General population/uncontrolled exposures apply in situations in which the general public may be exposed or in which persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or cannot exercise control over their exposure.

It is important to understand that these limits apply cumulatively to all sources of RF emissions affecting a given area. For example, if several different communications system antennas occupy a shared facility such as a tower or rooftop, then the total exposure from all systems at the facility must be within compliance of the FCC guidelines.

The field strength emanating from an antenna can be estimated based on the characteristics of an antenna radiating in free space. There are basically two field areas associated with a radiating antenna. When close to the antenna, the region is known as the Near Field. Within this region, the characteristics of the RF fields are very complex and the wave front is extremely curved. As you move further from the antenna, the wave front has less curvature and becomes planar. The wave front still has a curvature but it appears to occupy a flat plane in space (plane-wave radiation). This region is known as the Far Field.



Two models are utilized to predict Near and Far field power densities. They are based on the formulae in FCC OET 65. As this study is concerned only with Near Field calculations, we will only describe the model used for this study. For additional details, refer to FCC OET Bulletin 65.

Cylindrical Model (Near Field Predictions)

Spatially averaged plane-wave equivalent power densities parallel to the antenna may be estimated by dividing the antenna input power by the surface area of an imaginary cylinder surrounding the length of the radiating antenna. While the actual power density will vary along the height of the antenna, the average value along its length will closely follow the relation given by the following equation:

$$S = P \div 2\pi RL$$

Where:

S = Power Density

P = Total Power into antenna

R = Distance from the antenna

L = Antenna aperture length

For directional-type antennas, power densities can be estimated by dividing the input power by that portion of a cylindrical surface area corresponding to the angular beam width of the antenna. For example, for the case of a 120-degree azimuthal beam width, the surface area should correspond to 1/3 that of a full cylinder. This would increase the power density near the antenna by a factor of three over that for a purely omni-directional antenna. Mathematically, this can be represented by the following formula:

$$S = (180 / \theta_{BW})P \div \pi RL$$

Where:

S = Power Density

θ_{BW} = Beam width of antenna in degrees (3 dB half-power point)

P = Total Power into antenna

R = Distance from the antenna

L = Antenna aperture length

If the antenna is a 360-degree omni-directional antenna, this formula would be equivalent to the previous formula.

Spherical Model (Far Field Predictions)

Spatially averaged plane-wave power densities in the Far Field of an antenna may be estimated by considering the additional factors of antenna gain and reflective waves that would contribute to exposure.

The radiation pattern of an antenna has developed in the Far Field region and the power gain needs to be considered in exposure predictions. Also, if the vertical radiation pattern of the antenna is considered, the exposure predictions would most likely be reduced significantly at ground level, resulting in a more realistic estimate of the actual exposure levels.

Additionally, to model a truly "worst case" prediction of exposure levels at or near a surface, such as at ground-level or on a rooftop, reflection off the surface of antenna radiation power can be assumed, resulting in a potential four-fold increase in power density.

These additional factors are considered and the Far Field prediction model is determined by the following equation:

$$S = EIRP \times Rc \div 4\pi R^2$$

Where:

S = Power Density

EIRP = Effective Radiated Power from antenna

Rc = Reflection Coefficient (2.56)

R = Distance from the antenna

The EIRP includes the antenna gain. If the antenna pattern is considered, the antenna gain is relative based on the horizontal and vertical pattern gain values at that particular location in space, on a rooftop or on the ground. However, it is recommended that the antenna radiation pattern characteristics not be considered to provide a conservative "worst case" prediction. This is the equation is utilized for the Far Field exposure predictions herein.





SAN BENITO COUNTY AGENDA ITEM TRANSMITTAL FORM

Vice-Chair Robert J Rodriguez II District No. 1	Julio Rodriguez District No. 2	Robert Scagliotti District No. 3	Chair Robert Gibson District No. 4	G.W. Devon Pack District No. 5
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Item Number: 6.

MEETING DATE: 7/21/2021

DEPARTMENT: RESOURCE MANAGEMENT AGENCY

DEPT HEAD/DIRECTOR: Michael Chambless, Interim RMA Director

AGENDA ITEM PREPARER: Robin Bolster-Grant

SBC DEPT FILE NUMBER:

SUBJECT:

Amendment to MS 889-90 (Minor Subdivision) APPLICANT: David Brigantino OWNER: Christopher and Julie Brigantino, C & J Brigantino Family Trust, D & D Brigantino Family Trust, Demaggio Family Trust APN: 021-170-023, -024, -025, -026, -027, -028, and -029. LOCATION: 2253, 2257, and 2259 Union Road and adjacent properties, between San Justo Reservoir and San Juan Canyon Road, approximately 4 miles southwest of Hollister. REQUEST: To modify the conditions of approval for Minor Subdivision (MS 889-90A), regarding road improvements that have been completed and accepted by the county. GENERAL PLAN: Agriculture (A). ZONING: Agricultural Rangeland/Open Space (AR/OS). ENVIRONMENTAL EVALUATION: State CEQA Guidelines Section: 15305 (Minor Alterations in Land Use Limitations). PLANNING STAFF: Robin Bolster-Grant (rbolster-grant@cosb.us).

AGENDA SECTION:

PUBLIC HEARING

BACKGROUND/SUMMARY:

Staff will request a continuance until a date certain of regular agenda Planning Commission

Meeting of August 18, 2021.

BUDGETED:

SBC BUDGET LINE ITEM NUMBER:

CURRENT FY COST:

STAFF RECOMMENDATION:

Staff is requesting a continuance until a date certain of regular agenda Planning Commission Meeting of August 18, 2021.

ADDITIONAL PERSONNEL: No



SAN BENITO COUNTY AGENDA ITEM TRANSMITTAL FORM

Vice-Chair Robert J Rodriguez II District No. 1	Julio Rodriguez District No. 2	Robert Scagliotti District No. 3	Chair Robert Gibson District No. 4	G.W. Devon Pack District No. 5
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Item Number: 7.

MEETING DATE: 7/21/2021

DEPARTMENT: RESOURCE MANAGEMENT AGENCY

DEPT HEAD/DIRECTOR: M. CHAMBLESS, INTERIM RMA DIRECTOR

AGENDA ITEM PREPARER: Arielle Goodspeed

SBC DEPT FILE NUMBER: 790.2

SUBJECT:

PLN210033 Fireclay Variance

OWNER/APPLICANT/CONTACT: Eric Edelson. LOCATION: 521 Quarry Road, Hollister, CA 95004. APN: 011-390-006. REQUEST: Applicant is requesting a variance from Chapter 25, Section 25.17.084, of the County Code in order to allow a reduction in front yard setback requirement. GENERAL PLAN LAND USE DESIGNATION: Industrial Heavy (IH). ZONING DISTRICT: Heavy Industrial (M-2). ENVIRONMENTAL REVIEW: Categorically Exempt under State CEQA Guidelines Section §15305 (a) Minor lot line adjustments, side yard and set back variances not resulting in the creation of any new parcel.
PLANNER: Arielle Goodspeed (agoodspeed@cosb.us)

AGENDA SECTION:

PUBLIC HEARING

BACKGROUND/SUMMARY:

Fireclay Tile has an existing use permit County file number PLN210025 (A). The primary goal of the variance is to provide an appropriate location for fire water storage placement for the previously

approved project expansion. This will allow for the continued expansion of existing facilities to increase efficiency and production to accommodate the company's growth.

BUDGETED:

No

SBC BUDGET LINE ITEM NUMBER:

CURRENT FY COST:

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission review the staff report, review the attached draft resolution, which includes findings and conditions of approval. Staff further recommends that the Planning Commission make the findings included in the resolution and adopt the resolution to approve Variance Permit PLN210033, subject to the conditions of approval found in the resolution.

ADDITIONAL PERSONNEL: No

ATTACHMENTS:

Description	Upload Date	Type
Staff Report	7/14/2021	Staff Report
Resolution	7/14/2021	Resolution

STAFF REPORT

PROJECT DATA:

Application: PLN210033 / Variance / Fireclay Tile
Public Hearing: July 21, 2021
Applicant/Owner: Eric Edelson (Fireclay Tile)
Location: 521 Quarry Road Aromas, CA 95004
APN: 011-390-006 (Existing Fireclay Tile Facility)
General Plan: Industrial Heavy (IH)
Zoning: Heavy Industrial (M-2)
Planner: Arielle Goodspeed

PROJECT DESCRIPTION:

The variance is for a reduction in the front yard setback to 10 feet from the front property line for the placement of additional water storage tanks, fire pump, and associated equipment required by the Fire Department for the previously approved expansion.



Figure 1. Project Site within Broader Region

SITE DESCRIPTION:

The proposed project is located at 521 Quarry Road, Aromas CA, 95004, within San Benito County, California. The project site is made up of a 6.93-acre parcel (Assessor's Parcel Number ["APN"] 011-390-006).

The property, which houses the Fireclay Tile factory, is located between the Pajaro River (about 660 feet to the west) and the Union Pacific Railroad. The railroad runs parallel with and is adjacent to the eastern property line. The property is about 500 feet southwest of the entrance to the Graniterock AR Wilson Quarry. The approximately 6.93-acre parcel slopes gently upward via graded terraces and natural slopes from the lowest elevations in the southwest corner of the property. The low corner of the property is near level with the adjacent agriculture fields at an elevation about 20 feet above the Pajaro River. There is about 25 feet of elevation gain from the southwest corner to the northeast corner of the property.

Local access to the project site is provided by State Route (“SR”) 129, which is located approximately 1.5 miles north of the project site by way of street; regional access to the site is provided by Highway (“Hwy”) 101. The property is in a rural location and is surrounded by heavy industrial and mineral resource uses. There is a single driveway entrance to the project site that crosses over Union Pacific Railroad (“UPRR”) tracks located along the easterly side of the project site. The western border of the project parcel borders Santa Cruz County.

PROJECT BACKGROUND:

Fireclay Tile has an existing use permit County file number PLN210025 (A). Fireclay Founder and Chief Ceramicist Paul Burns set out on his own and made Fireclay Tile in 1986. Fireclay Tile is the first tile company to be certified as a Benefit Corporation. Every ceramic tile to order is made at the project site location in Aromas. The primary goal of the variance is to provide an appropriate location for fire water storage placement for the previously approved project expansion. This will allow for the continued expansion of existing facilities to increase efficiency and production to accommodate the company’s growth.



