

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

**Resolution No. 2020-\_\_\_\_\_**

**A RESOLUTION OF THE SAN BENITO COUNTY PLANNING COMMISSION APPROVING A VESTING TENTATIVE PARCEL MAP, FILE PLN200001, TO DIVIDE THE 197.53-GROSS ACRE PROPERTY LOCATED AT THE NORTHWEST CORNER OF STATE ROUTE 129 AND SEARLE ROAD INTO TWO LOTS AND A 50.16-ACRE DESIGNATED REMAINDER (APN 012-010-021)**

**WHEREAS**, FUSCOE Engineering on behalf of the property owners and applicants, Johnson Family Trust and Weiler Family Trust filed a Vesting Tentative Parcel Map application to subdivide a 197.53-gross acre property located on the west side of U.S. Highway 101 at the northwest corner of State Route 129 and Searle Road, San Juan Bautista, CA (File PLN200001) (APN 012-010-021); and

**WHEREAS**, County staff received the Vesting Tentative Parcel Map proposal and distributed the project to responsible County and peer agencies for review and comment; and

**WHEREAS**, the Vesting Tentative Parcel Map proposes two lots, 21.1-acres (Lot 1) and 126.27-acres (Lot 2) in size and a 50.16-acre designated remainder; and

**WHEREAS**, the subject site has a 2035 General Plan Land Use Diagram designation of Rural (R) and Commercial Regional (CR) and a current Zoning Designation of Rural (R) and Regional Commercial (C-3); and

**WHEREAS**, the property owners' application includes a request to rescind the existing C-3 District and revert to the Rural District with the Commercial Thoroughfare (C-1) Combining District on proposed Lot 1; and

**WHEREAS**, the proposed parcel map is not dependent on the proposed C-1 zone change; and

**WHEREAS**, the project does not include any new development on the site or other ground disturbing activity; and

**WHEREAS**, the project site includes areas with slopes of 30% or greater that are designated as non-buildable on the parcel map; and

**WHEREAS**, the County assessed the potential for any substantial effect on the environment by the project consistent with the requirements of the California Environmental Quality Act (CEQA) and determined it can be found Exempt under CEQA Guidelines Section 15061(b)(3) because the project does not include any physical changes or change the allowed use of the property; and

**WHEREAS**, on November 18, 2020, the Planning Commission conducted a duly noticed public hearing for the Vesting Tentative Parcel Map PLN200001 as described herein and in the

staff report, 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 an opportunity to hear and be heard with respect to any matter related to the project; and

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

**NOW THEREFORE BE IT RESOLVED** that based on the evidence in the record, the Planning Commission of the County of San Benito hereby finds as follows:

California Environmental Quality Act (CEQA)

Finding: The proposed tentative parcel map is a project subject to CEQA and is exempt from the requirements of CEQA per Guidelines Section 15061(b)(3).

*Evidence:* The proposed parcel map is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that the parcel map may have a significant effect on the environment in that the project is a minor subdivision of property that does not include any proposed development or disturbance to the existing physical environment and it does not result in any environmental impacts. Therefore, the activity is not subject to CEQA. Any proposed future development of the property or ground disturbing activity will require subsequent environmental review in accordance with CEQA requirements.

Subdivision Findings

Finding 1: The proposed vesting tentative parcel map shall be consistent with the General Plan.

*Evidence 1:* The property is designated as Rural (R) and Commercial Regional (CR) on the 2035 General Plan Land Use Diagram and is currently zoned Rural (R) and Regional Commercial (C-3). The purpose of the Rural designation is to allow very low-density residential development in areas that are not primarily suited for agricultural uses, but due to the lack of public infrastructure (e.g., water, sewer, drainage) or for geographical reasons are unsuited for higher density residential designations. The maximum allowed density is one (1) dwelling unit per five (5) acres. The CR designation applies to an approximately 21-acre portion of the site at the southeast corner of the site at SR 129/Searle Road. The purpose of the Commercial Regional designation is to provide areas that function as destinations for commercial activity serving the regional population. This designation intends to accommodate the location of such commercial uses at key intersections along Interstate 101 and other major State Routes. These uses could include shopping centers, truck and automobile stations, tourist-serving commercial uses, and hotels/motels. The maximum floor area ratio (FAR) is 0.8. The vesting tentative parcel map is consistent with the lot sizes required by the General Plan designations. No development of the property is proposed at this time but uses will be required to be consistent with those allowed by the General Plan.

