

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

2 A RESOLUTION OF THE SAN BENITO COUNTY) Resolution No. 2017-_____
3 BOARD OF SUPERVISORS APPROVING THE)
4 DIVISION OF ONE AGRICULTURAL PRESERVE)
 UNDER CONTRACT NUMBER 78-14 (SWANK))

5 **WHEREAS**, Counties are authorized to establish agricultural preserves and to establish local
6 procedures for creating, altering and terminating agricultural preserves, under the California Land
 Conservation Act (Cal. Government Code section 51200 et seq.); and

7 **WHEREAS**, the Board of Supervisors of the County of San Benito adopted an ordinance
8 implementing the California Land Conservation Act in the County of San Benito, now codified in the
 San Benito County Code, title 19, chapter 19.01, article II, commencing with section 19.01.020; and

9 **WHEREAS**, County Code section 19.01.021(B) sets forth the procedural requirements for the Board
10 of Supervisors' consideration of requests for division of existing agricultural preserves; and

11 **WHEREAS**, County Code section 19.01.021(B)(2) requires the Board of Supervisors to make a
12 finding that the newly created agricultural preserves will each meet the minimum acreage and income
 generation requirements following division, before the Board may approve a division request; and

13 **WHEREAS**, the minimum acreage requirements are 10 acres of orchards, vineyard or irrigated
14 vegetable and field crops, 40 acres of irrigated pasture or dry-land farmed land, or 160 acres of
15 grazing land, or an approved combination of acreage in more than one of these categories, pursuant to
 County Code section 19.01.021(D)(1)(a); and

16 **WHEREAS**, the minimum income generation requirements are \$3,500 annual gross income from the
17 sale of agricultural commodities, produced for three (3) out of every immediately preceding five (5)
18 consecutive year period, absent an act of God, such as an extended drought, which prevents the
 achievement of this standard, pursuant to County Code section 19.01.021(D)(1)(b); and

19 **WHEREAS**, the owners of one (1) Assessor's Parcel (016-140-012), comprising approximately
20 56.9 acres of land under agricultural preserve Contract Number 78-14, currently operated as row
21 crop land, requested a division of the existing preserve into two (2) new preserves while adjusting
22 the boundary line of APN 016-140-010, with the new preserves to be comprised of approximately
 12.5 acres of row crop land and 44.4 acres of row crop land respectively, and reported annual gross
 incomes in excess of \$3,500 per year for each of the new preserves; and

23 **WHEREAS**, lot line adjustments must comply with the requirements of Government Code section
24 51257, which requires that the following seven (7) conditions be met:

- 25 1) The new contract or contracts would enforceably restrict the adjusted boundaries of the
26 parcel for an initial term for at least as long as the unexpired term of the rescinded contract,
27 but for not less than ten (10) years;
- 28 2) There is no net decrease in the amount of the acreage restricted...;
- 3) At least 90 percent (90%) of the land under the former contract or contracts remains under
 the new contract or contracts;

- 4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use...;
- 5) The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts;
- 6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use; and
- 7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

WHEREAS, the owners seek to adjust the boundary line of APN 016-140-010 because it intersects part of an existing structure, and the adjustment will resolve that issue, while retaining the same acreage after the adjustment; and

WHEREAS, the Agricultural Preserve Advisory Committee considered the division request, found that each of the newly created agricultural preserves will continue to meet the minimum acreage and income generation requirements following division, pursuant to the criteria of San Benito County Code section 19.01.021(B)(2) & (D)(1), that the boundary adjustment would meet all of the criteria of Government Code section 51257, and recommends that the Board of Supervisors approve the division request; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing to consider the division request; and

WHEREAS, at the public hearing, the Board of Supervisors heard and received all oral and written testimony and evidence that was made, presented, or filed, and all persons present at the hearing were given ample opportunity to hear and be heard with respect to any matter related to the division request; and

WHEREAS, at the conclusion of public testimony, the Board closed the public hearing, deliberated and considered the merits of the division request.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of San Benito that it hereby finds that the proposed two (2) new agricultural preserves, to be comprised of approximately 12.5 acres of row crop land and 44.4 acres of row crop land respectively, will continue to meet the minimum acreage and income generation requirements set forth in San Benito County Code section 19.01.021(B)(2) & (D)(1), because each new preserve will contain more than 10 acres of row crop land, and each will generate gross income in excess of \$3,500 per year; and

BE IT FURTHER RESOLVED by the Board of Supervisors of the County of San Benito that it further finds that the proposed boundary adjustment would meet all of the criteria of Government Code section 51257; and

BE IT FURTHER RESOLVED by the Board of Supervisors of the County of San Benito that it hereby approves the division request, based on its findings and determinations, and supported by substantial evidence in the record and the Agricultural Preserve Advisory Committee's recommendation.

1 PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN
2 BENITO THIS 21st DAY OF FEBRUARY, 2017 BY THE FOLLOWING VOTE:

3 Ayes: Supervisor(s):
4 Noes: Supervisor(s):
5 Absent: Supervisor(s):
6 Abstain: Supervisor(s)

7 By: _____
Jaime De La Cruz, Chair

8 **ATTEST:**
Chase Graves, Clerk of the Board

APPROVED AS TO LEGAL FORM:
San Benito County Counsel's Office

9 By: _____

10 By: Shirley L. Murphy
Shirley L. Murphy, Deputy County Counsel

11 Date: _____

12 Date: Feb. 14, 2017