Figure 2. Project Site and Vicinity Map

VARIANCE ELEMENTS and SITE CONFIGURATION:

The subject property described is undergoing an expansion and Fire Department has provided that the necessary amount of stored water for the building is 142,500 gallons of water needed. Site specific topography of the property has a drop in elevation from the upper parking lot to where the new and existing buildings are to be located of more than 12 feet in elevation change. Due to the elevation change, Fire has requested that the water storage tanks be placed in the upper parking lot so that both gravity and to-be-installed water pump can feed the sprinklers and hydrants. Due to specific site conditions and limitations, along with the placement of tanks to be on the elevated portion of the property, leaves only one suitable location for the water storage tanks. The applicant has proposed using a lower profile water storage tanks that have a wider base and not as tall as to not disturb visual implications and to provide additional safety, because if the applicant were to use water storage tanks that were smaller and much taller would require extensive seismic engineering for safety. There will be three lower profile tanks placed within the reduced setback holding up to approximately 50,000 gallons of water. Each tank is about 37 feet wide in diameter and 7 feet 3 inches tall. In addition, to the water storage tanks there will be a fire pump pad, gas meter, batteries, main switch gear, transformers, generators, and AT&T base placed next to tanks and within the reduced setbacks. The current front yard setbacks for M-2 zoning are 25 feet with one foot to be added in depth to the front yard for each one foot of the height of the main building in excess of 20 feet. The variance would be for only a 10-foot setback from the front property line and would still be outside of the PG and E easement.



Figure 3. Water Tank Example

PLANNING AND ZONING:

Agricultural Rangeland (AR). The San Benito County General Plan designates the existing Fireclay Tile Factory parcel as Industrial Heavy (“IH”) land use designation. The County Zoning Ordinance the subject parcel is zoned Heavy Industrial (“M2”). The adjacent parcel to the west and north (APN 011-309-050) is designated as Industrial Heavy (“IH”) and zoned Heavy Industrial (“M2”). The adjacent parcel to the south (APN 011-390-040) is designated as Rural (“R”) and zoned Heavy Industrial (“M2”).

- The proposed project is consistent with the area’s Industrial Heavy (IH) land use designation in the General Plan in that it meets or fulfills, LU-6.1 Employment Centers, LU6.3 Industrial Uses, and LU-6.5 New Industrial Heavy Areas as the expansion of the Fireclay Tile facility will generate additional employment opportunities within the county, continue to encourage industrial land uses in an area that would not pose significant land use conflicts, and is properly located to transportation corridors.
- The proposed variance remains consistent with the parcel’s Heavy Industrial (M-2) designation under the County’s zoning ordinance, where under County Code Chapter 25.41 as approved by Planning Commission to lessen the practical difficulties and unnecessary physical hardships inconsistent with the objectives of this title and are in harmony with the general purpose and intent of this title in accordance with specific regulations.

ENVIRONMENTAL EVALUATION:

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15305 (a) grants a Categorical Exemption for minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel. The reduction in front yard setback for the water storage to meet Fire Department requirements will have no permanent effects on the environment, and no healthy mature, scenic trees would be removed. The low-profile tanks being used, and the placement of such tanks are over 100 feet from the public right away will have negligible detrimental effects to the public welfare or persons or property in the vicinity.

STAFF ANALYSIS:

The proposed variance meets the special circumstances applicable to the property, shall not constitute a grant to special privileges inconsistent with the limitations upon other property in the vicinity and zone in which the property is situated, and the strict literal interpretation of regulations in the case would involve practical difficulties and the variance granted will only allow to the extent necessary to overcome the difficulties as described. Due to these unique large offset setbacks to the property frontage with rail line in-between, and the limiting nature of the property slope for placement provides evidence to meet the requirements for approval of the variance.

STAFF RECOMMENDATION: Staff recommends that the Planning Commission review the staff report, review the attached draft resolution, which includes findings and conditions of approval. Staff further recommends that the Planning Commission make the findings included in the resolution and adopt the resolution to approve Variance Permit PLN210033, subject to the conditions of approval found in the resolution.

Exhibits and Attachments:

Exhibit A. Project Data Sheet PLN200033

Exhibit B. Resolution for approval, with conditions of approval, and with attachments:

Attachment 1. Project Site Plan

Attachment 2. Water Tanks Elevation

**Exhibit A: Project Data Sheet PLN200031
Fireclay Tile / 521 Quarry Road, Aromas**

Assessor Parcel Number: APN 011-390-006

Legal Lot of Record: This parcel was established as a legal lot of record being a portion of Jesse Carr’s subdivision of a portion of the Rancho Aromitas Y Agua Caliente according to the map thereof filed in Book 1 of Maps, Page 58, San Benito County Records, and being also a portion of Parcels 2 and 3 according to the Parcel Map (P.M. NO. 534-80) filed in Book 5 of Parcel Maps, at Page 37, San Benito County Records.

Zoning: (M-2) Heavy Industrial

General Plan: (IH) Industrial Heavy

Land Use Designations: The San Benito County General Plan designates the existing Fireclay Tile Factory parcel as Industrial Heavy (“IH”) and is zoned Heavy Industrial (“M2”). The adjacent parcel to the west and north (APN 011-309-050) is designated as Industrial Heavy (“IH”) and zoned Heavy Industrial (“M2”). The adjacent parcel to the south (APN 011-390-040) is designated as Rural (“R”) and zoned Heavy Industrial (“M2”).

Lot Sizes: The existing Fireclay Tile Factory parcel is 6.93 acres.

Water: New Well and Public Water System.

FEMA Flood Zone: Not within a 100-year floodplain.

Fire Severity: Non-Wildland/Non-Urban.

Within earthquake fault zone: Not within an Alquist-Priolo Earthquake Fault Zone.

Archeological Sensitivity: High sensitivity

Williamson Act Contract Area: Not within Williamson Act Contract Area.

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

Resolution No. 2021-

A RESOLUTION OF THE SAN BENITO COUNTY PLANNING COMMISSION APPROVING COUNTY FILE PLN210033: A VARIANCE PERMIT TO ALLOW REDUCED FRONT YARD SETBACK FOR WATER STORAGE TANKS, FIRE PUMP, AND ASSOCIATED EQUIPMENT FOR FIRE SUPPRESSION.

WHEREAS, the subject parcel is located at 521 Quarry Road, Aromas CA, 95004, within San Benito County, California. The project site is made up of a 6.93-acre parcel (Assessor's Parcel Number ["APN"] 011-390-006) for the existing Fireclay Tile Factory parcel; and

WHEREAS, Eric Edelson has filed an application to obtain a variance for a reduction for the front yard setback for the placement of additional water storage tanks, fire pump, and associated equipment required by fire for the previously approved expansion; and

WHEREAS, the said property currently has a General Plan land use designation of Industrial Heavy ("IH") and is zoned Heavy Industrial ("M2") to allow heavy industrial activities that are not suitable for urban areas due to their size, noise, dust, traffic, or safety concerns and that the reduced setback is to meet the best site planning for fire safety requirements for the expansion; and

WHEREAS, the Planning Commission finds that the proposed variance is consistent with the area's Industrial Heavy (IH) land use designation in the General Plan in that it provides a pathway for the previously approved use permit for the expansion of the existing Fireclay Tile to continue to meet or fulfill, LU-6.1 Employment Centers, LU6.3 Industrial Uses, and LU-6.5 New Industrial Heavy Areas as the expansion of the Fireclay Tile facility will generate additional employment opportunities within the county, continue to encourage industrial land uses in an area that would not pose significant land use conflicts, and is properly located to transportation corridors; and

WHEREAS, San Benito County Code Chapter 25.41 allows the Planning Commission to grant variances such as a reduction in setback requirements for Heavy Industrial zoning designation to lessen the practical difficulties and unnecessary physical hardships consistent with the objectives of this title and that are in harmony with the general purpose and intent of this title in accordance with specific regulations; and

WHEREAS, the area of the proposed variance of the subject property for the purpose life, health, and safety of the employees and development along with the physical unique characteristics of the subject property meet the intent of the Industrial Heavy (M2) zoning ordinance; and

WHEREAS, the proposed variance meets the special circumstances applicable to the property, shall not constitute a grant to special privileges inconsistent with the limitations upon other property in the vicinity and zone in which the property is situated, and the strict literal interpretation of regulations in the particular case would involve practical difficulties and the variance granted will only allow to the extent necessary to overcome the difficulties as described; and

WHEREAS, the Planning Commission of the County of San Benito reviewed the variance permit at its regularly scheduled meeting held on July 21, 2021; 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, the Planning Commission finds the project exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines §15305 – Minor Alterations in Land Use Limitations - for the project’s front yard setback variance that will not result in the creation of any new parcels, and other factors as described indicating negligible environmental effects; 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 follows:

California Environmental Quality Act (CEQA) Findings:

Finding: Pursuant to San Benito County Local Guidelines for the California Environmental Quality Act, this project qualifies for a Categorical Exemption under State CEQA Guidelines §15305 (Class 5, Minor Alterations to Land Use Limitations).

Evidence: Section 15305 (a) grants a Categorical Exemption for minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel. The reduction in front yard setback for the water storage tanks, fire pump, and associated equipment to meet Fire Department requirements will have no permanent effects on the environment, and no healthy mature, scenic trees would be removed. The low-profile tanks being used, and the placement of such tanks are over 100 feet from the public right away will have negligible detrimental effects to the public welfare or persons or property in the vicinity.

Variance Findings:

Finding 1 and 2: That there are exceptional or extraordinary circumstances applying to the property involved or to the proposed use; further, that because of such exceptional or extraordinary circumstances, the literal enforcement of specified provisions of this chapter would result in practical difficulty or unnecessary hardship such as to deprive the applicant of a substantial property right possessed by other owners in the same class of district under San Benito County Code §25.41.004.

Evidence: The subject property described is undergoing an expansion and the Fire Department has provided that the necessary amount of stored water for the building is 142,500 gallons of water needed. Site specific topography of the property has a drop in elevation from the upper parking lot to where the new and existing buildings are to be located of more than 12 feet. Due to the elevation change, best location for the water storage tanks to be placed is in the upper parking lot so that both gravity and to-be-installed water pump can feed the sprinklers and hydrants. Due to specific site conditions and limitations, along with the placement of tanks to be on the elevated portion of the property, leaves only one suitable location for the water storage tanks.

Finding 3: That the allowance of the variance will not, under the circumstances of the particular case, be materially detrimental to the public welfare or materially injurious to persons or property in the vicinity under San Benito County Code §25.41.004.

Evidence: The applicant has proposed using a lower profile water storage tanks that have a wider base and not as tall as to not disturb visual implications and to provide additional safety. If the applicant was to use water storage tanks that were smaller and much taller would require extensive seismic engineering for safety. From the front property edge to County Quarry Road right-of-way is over 100 feet, and in-between the subject property and the County Quarry Road lies Union Pacific Railroad. The front yard setback intention is to offset buildings and structures. Due to the definition of structure being anything that is constructed or erected, water storage tanks are considered a structure, and therefore fall under the front yard setback requirements. However, the water storage tanks do not provide the same level of impact as the buildings for productions, storage, and office space which are placed in the middle and back of the subject property. In addition, the subject parcel immediate neighboring land uses being of mineral

extraction and agricultural production and the low-profile tanks will not be materially detrimental to the public welfare. Due to these unique large offset setbacks to the property frontage with rail line in-between, and the limiting nature of the property slope for placement provides evidence to meet the requirements for approval of the variance.

Finding 4: That the result of allowing the variance as specified will be in harmony with the general intent of this chapter and the General Plan under San Benito County Code §25.41.004.

Evidence: *This project conforms to the General Plan's Industrial Heavy (IH) land use designation for this area and contributes to its implementation. The primary purpose of this land use category 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," and "includes large scale manufacturing operations". The proposed project is already an existing operating manufacturing operation that is properly placed next to compatible land uses of mineral extraction and agricultural production. Due to its unique location away from urban areas with already large setback from public right-of-way public nuisance will be negligible. County departments and responsible agencies have reviewed the application and recommended conditions of project approval to address possible effects on the vicinity and the overall County public and to prevent hazard or nuisance to persons and property. Activity beyond the scope of the proposed variance use as approved by the County shall require further permit review. The variance would allow the continued implementation of the General Plan and San Benito County Code to the intent required.*

BE IT FURTHER RESOLVED by the Planning Commission of the County of San Benito that it hereby finds as follows:

Conditions of Approval of Variance:

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. Conformity with Plan:** The use of the site shall conform substantially to the proposed project description, site plan, 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 activity shall be in accordance with the approved plans and with San Benito County Code. [Planning]

- a. Any project activity shall occur in accordance with the proposed Project Site Plan (Attachment 1).
- 3. **Cultural Resources:** The property owner/applicant, if at any time discovering 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 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]

Fire Department:

- 4. **Fire Code:** The project 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. [Fire]

Building Department:

- 5. **Building Permit(s):** Applicant shall apply for all necessary building permits. [Building]
- 6. **Agreement with All Conditions of Approval:** Prior to or upon approval 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.

Date: _____

By: Eric Edelson, Chief Executive Officer

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 21ST DAY OF JULY 2021 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

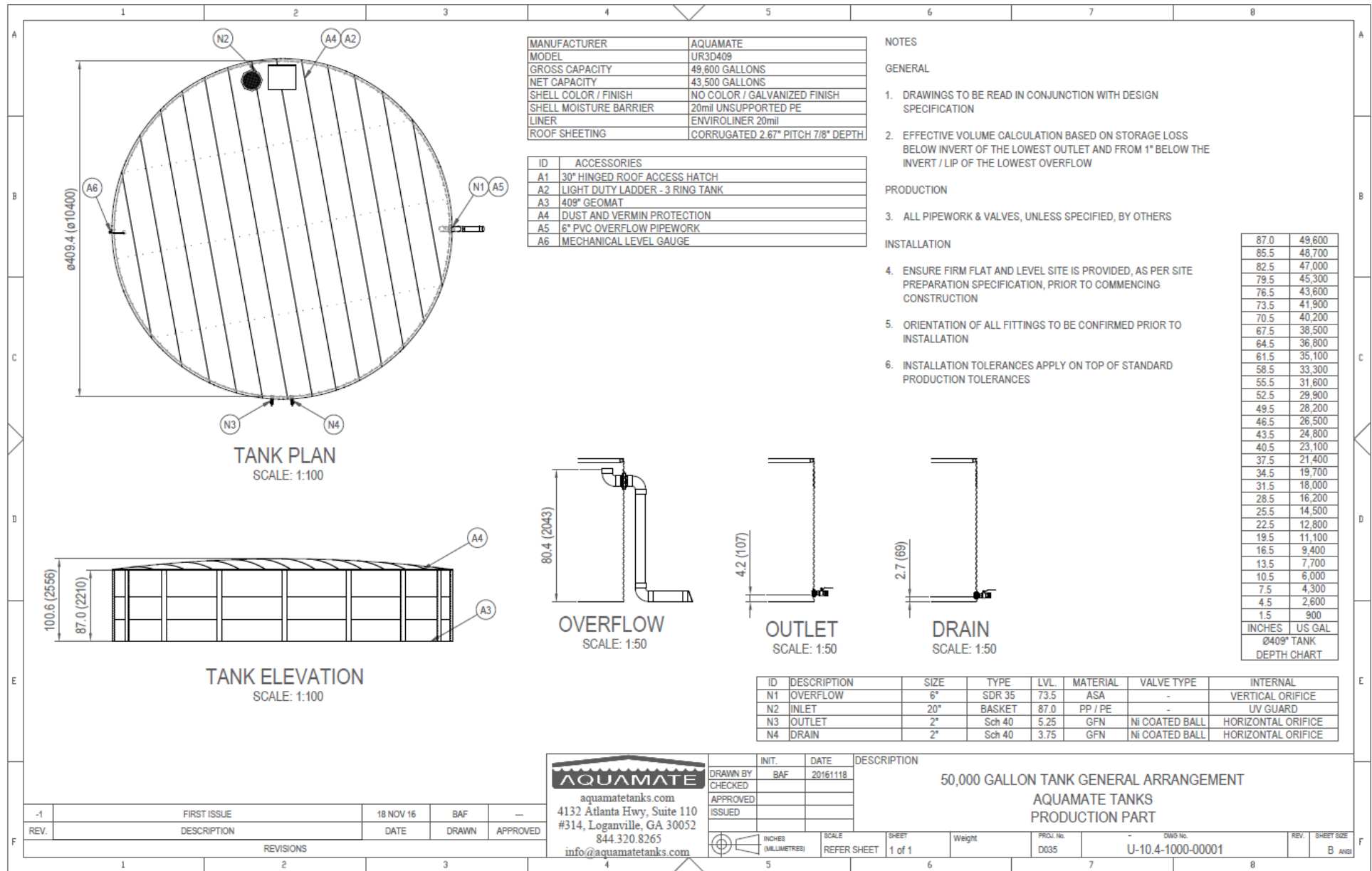
ABSTAIN:

Robert Gibson, Chair
San Benito County Planning Commission

ATTEST:

Robin Bolster Grant, Assistant Director of Planning and Building
Resource Management Agency of San Benito County

Attachment 2: Water Tank Elevation





SAN BENITO COUNTY AGENDA ITEM TRANSMITTAL FORM

Vice-Chair Robert J Rodriguez II District No. 1	Julio Rodriguez District No. 2	Robert Scagliotti District No. 3	Chair Robert Gibson District No. 4	G.W. Devon Pack District No. 5
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Item Number: 8.

MEETING DATE: 7/21/2021

DEPARTMENT: RESOURCE MANAGEMENT AGENCY

DEPT HEAD/DIRECTOR: M. CHAMBLESS, INTERIM RMA DIRECTOR

AGENDA ITEM PREPARER: Arielle Goodspeed

SBC DEPT FILE NUMBER: 790.2

SUBJECT:

PLN210023 Mendez Temporary Use Permit

OWNER/APPLICANT/CONTACT: Jorge Mendez. **LOCATION:** 7980 Lovers Lane, Hollister, CA. **APN:** 015-030-030. **REQUEST:** A temporary use permit to allow live music events that include food and beverages including alcoholic beverages. Events expect to range in 200-400 people once Covid restrictions have been lifted. There will be traffic coordinators and parking attendants. Music will be a mix of live and DJ with amplified sound powered by a generator but adhering to County ordinance sound requirements. There will be a licensed food truck to provide snacks and beverages. Accessory structures include a temporary stage set-up and taken down days of events, 42 folding tables and chairs and porta potties. No physical development is proposed as part of the project. **GENERAL PLAN LAND USE DESIGNATION:** Agriculture (A). **ZONING DISTRICT:** Agricultural Productive (AP). **ENVIRONMENTAL REVIEW:** Categorically Exempt under State CEQA Guidelines Section §15301 (Class 1, Existing Facilities), §15304 (Class 4, Minor Alterations to Land).

PLANNER: Arielle Goodspeed (agoodspeed@cosb.us)

AGENDA SECTION:

PUBLIC HEARING

BACKGROUND/SUMMARY:

The proposed project was heard at the regularly scheduled Planning Commission meeting on June 16, 2021. At this meeting, the Planning Commissioners heard from staff, the applicant, and the concerns from neighbors deliberated and postponed the proposed project to a date certain of July 21, 2021. This was done to address five specific concerns. These five concerns included adding conditions to not allow hard liquor at the scheduled events, add a 5,000-gallon water tank storage for fire suppression, and hire at least (1) off-duty deputy at each event for security. In addition, Planning Commissioners asked staff to investigate a light impact mitigation plan to address the laser light shows that had been at previous unpermitted events. Staff analyzed the laser light show and due to the County's dark skies ordinance and the shows being daytime events, was going to add a condition to prohibit laser light shows at the events. Finally, Planning Commissioners requested that staff address the events sound impacts by having an acoustic engineer perform testing a sound impacts and provide appropriate mitigation to address such impacts to keep the noise within County Code Noise Regulation chapter 19.39 restrictions for AP zoning. The applicant was not able to conduct such study prior to the next scheduled regularly scheduled July 21, 2021, Planning Commission meeting.

In the meantime, the project site was "red-tagged" by our County Code enforcement officer for the construction of a new barn/structure without permits. Under County Code section 1.03.007 (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 and therefore the temporary use permit cannot be granted approval until such time County Code Enforcement officer has provided a notice of removal of the notice of violation.

BUDGETED:

No

SBC BUDGET LINE ITEM NUMBER:

CURRENT FY COST:

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 adopt the attached resolution for denial of PLN210023 subject to the findings included within the resolution.

ADDITIONAL PERSONNEL: No

ATTACHMENTS:

Description

Staff Report

Resolution

Upload Date Type

7/15/2021

Staff Report

7/14/2021

Resolution

STAFF REPORT

PROJECT INFORMATION:

Application: Temporary Use Permit PLN210023
Public Hearing: June 16, 2021
Owner/Applicant: Jorge Mendez
Location: 7980 Lovers Lane, Hollister CA 95023
APN: 015-030-030
Zoning: Agricultural Productive (AP)
General Plan: Agriculture (A)
Planner: Arielle Goodspeed

PROJECT DESCRIPTION:

The proposed project is located at 7980 Lovers Lane and would include a temporary use permit of Assessor Parcel Number 015-030-030 consisting of 10.8-acres in total. The temporary use permit would allow live music events that would include food and both alcoholic and non-alcoholic beverages. The events expect to range from 200-400 people once COVID-19 restrictions have been lifted and until then will follow state and County COVID-19 tier guidelines for outdoor events. The events would include traffic coordinators and parking attendants. The music will be a mix of live and DJ with amplified sound powered by a generator but will be adhering to County Code 19.39 Noise Control regulations. There will be a licensed food truck(s) to provide food and beverages. The events will have temporary structures that will be put up and taken down for events include a stage, 42 tables with chairs and porta potties with hand washing stations.

Normally temporary use permit applications are reviewed and approved administratively by the Planning Director. However, due to extensive neighbor opposition the County planning division found it appropriate to take the decision to Planning Commission. The planning division has worked with the applicant to modify project scope to address the concerns of the neighbors. As such, the temporary use permit has been conditioned to limit the number of events from 30 days per calendar year to 12 days per calendar year, to prohibit amplified music after 8 p.m., and to provide traffic control, security, parking attendants, and has taken additional measures to monitor unauthorized parking. (See **Attachment A. Site Plans**).

The proposed project was heard at the regularly scheduled Planning Commission meeting on June 16, 2021. At this meeting, the Planning Commissioners heard from staff, the applicant, and the concerns from neighbors deliberated and postponed the proposed project to a date certain of July 21, 2021. This was done to address five specific concerns. These five concerns included adding conditions to not allow hard liquor at the scheduled events, add a 5,000-gallon water tank storage for fire suppression, and hire at least (1) off-duty deputy at each event for security. In addition, Planning Commissioners asked staff to investigate a light impact mitigation plan to address the laser light shows that had been at previous unpermitted events. Staff analyzed the laser light show and due to the County's dark skies ordinance and the shows being daytime events, intended to add a condition to prohibit laser light shows at the events. Finally, Planning Commissioners requested that staff address the events' sound impacts by having an acoustic engineer perform testing a sound impacts and provide appropriate mitigation to address such impacts to keep the noise within County Code Noise Regulation chapter 19.39 restrictions for AP zoning. The applicant was not able to conduct such study prior to the next scheduled regularly scheduled July 21, 2021, Planning Commission meeting.

Prior to placing the item on the July 21, 2021 agenda, the project site was "red-tagged" by our County Code enforcement officer for the construction of a new barn/structure without permits. Under County Code section 1.03.007 (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 and therefore the temporary use permit cannot be granted approval until such time County Code Enforcement officer has provided a notice of removal of the notice of violation.

Figure 1. Project Site within Broader Region

Legal Lot of Record: The lot was recorded as a legal lot of record with the County Official Records on the 6th day of June 2014 in Book 15 of Maps Page 68.

Minimum Building Site Allowed: Five acres.

Land Use: Under County Code 25.07.004 (E) accessory uses are permitted in AP zoning. In addition, under County code 25.07.004 (L) uses similar to the above as determined by the Planning Commission.

Sewage Disposal: The applicant/organizer will hire a service to provide the portable toilets, wastewater collection tanks and hand wash stations, and the service contact will be provided to Environmental Health within the Community Event Organizers Permit. Prior to each event final guest counts will be provided to Environmental Health who will determine any additional sewage disposal needs.

Water: The owner states well water will not be used for vendors or customers. Each vendor shall provide a minimum of 25 gallons (or more) of potable water (water from an approved source) for food preparation/cooking/cleaning purposes per Environmental Health. Prior to each event final guest counts will be provided to Environmental Health who will determine any additional water needs.

Land Conservation Act (Williamson Act): Not a preserve.

Soils: Not within Grade-1 soils.

Seismic: Not within an Alquist–Priolo Earthquake Fault Zone.



FEMA Flood Zone: The property lies entirely within Flood Zone A.

Fire Severity: Non-wildland/non-urban.

Archaeological sensitivity: Not within an archeological sensitive area.

PLANNING AND ZONING

The site is under the Agriculture (A) designation in the County 2035 General Plan and under the Agricultural Productive¹ (AP) zoning designation. County Code §25.29.015(C)(7) allows temporary use events as approved by the Planning Director to be consistent in scale and use with this section and subject to conditions and limitations reasonably necessary to secure the public welfare. However, County Code section 1.03.007 (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 and the temporary use permit cannot be granted approval until such time County Code Enforcement officer has provided a notice of removal of the notice of violation.

The General Plan Land Use policies are implemented through regulations based on the County’s “police power” to protect public health, safety, and welfare including the County Zoning Code, building, and other codes. Currently, the property has active violations against the property to which violate building and other codes, and therefore is inconsistent with the General Plan.

¹ County Code §25.07 *et seq.*

ENVIRONMENTAL EVALUATION:

Projects that are disapproved are exempt from review under the California Environmental Quality Act (CEQA) per a Statutory Exemption as provided in State CEQA Guidelines §15270. The project shall not be approved for reasons of noncompliance with County Code policies denial of permits to which there exists a violation of the county ordinance.

STAFF ANALYSIS

County Code §25.29.015(C)(7) allows temporary use events however due to active code enforcement case the temporary use is inconsistent with General Plan Land Use Element designation for the site is Agriculture (A) and County Code.

The proposed project came to County Planning Division after having multiple unpermitted events that received administrative citations from our county code enforcement personnel in February 2021 and March 2021. Issued citations included fines that were paid by the applicant and owner of the property and Mendez Entertainment. The submittal of a temporary use application in May 2021 was to allow such future events on the property. During the processing of the administrative temporary use permit application, the County Planning Division received several letters from neighbors opposing the proposed project. Due to this the County Planning Division determined that the Planning Commission should make the determination of approval of this project. At the regularly scheduled June 16, 2021, Planning Commission meeting, the Planning Commissioners deliberated and determined that prior to taking action on the application, additional conditions to address neighbor concerns and the public welfare were needed. The application was to be brought to a date certain of the regularly held July 21, 2021, Planning Commission meeting, with an amended resolution. During this time, the subject property was discovered to be in an additional violation of a structure being erected without permits. Between the history of violations, the neighbor concerns, and the new code violation County planning staff could no longer support a recommendation for approval and have brought before you a recommendation for denial of the temporary use permit at this time. Once all code violations have been cleared the applicant may resubmit a new application for a temporary use permit to host events, and at such time staff will bring any such new application before the Commission for deliberation.

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 adopt the attached resolution for denial of PLN210023 subject to the findings included within the resolution.

Exhibits and Attachments:

Exhibit A. Site Plan

Exhibit B. Resolution for denial with findings and attachments:

Exhibit C. Photo of active code violation

Exhibit A. Site Plan. (Page 2)



Exhibit C: Photo of active code violation



BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

Resolution No. 2021-

A RESOLUTION OF THE SAN BENITO COUNTY PLANNING COMMISSION TO DENY COUNTY FILE PLN210023: A TEMPORARY USE PERMIT TO ALLOW LIVE MUSIC EVENTS THAT INCLUDE FOOD AND BEVERAGES INCLUDING ALCOHOLIC BEVERAGES.

WHEREAS, the subject parcel is located at 7980 Lovers Lane, unincorporated San Benito County, California (Assessor's Parcel 015-030-030) and is approximately 10.83 acres in area; and

WHEREAS, Jorge Mendez has filed an application to obtain a temporary use permit to host live music events on said property with attendance by approximately 200-400 visitors and to include food and beverages, to be scheduled 8-12 times per year (not to exceed 12 days in a calendar year); and

WHEREAS, the said property currently has a General Plan land use designation of Agriculture (A) and a zoning designation of Agricultural Productive (AP); and

WHEREAS, which allows short-term activities subject to County temporary use permit approval and enforcement under County Code Chapter 25.51; and

WHEREAS, the area of the proposed activity would comprise approximately two thirds of the subject property; and

WHEREAS, each of the temporary events authorized by the temporary use permit will include the following:

- events expect to range from 200-400 people once COVID-19 restrictions have been lifted, and until then will follow state and county COVID-19 guidelines for outdoor events.
- there will be traffic coordinators, parking attendants, and event security.
- music will be a mix of live and DJ with amplified sound powered by a generator but adhering to county ordinance 19.39 for noise ordinance requirements.
- there will be a licensed food truck to provide food and beverages.
- the events will have temporary accessory structures that will be put up and taken down for events include a temporary stage, 42 tables with chairs, and porta potties with hand washing stations.

WHEREAS, similar events have taken place on the subject property in the past, and resulted in formal complaints submitted to County Code Enforcement personnel; and

WHEREAS, the approval of this temporary use permit as conditioned to address formal complaints submitted to County Code Enforcement personnel will rectify such code enforcement; and

WHEREAS, the Planning Commission of the County of San Benito reviewed the temporary use permit at its regularly scheduled meeting held on June 16, 2021 and continued the hearing to the regularly scheduled meeting held on July 21, 2021; and

WHEREAS, a new code enforcement case was brought against the property for the construction of a new barn/structure without permits resulted in red-tag the property by County Code Enforcement personnel; and

WHEREAS, under County Code section 1.03.007 (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 and the temporary use permit cannot be granted approval until such time County Code Enforcement officer has provided a notice of removal of the notice of violation; and

WHEREAS, the Planning Commission recognizes that projects that are disapproved are exempt from review under the California Environmental Quality Act (CEQA) per a Statutory Exemption as provided in State CEQA Guidelines §15270; and

WHEREAS, the Planning Commission of the County of San Benito reviewed the temporary use permit at its regularly scheduled meeting held on July 21, 2021; 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 follows:

California Environmental Quality Act (CEQA) Findings:

Finding: Pursuant to San Benito County Local Guidelines for the California Environmental Quality Act, this project qualifies for a Statutory Exemption under Section 15270 (Projects Which are Disapproved).
Evidence: *The County Planning Commission herein makes findings determining that the project shall not be approved for reasons of noncompliance with County Code policies denial of permits to which there exists a violation of county ordinance.*

Temporary Use Permit Findings:

Finding 1: That the proposed use meets provisions for temporary use permits under San Benito County Code §25.29.015.

Evidence: *County Code §25.29.015(C)(7) allows temporary use events as approved by the Planning Director to be consistent in scale and use with this section and subject to conditions and limitations reasonably necessary to secure the public welfare. However, County Code section 1.03.007 (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 and the temporary use permit cannot be granted approval until such time County Code Enforcement officer has provided a notice of removal of the notice of violation.*

Finding 2: That the proposed use is properly located in relation to the General Plan, and the community as a whole and to other land uses, transportation, and service facilities in the vicinity.

Evidence: *The General Plan Land Use policies are implemented through regulations based on the County's "police power" to protect public health, safety, and welfare including the County Zoning Code,*

building, and other codes. Currently, the property has active violations against the property to which violate building and other codes, and therefore is inconsistent with the General Plan.

Finding 3: That the proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard or nuisance to persons or property.

Evidence: *County departments and responsible agencies have reviewed the application and at this time could not recommended conditions of project approval as the active code enforcement case against the subject parcel violates the overall County general public welfare and does not prevent hazard or nuisance to persons and property. Code Enforcement staff have put a notice of violation against the subject property for the construction of barn/structure without permits, and as such the County must deny this temporary use permit until such time the violations have been lifted.*

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, especially the finding that the denial of permits to which there exists a violation of county ordinance, the Planning Commission hereby denies the conditional use permit.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 21ST DAY OF JULY 2021 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert Gibson, Chair
San Benito County Planning Commission

ATTEST:

Robin Bolster Grant, Assistant Director of Planning and Building
Resource Management Agency of San Benito County



SAN BENITO COUNTY AGENDA ITEM TRANSMITTAL FORM

Vice-Chair Robert J Rodriguez II District No. 1	Julio Rodriguez District No. 2	Robert Scagliotti District No. 3	Chair Robert Gibson District No. 4	G.W. Devon Pack District No. 5
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Item Number: 9.

MEETING DATE: 7/21/2021

DEPARTMENT: RESOURCE MANAGEMENT AGENCY

DEPT HEAD/DIRECTOR: Michael Chambless, Interim RMA Director

AGENDA ITEM PREPARER: Robin Bolster-Grant

SBC DEPT FILE NUMBER: 790

SUBJECT:

Public Hearing to review and provide recommendation to the Board of Supervisors on proposed amendments to the San Benito County Code allowing retail storefront cannabis businesses to operate on C-1 and C-2 zone districts in unincorporated San Benito County. Proposed amendments include revising section 7.02.030 and section 7.02.050, repealing section 7.02.120, amending the use chart within section 19.43.040, adding subsection 19.43.050 (F) and amending sections 25.17.044 and 25.17.063.

AGENDA SECTION:

PUBLIC HEARING

BACKGROUND/SUMMARY:

The Planning Commission is presented with two ordinances for changes to cannabis regulation in the unincorporated county. The first ordinance draft, with an accompanying resolution, would allow cannabis-related retail activities in the two commercial zoning districts. The other ordinance draft, also with a resolution, would make more comprehensive changes to cannabis regulations, including allowing retail businesses. This second ordinance may be considered as optional, but staff

suggests that this more comprehensive ordinance suits the present needs of regulating cannabis businesses and the unincorporated county's economy.

The first draft ordinance reflects discussion at the last regular scheduled Planning Commission Meeting, held on June 16, 2021, at which staff and Commissioners discussed potential regulations to permit cannabis-related retail activities. Staff has brought this first proposed ordinance that would include (1) Removing sections 7.02.030(2) and 7.02.120 from the current ordinance to allow cannabis retail as a business in the unincorporated county; (2) Amending section 19.43.040 to include retail cannabis in the use chart for C-1 and C-2 zone districts; (3) Amending section 19.43.050 to add subsection (F) Retail specifying application submittal requirements; and (4) Amending section 25.17.063(DD) to allow cannabis retail as a conditional use under zoning.

The second draft ordinance incorporates changes to the retail prohibition and includes additional elements that would propose removing administrative barriers and restrictions. These include (1) application review and evaluation, (2) allowing outdoor cannabis cultivation, (3) modest setback reduction, and (4) replacement of the variance requirements with an exception review.

Both of the proposed ordinance amendments before the Commission seek to enhance economic development in San Benito County. Each includes a finding demonstrating compliance with the County 2035 General Plan, especially with regard to local economic well-being. Staff prefers that the Commission select the more comprehensive changes, given that current commercial cannabis regulations have proven to be inefficient as demonstrated by the minimal number of cannabis permit applications submitted to the Resource Management Agency. Staff believes that the optional draft ordinance amendments would best help to achieve parity with surrounding jurisdictions that have adopted less restrictive commercial cannabis regulations.

BUDGETED:

SBC BUDGET LINE ITEM NUMBER:

CURRENT FY COST:

STAFF RECOMMENDATION:

- (1) Hold a public hearing on the proposed amendments
- (2) Consider proposed amendments to County Code section
- (3) Adopt the attached resolutions recommending that the Board of Supervisors confirm the CEQA exemption and adopt the proposed ordinance amendments.

ADDITIONAL PERSONNEL:

ATTACHMENTS:

Description	Upload Date	Type
Resolution for Draft Ordinance Conditionally Permitting Cannabis Retail	7/15/2021	Resolution
Draft Ordinance Conditionally Permitting Cannabis Retail	7/15/2021	Ordinance
Resolution for Optional Additional Ordinance Comprehensively Amending Cannabis Regulations	7/15/2021	Resolution
Optional Ordinance Comprehensively Amending Cannabis Regulation	7/16/2021	Cover Memo

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

Resolution No. 2021-___

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO, STATE OF CALIFORNIA, RECOMMENDING THE BOARD OF SUPERVISORS AMEND CHAPTERS 7.02, 19.43 AND 25.17 OF THE SAN BENITO COUNTY CODE RELATING TO RETAIL CANNABIS REGULATIONS.

WHEREAS, on July 21, 2021, the Planning Commission held a duly noticed public hearing on the proposed regular ordinance amending Chapters 7.02, 19.43 and 25.17, related to retail cannabis regulations within San Benito County; and

WHEREAS, because current commercial cannabis regulations have proved to be inefficient and present barriers to a robust local cannabis industry; and

WHEREAS, the proposed ordinance amendments seek to enhance economic development in San Benito County and to achieve parity with surrounding jurisdictions that allow storefront retail cannabis businesses to operate within the C-1 (Commercial Thoroughfare) and C-2 (Commercial Neighborhood) zone districts; and

WHEREAS, the current San Benito County Code specifically prohibits retail cannabis businesses within the unincorporated County; and

WHEREAS, the current San Benito County Code allows retail uses in C-1 and C-2 zone districts; and

WHEREAS, the proposed changes to the ordinance include, but are not limited to the following items: 1) Removing sections 7.02.030(2) and 7.02.120 from the current ordinance; 2) Amending section 19.43.040 to include retail cannabis in the use chart for C-1 and C-2 zone districts; 3) Amending section 19.43.050 to add subsection (F) Retail; and 4) Amending section 25.17.063(DD) to include retail activity.

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 follows:

Pursuant to Section 15061(b)(3) of the CEQA Guidelines, the County of San Benito has determined, on the basis of substantial evidence in the light of the whole record, that:

(a) Under CEQA Guidelines 15061(b)(3), CEQA review is not required because it can be seen with certainty that there is no possibility that the adoption of the ordinance will have significant effect on the environment in that storefront cannabis retail has no different effect on the environment than any other type of retail that could occur within existing buildings in the C-1 or C-2 zoning districts. All new construction of retail facilities in the C-1 and C-2 districts are subject to issuance of a discretionary conditional use permit with appropriate environmental review.

BE IT FURTHER RESOLVED by the Planning Commission of the County of San Benito recommends that the Board of Supervisors adopt the proposed ordinance amending 7.02, 19.43 and 25.17 of the San Benito County Code relating to the retail cannabis regulations.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 21st DAY OF JULY 2021 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert Gibson, Chair
San Benito County Planning Commission

ATTEST:

By: _____

Robin Bolster-Grant, Assistant Director – Planning & Building
Resource Management Agency San Benito County

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO AMENDING PROVISIONS OF CHAPTERS 7.02, 19.43 and 25.17 OF THE SAN BENITO COUNTY CODE RELATING TO RETAIL CANNABIS REGULATIONS.

The Board of Supervisors of the County of San Benito Ordains as follows:

Section 1. Findings. The Board of Supervisors hereby makes the findings and declarations, as more fully set forth in Exhibit “A” attached hereto, with regard to the following:

- A. Consistency with 2035 San Benito County General Plan.
- B. Protection of the public health, safety, and welfare.
- C. Amendments not subject to the California Environmental Quality Act (CEQA).

Section 2. San Benito County Code Section 7.02.030 is amended to strike out the following words, indicated by ~~strikeouts~~ and re-number subsections as follows:

(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;
- ~~(2) Retail, except for deliveries made by delivery employees of state licensed out of county delivery services holding a valid cannabis business permit in accordance with § 7.02.130;~~
~~and~~
- ~~(3)~~ (2) Special events, held for the purpose of marketing cannabis goods, as described in Cal. Business and Professions Code § 26150(e).

Section 3. San Benito County Code Section 7.02.050, subsection E is amended to add the following words, indicated by underline as follows:

(E) Upon adoption of this section, the total number of available cultivation-type cannabis business permits shall be limited to 50, and shall be selected in accordance with §§ 7.02.051 and 7.02.052. There are no limits on the number of permits issued for storefront retail cannabis businesses.

Section 4. San Benito County Code Section 7.02.120 is deleted in its entirety as follows:

~~7.02.120 Retail Prohibited~~

~~Except as specifically authorized, no cannabis business permit shall be issued pursuant to this chapter for retail, which is expressly prohibited. Retail of any kind, except as specifically~~

authorized, 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 retail of any kind, including, but not limited to, manage or operate a cannabis store front or non-store front facility in which customers are permitted on the premises or in which deliveries are made for which it will sell, exchange, barter, transfer, and/or promote any cannabis goods in the county for commercial purpose. This prohibition also applies to microbusinesses, which shall be prohibited from engaging any retail component of their operation.

Section 5. San Benito County Code Section 19.43.040, subsection (B) is amended to add the following line to the table, as indicated in underline:

	A R	A P	R	R T	R R	R 1	R M	C-1	C-2	CM	M-1	M-2	RRP	AS
<u>Retail (storefront)</u>	-	-	-	---	--	-	-	<u>CUP</u>	<u>CUP</u>	---	---	---	---	---

Section 6. San Benito County Code Section 19.43.050, subsection F is amended to add the following words and new provision, indicated by ~~strikeout~~ and underline as follows:

(F) Retail ~~[RESERVED]~~

(1) Applicant shall provide the following information:

- a. Security Plan for the premises
- b. Lighting Plan
- c. Cannabis Storage and Handling Plan
- d. Proof of property owner concurrence

Section 7. San Benito County Code Section 25.17.044, subsection I is amended to delete the words indicated by ~~strikeout~~, as follows:

(I) Microbusiness for commercial cannabis (~~excluding retail activity~~); and

Section 7. San Benito County Code Section 25.17.063, subsection DD is amended to delete the words indicated by ~~strikeout~~, as follows:

(DD) Microbusiness for commercial cannabis (~~excluding retail activity~~); and

Section 8. Effective Date and Codification. This ordinance shall take effect thirty (30) days from the date of its adoption.

In regular session of the Board of Supervisors of the County of San Benito, adopted this ___th day of _____2021, on regular roll call of the members of said Board by the following vote:

AYES: Supervisor(s)

NOES: Supervisor(s)

ABSENT OR NOT VOTING:

Chair, Board of Supervisors

ATTEST:
Jennifer Frechette, Clerk of the Board

APPROVED AS TO LEGAL FORM:
San Benito County Counsel
Barbara J. Thompson

By: _____
Clerk of the Board

By: _____
Barbara Thompson
County Counsel

EXHIBIT “A” FINDINGS AND DETERMINATIONS

A. **Consistency with 2035 San Benito County General Plan.** Local zoning and land use regulatory ordinances must be consistent with the general plan. (Gov. Code § 65860 (a).) The 2035 San Benito County General Plan establishes Guiding Principles, Goals, Policies, Standards and Implementation Measures, including the following:

1. Principles:

- a. Ensure that agriculture and agriculture-related industries remain a major economic sector by protecting productive agriculture lands and industries, promoting new and profitable agricultural sectors, and supporting new technologies that increase the efficiency and productivity of commodity farming.
- b. Encourage agriculture that is locally-produced, profitable, and attracts related businesses.
- c. Expand and diversify the local economy by supporting businesses, supporting jobs for the diverse population, and capitalizing on the county’s natural and human resources.
- d. Support existing and establish new local businesses that are based on industries that are innovative, technology-based, and sustainable.
- e. Support programs that educate the local workforce on conventional, productive, sustainable, and organic agriculture concepts; water conservation strategies; high-tech industries; and alternative energy production.
- f. Support the county’s growing tourism industry.
- g. Protect natural resources and open space areas from incompatible uses.
- h. Preserve the county’s environmental quality and diverse natural habitats.

2. Goals and Policies:

- a. LU-5.6 The County shall encourage visitor-oriented commercial uses that promote the local history, local economy (e.g. agriculture, wineries, recreation), and market locally-produced agricultural products.
- b. ED-1 To sustain the long-term economic wellbeing of the county by promoting economic sustainability and diversification
- c. ED-2 To support and promote the retention and expansion of existing businesses within the county
- d. ED-3 To attract new high quality businesses and investment that complement the county’s rural character and provide high wage jobs for local residents

The Board of Supervisors finds that the legalization of the cannabis industry within the State of California offers numerous opportunities for robust economic development within San Benito County. Building upon the existing ordinance language allowing the cultivation and manufacture of cannabis and cannabis products, authorizing retail sales within designated commercial districts will support local cannabis agriculture as well as provide revenue and employment opportunities.

Protection of the public health, safety, and welfare. Pursuant to Article XI, section 7, of the California Constitution, the County of San Benito ("County") may 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. Pursuant to the Planning and Zoning Law, Government Code section 65800, the Board of Supervisors may adopt ordinances to regulate the use of land as between industry, business, residences, open space, including agriculture and other uses, and for other purposes (Gov. Code § 65850). As set forth in San Benito County Code section 25.01.002, the purpose of county land use regulation is to promote and protect the public health, safety, peace, moral, comfort, convenience and general welfare, to protect the character and the social and economic stability of agricultural, residential, commercial, industrial and other areas within the county, and to obviate the menace to public safety resulting from the location and use of land adjacent to the highways.

The Board of Supervisors finds and determines that adoption of amendments to Chapters allowing retail storefront businesses are necessary and appropriate for the protection and promotion of the public health, safety, and welfare and quality of life, while allowing for the expansion of the existing commercial cannabis cultivation and manufacturing businesses to have local outlets for their products. All existing land use restrictions on the operation of commercial cannabis businesses will help to ensure that retail cannabis businesses will function in a manner that continues to protect the natural environment and community safety, within commercial zone districts to benefit the San Benito County economy.

B. Amendments not subject to the California Environmental Quality Act (CEQA)

The Board of Supervisors hereby finds that the adoption of amendments Chapters 7.02, 19.43 and 25.17 of the San Benito County Code allowing the permitting of retail cannabis businesses is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations, section 15060, subdivision (c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. Additionally, adoption of amendments to 7.02, 19.43 and 25.17 of the San Benito County Code is exempt in accordance with CEQA Guidelines section 15061, subdivision (b)(3) because it can be seen with certainty that there is no possibility the activity may have a significant

effect on the environment, and is categorially exempt pursuant to CEQA Guidelines section 15308, as an action by the County for the enhancement or protection of the environment by limiting or restricting the places where cannabis sales may occur within the County of San Benito.

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

Resolution No. 2021-__

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO, STATE OF CALIFORNIA, RECOMMENDING THE BOARD OF SUPERVISORS AMEND CHAPTERS 7.02, 19.43, 25.07, 25.16 AND 25.17 OF THE SAN BENITO COUNTY CODE RELATING TO COMMERCIAL CANNABIS REGULATIONS.

WHEREAS, on July 21, 2021, the Planning Commission held a duly noticed public hearing on the proposed regular ordinance amending Chapters 7.02, 19.43, 25.07, 25.16 and 25.17, related to commercial cannabis regulations within San Benito County; and

WHEREAS, because current commercial cannabis regulations have proven to be inefficient and present barriers to a robust local cannabis industry, demonstrated by the minimal number of cannabis permit applications submitted to the Resource Management Agency; and

WHEREAS, the proposed ordinance amendments seek to enhance economic development in San Benito County and to achieve parity with surrounding jurisdictions that have adopted less restrictive commercial cannabis regulations; and

WHEREAS, the proposed changes to the ordinance include removing administrative barriers and restrictions, including but not limited to: (1) application review and evaluation, (2) allowing outdoor cannabis cultivation, (3) modest setback reduction, and (4) replacement of the variance requirements with an exception review.

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 follows:

Pursuant to Section 15061(b)(3) of the CEQA Guidelines, the County of San Benito has determined, on the basis of substantial evidence in the light of the whole record, that:

(a) Under CEQA Guidelines 15061(b)(3), CEQA review is not required because it can be seen with certainty that there is no possibility that the adoption of the ordinance will have significant effect on the environment in that all proposed cannabis business operations will be subject to existing best management practices and are subject to issuance of a discretionary conditional use permit with appropriate environmental review.

BE IT FURTHER RESOLVED by the Planning Commission of the County of San Benito recommends that the Board of Supervisors adopt the proposed ordinance amending Chapters 7.02, 19.43, 25.07 and 25.17 of the San Benito County Code relating to commercial cannabis regulations.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 21st DAY OF JULY 2021 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert Gibson, Chair

San Benito County Planning Commission

ATTEST:

By: _____

**Robin Bolster-Grant, Assistant Director – Planning & Building
Resource Management Agency San Benito County**

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO AMENDING PROVISIONS OF CHAPTERS 7.02, 19.43, 25.07, 25.16 and 25.17 OF THE SAN BENITO COUNTY CODE RELATING TO RETAIL CANNABIS REGULATIONS.

The Board of Supervisors of the County of San Benito ordains as follows:

Section 1. Findings. The Board of Supervisors hereby makes the findings and declarations, as more fully set forth in Exhibit “A” attached hereto, with regard to the following:

- A. Consistency with 2035 San Benito County General Plan.
- B. Protection of the public health, safety, and welfare.
- C. Amendments not subject to the California Environmental Quality Act (CEQA).

Section 2. San Benito County Code Section 7.02.030 is amended to strike out the following words, indicated by ~~strikeouts~~, add the following words, indicated by underline, and re-number subsections as follows:

(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 San Benito County Code §7.04.003 applicable to hemp cultivation;
- ~~(2) Retail, except for deliveries made by delivery employees of state licensed out of county delivery services holding a valid cannabis business permit in accordance with § 7.02.130; and~~
- ~~(3)~~ (2) Special events, held for the purpose of marketing cannabis goods, as described in Cal. Business and Professions Code § 26150(e).

Section 3. San Benito County Code Section 7.02.040 is amended to strike out the following words, indicated by ~~strikeouts~~ and add the following words, indicated by underline as follows:

(B) ~~There shall be two~~ classifications of permits issued under the cannabis business regulatory program is, as follows:

- (1) A Cannabis business permits; ~~and~~
- ~~(2) Cannabis employee work permits.~~

(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,

as well as the cannabis employee 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 ~~and cannabis employee work permits~~ may be promulgated by the Board of Supervisors and shall become effective in accordance with applicable laws.

Section 4. San Benito County Code Section 7.02.050, subsection (C) Table is amended to strike out the parentheses and words following the Permit Type Retailer, (~~out of county delivery services~~), to strike the parentheses and words following Microbusiness (~~non-retail~~) and subsection (E) is amended to strike out the following words, indicated by ~~strikeout~~, and add the following words, indicated by underline as follows:

(E) ~~Upon adoption of this section, the total number of available cultivation type cannabis business permits shall be limited to 50, and shall be selected in accordance with §§ 7.02.051 and 7.02.052. There are no limits on~~ 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 Chapter 19.43 with a Conditional Use Permit.

Section 5. San Benito County Code Section 7.02.051, subsection (A) is amended to strike out the following words, indicated by ~~strikeout~~, add the following words, indicated by underline, delete subsections (C), (D) and (E) in their entirety, and re-number subsections as follows:

(A) The Board of Supervisors shall adopt a resolution and/or ordinance setting forth procedures which govern the application process, ~~and the manner in which the decision will ultimately be made regarding the issuance of any cannabis business permit(s), which shall include or require the Board of Supervisors to provide detailed objective selection criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of selection criteria.~~

(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) Application period. The Administrative Officer or his or her designee may designate application periods to receive cannabis business permit applications, including, but not limited to:~~

- ~~(1) Initial application period. If an initial application period is designated, the Administrative Officer or his/her designee will post notice of the initial application period dates on the county's website no less than 14 days prior to the start of the initial application period.~~
- ~~(2) Subsequent application periods. After the initial application period, and from time to time thereafter, the Administrative Officer or his/her designee may issue additional notices of application periods for certain cannabis business permit types. The terms for each and any subsequent application period will be set forth in the corresponding application period~~

- notice which will be posted on the county's website no less than 14 days prior to the start of the subsequent application period.
- ~~(3) Extensions. The Administrative Officer or his/her designee may extend the length of any application period on terms he/she specifies. The notice and terms for any such extension will be posted on the county's website.~~
 - ~~(4) Late applications. Cannabis business permit applications will only be accepted by the county during any application period or extension, if any. Late applications shall be rejected and /or denied, and shall be disqualified from consideration.~~
- ~~(D) Initial application review. Upon receipt of a cannabis business permit application and payment of the required fee, the Administrative Officer or his/her designee will determine whether it meets the requirements of the cannabis business regulatory program, including referring the application to such appropriate county officers and departments, and any state, federal, or local agencies, as he/she deems necessary from the nature of the application for review, evaluation in accordance with § 7.02.052(A), investigation, and recommendations regarding completion of and compliance with all application requirements, including, but not limited to, review by the Resources Management Agency to determine whether the applicant's proposed cannabis business site preliminarily meets zoning and permitting standards (for example, the proposed cannabis business is allowable in the zone, the location meets all setback requirements, and the like). Each application shall be ranked and scored under the selection criteria. Any application that is not rejected or denied upon completion of the initial application review and receives a score of at least 80% may be deemed an eligible application and shall be submitted to the Administrative Officer or his/her designee to make a final determination in accordance with this section.~~
- ~~(E) Final determination:~~
- ~~(1) If the number of eligible applications by commercial cannabis activity type is the same as or less than the maximum number allowed under this chapter, then all applications for that commercial cannabis activity type shall be submitted to the Administrative Officer or his/her designee to schedule a public hearing in accordance with § 7.02.052(B). After the public hearing, the Administrative Officer shall either deny or approve the final applicants and shall select the top candidates in each category of cannabis business for establishment of operating conditions. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter and to mitigate specific and foreseeable adverse impacts on properties in the vicinity. The Administrative Officer's decision as to the selection of the prevailing candidates shall be final, pending an appeal to the Hearing Officer, if such an appeal is filed.~~
 - ~~(2) If, however, the number of eligible applications by commercial cannabis activity type exceeds the maximum number allowed under this chapter, then a competitive evaluation process shall first be conducted in accordance with § 7.02.052(C). Those applicants receiving the highest scores shall then be submitted to the Administrative Officer or his/her designee to deny or approve top candidates in each category of cannabis business for establishment of operating conditions. The operating conditions shall be limited to those that are necessary to carry out the purposes of this chapter and to mitigate specific and foreseeable adverse impacts on properties in the vicinity.~~
- (F) Appeals. Appeals from the decision of the Administrative Officer or his/her designee shall be handled pursuant to § 7.02.080.

- (G) 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.

Section 6. San Benito County Code Section 7.02.052 is deleted in its entirety as follows:

~~§ 7.02.052 APPLICANT EVALUATION PROCESS.~~

~~—(A) Departmental evaluation. The Board of Supervisors shall adopt a procedure guideline and selection criteria by which the top applicants in each category of cannabis business type shall be evaluated in a final determination by the Administrative Officer.~~

~~—(B) Public hearing. At least ten days prior to the public hearing, notice of the public hearing shall be sent to all property owners located within 300 feet of the proposed business locations of each of the eligible applicants to be considered by the Administrative Officer or his/her designee for final determination.~~

~~—(C) Competitive evaluation process. In the event the number of eligible applications by commercial cannabis activity type exceeds the maximum number allowed under this chapter, then a competitive evaluation process shall be conducted in accordance with this section. The applicants shall be scored and ranked by a third party to be appointed by the Board of Supervisors, with that person recommending issuance of a cannabis business permit to the highest ranked, eligible applicants. The Board of Supervisors hereby authorizes the Hearing Officer to serve as a third party to score and rank said applications. Appeals from the decision of the third party, including the Hearing Officer, shall be handled pursuant to § 7.02.080.~~

Section 7. San Benito County Code Section 7.02.053, subsection (A)(4) is amended to strike out the following words, indicated by ~~strikeout~~ and add the following words, indicated by underline, as follows:

- (4) Following the Administrative Officer's selection, ~~the prevailing candidate(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.

Section 8. San Benito County Code Section 7.02.060 is deleted in its entirety as follows:

~~§ 7.02.060 CANNABIS EMPLOYEE WORK PERMIT.~~

- ~~—(A) Permit required. Any person who is an employee applicant, employee, or who otherwise works within any cannabis business must obtain a cannabis employee work permit from the county prior to performing any work at a cannabis business.~~
- ~~—(B) Expiration. Each cannabis employee work 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 employee work permit may be renewed as provided in § 7.02.064.~~
- ~~—(C) No cannabis employee work permit will be issued to those employee applicants set forth in § 7.02.030(D).~~
- ~~—(D) The county may immediately suspend or revoke the cannabis employee work permit should the permit holder be convicted of a crime listed in § 7.02.062(A), or if facts become known to the Administrative Officer or his/her designee(s) that the permit holder has engaged in activities tending to show that he/she is dishonest.~~
- ~~—(E) The employee applicant may appeal the denial, suspension, or revocation of a cannabis employee work permit by filing a notice of appeal with the Clerk of the Board within ten business days of the date the employee applicant received the notice of denial, notice of suspension, or notice of revocation. Any appeal under this section shall be conducted as set forth in § 7.02.080.~~

Section 9. San Benito County Code Section 7.02.061 is deleted in its entirety as follows:

~~§ 7.02.061 APPLICATION FOR CANNABIS EMPLOYEE WORK PERMIT.~~

- ~~—(A) The Administrative Officer or his/her designee is authorized to adopt the procedures to govern the application process, and the manner in which the decision will be made regarding issuance of any cannabis employee work permit.~~
- ~~—(B) The Administrative Officer or his/her designee is authorized to develop, make available, and process cannabis employee work permit applications which shall include, but not be limited to, the following required information:~~
- ~~—(1) Name, address, and phone number of the employee applicant;~~

- ~~—(2) Legal authorization to work. Proof the employee applicant is legally authorized to work within a cannabis business under applicable state law;~~
- ~~—(3) Verification of age and identification. A copy of a birth certificate, driver's license, government issued identification card, passport, or other proof that the employee applicant is at least 21 years of age;~~
- ~~—(4) Background check. Submit to a background check in accordance with § 7.02.110(L).~~
- ~~—(5) Name, address of the cannabis business where the employee applicant will be employed, and the name of the primary manager of that cannabis business;~~
- ~~—(6) A list of any crimes enumerated in Cal. Business and Professions Code § 26057(b)(4) for which the employee applicant has been convicted; and~~
- ~~—(7) Name, address, and contact person for any previous employers from which the employee applicant was fired, resigned, or asked to leave, and the reasons for such dismissal or firing.~~
- ~~—(C) The application shall be accompanied by fingerprints and a recent photograph of the employee applicant in a form and manner as required by the Administrative Officer or his/her designee(s).~~
- ~~—(D) A statement signed by the employee applicant under penalty of perjury that the information provided is true and correct.~~
- ~~—(E) A fee paid in an amount set by resolution and/or ordinance adopted by the Board of Supervisors in an amount necessary to cover the costs of administering the cannabis business regulatory program. The fee is non-refundable and shall not be returned in the event the cannabis employee work permit is denied, suspended, or revoked.~~

Section 10. San Benito County Code Section 7.02.062 is deleted in its entirety as follows:

~~§ 7.02.062 EVALUATION OF CANNABIS EMPLOYEE WORK PERMIT APPLICATION.~~

- ~~—(A) The Administrative Officer or his/her designee(s) shall review cannabis employee work permit applications for completeness, and shall conduct a background check to determine whether the employee applicant was convicted of a crime or left a previous employer for reasons that show the employee applicant:~~
 - ~~—(1) Has been convicted of a crime involving dishonesty, fraud, or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in Cal. Penal Code §§ 186.11, 470, 484, and 504a, respectively; or~~
 - ~~—(2) Has committed a felony or misdemeanor involving fraud, deceit, embezzlement; or~~
 - ~~—(3) Was convicted of a violent felony, a crime of moral turpitude; or~~
 - ~~—(4) Engaged in the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, except for~~

~~cannabis related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.~~

~~—(B) Discovery of these facts showing that the employee applicant has been convicted of a crime involving dishonesty as a critical element of the offense, or has otherwise been convicted of those types of crimes are grounds for denial of the cannabis employee work permit. Where the employee applicant's sentence (including any term of probation, incarceration, or supervised release) for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is completed, such underlying conviction shall not be the sole ground for denial of a cannabis employee work permit. Furthermore, an employee applicant shall not be denied a cannabis employee work permit if the denial is based solely on any of the following:~~

~~—(1) A conviction for any crime listed in division (A) above for which the employee applicant has obtained a certificate of rehabilitation pursuant to Cal. Penal Code Part 3, Title 6, Chapter 3.5 (commencing with § 4852.01); or~~

~~—(2) A conviction that was subsequently dismissed pursuant to Cal. Penal Code §§ 1203.4, 1203.4a, or 1203.41 or any other provision of state law allowing for dismissal of a conviction.~~

Section 11. San Benito County Code Section 7.02.063 is deleted in its entirety as follows:

~~§ 7.02.063 ISSUANCE OF CANNABIS EMPLOYEE WORK PERMIT.~~

~~—(A) The Administrative Officer or his/her designee(s) shall issue the cannabis employee work permit or a written denial to the employee applicant within 30 calendar days of the date the application was deemed complete. In the event the cannabis employee work permit cannot be issued within this time period, then the Administrative Officer or his/her designee(s) may issue a temporary cannabis employee work permit to an employee applicant upon completing a preliminary background check and if the cannabis business can demonstrate to the Administrative Officer or his/her designee(s) that the employee applicant is necessary for the operation of the cannabis business. The temporary cannabis employee work permit may be immediately revoked by the Administrative Officer or his/her designee(s) upon determination that the employee applicant has failed the background check or upon the issuance of the permanent cannabis employee work permit.~~

~~—(B) Upon approval of a cannabis employee work permit application, the Administrative Officer or his/her designee(s) shall issue a cannabis employee work permit to the employee applicant in the form of a personal identification card that shall be worn in a prominent and visible location while working within a cannabis business. The identification card shall be maintained in good and readable condition at all times.~~

Section 12. San Benito County Code Section 7.02.064 is deleted in its entirety as follows:

~~§ 7.02.064 RENEWAL OF CANNABIS EMPLOYEE WORK PERMIT.~~

~~—The renewal of a cannabis employee work permit shall be in accordance with § 7.02.054, except that the renewal application shall contain all the information required for initial applications as set forth in § 7.02.061.~~

Section 13. San Benito County Code Section 7.02.065 is deleted in its entirety as follows:

~~§ 7.02.065 AMENDED CANNABIS EMPLOYEE WORK PERMIT.~~

~~—In the event a person changes employment from one cannabis business in the county to another, the cannabis employee work permit holder shall notify the Administrative Officer or his/her designee(s) in writing of the change, including the name, address, contact person, and telephone number for the new employer, within ten calendar days, or the cannabis employee work permit shall, in accordance with § 7.02.060, be suspended or revoked, and such person shall not be permitted to work at any cannabis business in the county.~~

Section 14. San Benito County Code Section 7.02.120 is deleted in its entirety as follows:

~~7.02.120 Retail Prohibited~~

~~Except as specifically authorized, no cannabis business permit shall be issued pursuant to this chapter for retail, which is expressly prohibited. Retail of any kind, except as specifically authorized, 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 retail of any kind, including, but not limited to, manage or operate a cannabis storefront or non-storefront facility in which customer are permitted on the premises or in which deliveries are made for which it will sell, exchange, barter, transfer, and/or promote any cannabis goods in the county for commercial purpose. This prohibition also applies to microbusinesses, which shall be prohibited from engaging any retail component of their operation.~~

Section 15. San Benito County Code Section 19.43.010, subsection (G) is amended to add the following words, indicated by underline, as follows:

(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.

Section 16. San Benito County Code Section 19.43.040, subsection (B) (Cannabis Use Chart) is amended to strike out the following words, indicated by ~~strike out~~, and add the following words, indicated by underline, to the table, as follows:

San Benito County Cannabis Business Permit Types/Land Use by Commercial Cannabis Activity	State License Type	Permitted Use, Land Use Permit Required													
		Minor Use Permit Required													
		Conditional Use Permit Required													
		Use Not Allowed													
P	M CUP	PERMIT REQUIRED BY ZONE													
		Not Applicable													
Cultivation	1A, 1B, 1C, 2A, 2B, 3A, 3B, 4, 5A, 5B, Processor	Agricultural Districts		Rural Districts			Residential Districts		Commercial Thoroughfare and Neighborhood Commercial		Controlled Manufacturing, Light Industrial, Heavy Industrial, and Resources Recovery Park		Airport Safety District		
		AR	AP	R	RT	RR	R1	RM	C-1	C-2	CM	M-1	M-2	RRP	AS
CUP	CUP	.....	.....	.....	.....	.....	.....	.....	.....	CUP	CUP	CUP	.....	CUP	
Manufacturing	6, 7, N, P, S	CUP	CUP	.....	.....	.....	.....	.....	.....	CUP	CUP	CUP	.....	CUP (non-volatile only)	
Testing	8	CUP	CUP	.....	.....	.....	.....	.....	.....	CUP	CUP	CUP	.....	CUP	
Retailer (out-of-county-delivery)	10, 12	N/A-CUP delivery only	N/A-CUP delivery only	N/A	N/A	N/A	N/A	N/A-CUP	N/A-CUP	N/A	N/A	N/A	N/A	CUP	
Distributor	11	CUP	CUP	.....	.....	.....	.....	.....	.....	CUP	CUP	CUP	.....	CUP	
Microbusiness (non-retail)	12	CUP (if retail delivery only)	CUP (if retail delivery only)	.....	.....	.....	.....	.....	.....	CUP (if retail delivery only)	CUP (if retail delivery only)	CUP (if retail delivery only)	.....	CUP	

\$ 19.43.040 (B) Cannabis Use Chart

Section 17. San Benito County Code Section 19.43.050, subsections (A) and (F) are amended to strike out the words indicated by strikethrough, and add the following words indicated by underline as follows:

- (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 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 ne 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; ~~and~~
 - (8) A security plan;;
 - (9) No cannabis cultivation site shall be permitted within the exclusion zone specified in San Benito County Code §7.04.003(C) applicable to industrial hemp.

(F) Retail ~~{Reserved}~~

(1) Applicant shall provide the following information:

- a. Security Plan for the premises
- b. Lighting Plan
- c. Cannabis Storage and Handling Plan
- d. Proof of property owner concurrence

Section 18. San Benito County Code Section 19.43.070, subsection (A) is amended to strike out the words indicated by ~~strikethrough~~, and add the words indicated by underline, as follows:

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.

(3) At the time of application, the applicant may submit a written application for ~~variance~~ 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. ~~Variance~~ exception requests shall be referred to the Planning Commission to determine whether or not to grant ~~an variance exception in accordance with Chapter 25.41, 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. In accordance with Chapter 25.41, the Planning Commission may decide whether the variance exception should be granted or denied, as well as, whether to impose certain reasonable conditions upon any variance exception granted. If granted, the variance exception shall remain valid for the time period specified by the Planning Commission. Notwithstanding the foregoing, the Planning Commission:

(a) Shall not grant ~~an variance 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 variance 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.

Section 19. San Benito County Code Section 19.43.080, subsection (L) is deleted, subsection M is re-lettered and amended to add the words indicated by underline and subsection (N) is re-lettered as follows:

~~(L) Prior to state licensing, each cannabis business shall maintain a record of all persons, patients, collectives, and primary caregivers 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.~~

(M) (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.

~~(N)~~ (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.

Section 20. San Benito County Code Section 19.43.090, subsections (A), (B) and (D) are amended to strike out the words indicated by ~~strikeout~~ and add the words indicated by underline as follows:

(A) Outdoor cultivation shall be prohibited in areas of the exclusion zone specified in San Benito County Code §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.

Section 21. San Benito County Code Section 19.43.100, subsections (E) and (F) are amended to add the words indicated by underline as follows:

(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 16 Cal. Code of Regulations § 5305.

(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 16 Cal. Code of Regulations §§ 5705, 5710, and 5714.

Section 22. San Benito County Code Section 19.43.110, subsection (H) is amended to add the words indicated by underline as follows:

(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 and shall be subject to state and local law.

Section 23. San Benito County Code Section 19.43.130 is amended to add the words indicated by underline as follows:

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.

Section 24. San Benito County Code Section 25.07.005 is amended to add the following words indicated by underline and re-lettering as follows:

(DD) Cultivation of commercial cannabis (outdoor, outside of the exclusion zone specified in §7.04.003(C));

~~(DD)~~ (EE) Manufacturing of commercial cannabis and/or cannabis products;

~~(EE)~~ (FF) Manufacturing of hemp and/or hemp products;

~~(FF)~~ (GG) Laboratory testing of commercial cannabis and/or cannabis products;

~~(GG)~~ (HH) Laboratory testing of hemp and/or hemp products; and

(II) Commercial cannabis distribution

(JJ) Commercial cannabis microbusiness (if including retail, delivery only, excluding on-site storefront retail); and

~~(HH)~~ (KK) Uses similar to the above as determined by the Planning Commission.

Section 25. San Benito County Code Section 25.16.023 is amended to add the following words indicated by underline as follows:

(J) Retail business establishments, including commercial cannabis retail

Section 26. San Benito County Code Section 25.16.043 subsection I is amended to add the following words indicated by underline and re-lettering as follows:

(I) Commercial cannabis retail; and

~~(J)~~ (J) No building or structure designed for or intended to be used, or which has been used as a dwelling shall be used for the conduct of any business, store, shop or other business engaged in selling any product, in the neighborhood commercial district provided however, that any business use existing in a dwelling in a C-2 district at the time of the adoption of this title shall be considered as a non-conforming use, but it may not be extended, expanded, enlarged or changed to any other use unless and until permit for the extension, expansion, enlargement or change in use is first obtained by applying for and being granted a conditional use permit. The Commission may also grant a conditional use permit to allow the use of a dwelling for the office of an accountant, architect, attorney, dentist, landscape architect, surveyor, physician, professional engineer, shorthand reporter or other business dealing in services.

Section 27. San Benito County Code Section 25.17.023 subsection (I) is amended to add the following words indicated by underline as follows:

(I) Microbusinesses for commercial cannabis (excluding on-site storefront retail activity); and

Section 28. San Benito County Code Section 25.17.044 subsection (I) is amended to add the following words indicated by underline as follows:

(I) Microbusinesses for commercial cannabis (excluding on-site storefront retail activity); and

Section 29. San Benito County Code Section 25.17.044 subsection (I) is amended to strike out the words indicated by ~~strikeout~~ as follows:

(I) Microbusiness for commercial cannabis (~~excluding retail activity~~); and

Section 30. San Benito County Code Section 25.17.063 subsection (DD) is amended to add the following words indicated by underline as follows:

(DD) Microbusiness for commercial cannabis (excluding on-site storefront retail activity; and

Section 31. Effective Date and Codification. This ordinance shall take effect thirty (30) days from the date of its adoption.

In regular session of the Board of Supervisors of the County of San Benito, adopted this ____th day of _____ 2021, on regular roll call of the members of said Board by the following vote:

AYES: Supervisor(s)

NOES: Supervisor(s)

ABSENT OR NOT VOTING:

Bea Gonzales
Chair, Board of Supervisors

ATTEST:
Jennifer Frechette, Clerk of the Board

APPROVED AS TO LEGAL FORM:
Barbara J. Thompson, County Counsel

By: _____
Clerk of the Board

By: _____
Joel Ellinwood, Assistant County Counsel

EXHIBIT “A” FINDINGS AND DETERMINATIONS

A. **Consistency with 2035 San Benito County General Plan.** Local zoning and land use regulatory ordinances must be consistent with the general plan. (Gov. Code § 65860 (a).) The 2035 San Benito County General Plan establishes Guiding Principles, Goals, Policies, Standards and Implementation Measures, including the following:

1. Principles:

- a. Ensure that agriculture and agriculture-related industries remain a major economic sector by protecting productive agriculture lands and industries, promoting new and profitable agricultural sectors, and supporting new technologies that increase the efficiency and productivity of commodity farming.
- b. Encourage agriculture that is locally-produced, profitable, and attracts related businesses.
- c. Expand and diversify the local economy by supporting businesses, supporting jobs for the diverse population, and capitalizing on the county’s natural and human resources.
- d. Support existing and establish new local businesses that are based on industries that are innovative, technology-based, and sustainable.
- e. Support programs that educate the local workforce on conventional, productive, sustainable, and organic agriculture concepts; water conservation strategies; high-tech industries; and alternative energy production.
- f. Support the county’s growing tourism industry.
- g. Protect natural resources and open space areas from incompatible uses.
- h. Preserve the county’s environmental quality and diverse natural habitats.

2. Goals and Policies:

- a. LU-5.6 The County shall encourage visitor-oriented commercial uses that promote the local history, local economy (e.g. agriculture, wineries, recreation), and market locally-produced agricultural products.
- b. ED-1 To sustain the long-term economic wellbeing of the county by promoting economic sustainability and diversification
- c. ED-2 To support and promote the retention and expansion of existing businesses within the county
- d. ED-3 To attract new high quality businesses and investment that complement the county’s rural character and provide high wage jobs for local residents

The Board of Supervisors finds that the legalization of the cannabis industry within the State of California offers numerous opportunities for robust economic development within San Benito County. Building upon the existing ordinance language allowing the cultivation and manufacture of cannabis and cannabis products, authorizing retail sales within designated commercial districts will support local cannabis agriculture as well as provide revenue and employment opportunities.

Protection of the public health, safety, and welfare. Pursuant to Article XI, section 7, of the California Constitution, the County of San Benito ("County") may 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. Pursuant to the Planning and Zoning Law, Government Code section 65800, the Board of Supervisors may adopt ordinances to regulate the use of land as between industry, business, residences, open space, including agriculture and other uses, and for other purposes (Gov. Code § 65850). As set forth in San Benito County Code section 25.01.002, the purpose of county land use regulation is to promote and protect the public health, safety, peace, moral, comfort, convenience and general welfare, to protect the character and the social and economic stability of agricultural, residential, commercial, industrial and other areas within the county, and to obviate the menace to public safety resulting from the location and use of land adjacent to the highways.

The Board of Supervisors finds and determines that adoption of amendments to Chapters modifying application and processing restrictions are necessary and appropriate for the protection and promotion of the public health, safety, and welfare and quality of life, while allowing for the expansion of opportunities for new cannabis businesses to locate in San Benito County. The State of California regulates all cannabis businesses operating within the state and those businesses permitted to operate within San Benito County will be required to comply with both state and local regulations. All existing land use restrictions, including exclusion zones currently in operation will help to ensure that new businesses will function in a manner that continues to protect the natural environment and community safety, within the designated zone districts to benefit the San Benito County economy.

B. Amendments not subject to the California Environmental Quality Act (CEQA)

The Board of Supervisors hereby finds that the adoption of amendments Chapters 7.02, 19.43 and 25.17 of the San Benito County Code allowing the permitting of retail cannabis businesses is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, 14 California Code of Regulations, section 15060, subdivision (c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment. Additionally, adoption of amendments to 7.02, 19.43 and 25.17 of the San Benito County Code is exempt in accordance with CEQA Guidelines section 15061, subdivision (b)(3) because it can be seen with certainty that there is no possibility the activity may have a significant

effect on the environment, and is categorially exempt pursuant to CEQA Guidelines section 15308, as an action by the County for the enhancement or protection of the environment by limiting or restricting the places where cannabis sales may occur within the County of San Benito.