Finding 2: That the site is physically suitable for the type of development.

*Evidence 2:* No development is proposed as part of the parcel map. However, the site is suitable for low-density residential or commercial development. The site has limited points of access from State Route 129. Areas of the site with slopes of 30% or greater have been designated as 'non-buildable' on the parcel map.

Finding 3: That the site is physically suitable for the density of development.

*Evidence 3:* No development is proposed as part of the parcel map. However, the site is physically suitable for low-density residential or commercial development.

Finding 4: That the subdivision design or proposed improvements are unlikely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

*Evidence 4:* The parcel map subdivides the existing parcel into two lots and a designated remainder. No improvements or new development is proposed at this time. There are no known special status plant or animal species present on the site. A very small area of the site is mapped or otherwise identified as suitable habitat for California tiger salamander (CTS). The site is or was previously used for agricultural uses. The existing property is vacant. No evidence is available of any potential to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife or their habitat.

Finding 5: That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

*Evidence 5:* The project improvements have been reviewed by Responsible Agencies to ensure that the proposed subdivision would not have an impact on public health. There is no evidence in the record that the proposal could cause adverse impacts to public health.

Finding 6: That the design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or use of, property within the proposed subdivision.

*Evidence 6:* The project will not conflict with any existing easements and no new easements are required as part of the parcel map.

Finding 7: That Subject to Section 66474.4 of the Government Code, the land is not subject to a contract entered into pursuant to the California Land Conservation Act of 1965.

*Evidence 7:* The project was reviewed by the San Benito County Assessor. The Assessor did not identify this property as subject to a Williamson Act Contract.

Finding 8: That subject to Section 66474.6 of the Government Code, the discharge of waste from the proposed subdivision into an existing community sewer system would not result in violation of existing requirements prescribed by the Central Coast Regional Water Quality Control Board pursuant to Division 7 of the Water Code.

*Evidence 8:* There is no new development proposed at time. There is no indication from the Division of Environmental Health that the parcel map as proposed would result in a violation of existing requirements prescribed by the Central Coast Regional Water Quality Control Board pursuant to Division 7 of the Water Code.

Finding 9: The design and location of each lot in the subdivision, and the subdivision as a whole, are consistent with any applicable regulations adopted by the State Board of Forestry and Fire Protection pursuant to Sections 4290 and 4291 of the Public Resources Code and Government Code § 66474.02, subd. (a) (1)).

*Evidence 9:* The project site lies within the High severity zone and is therefore a designated State Responsibility Area (SRA) for wildland fire suppression provided by the California

Department of Forestry and Fire Protection (CALFIRE). Structural fire protection and other related emergency services are the responsibility of the San Benito County Fire District.

**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, that the proposed vesting tentative parcel map to subdivide the 197.54-acre property (APN 012-010-021) into two lots and a designated remainder is approved with the following conditions of approval:

### **CONDITIONS OF APPROVAL**

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

2. **Approval of Zoning Map Amendment** by San Benito County Board of Supervisors. The tentative parcel map is not dependent on the proposed zoning map amendment to reclassify the approximately 21-acre portion of the subject parcel to Commercial Thoroughfare (C-1) Combining District as recommended by the Planning Commission. Should the Board of Supervisors deny the C-1 zoning map amendment, the tentative parcel map will conform to the Rural (R) District base zoning district.

3. **Conformity to Plans.** The development of the site shall conform substantially to the proposed “San Juan Vistas” Vesting Tentative Parcel Map consisting of two (2) sheets prepared by FUSCOE Engineering, dated October 28, 2020 [Attachment 1] and the Conditions of Approval as approved by the Planning Commission. [Planning]

4. **Staff Review Invoices.** Within 60 days of approval of the tentative parcel map, the applicant shall pay all remaining invoices for reimbursement of County staff and consultant time

related to the review of the tentative parcel map. Payment of these invoices shall be a prerequisite to commencing the Conditions of Approval for this project. [Planning]

5. **Conditions of Approval.** Prior to the recordation of the Parcel Map, the applicant/owner, County Counsel and the County Resource Management Agency Director shall agree to and sign the Conditions of Approval form(s). A deposit will be collected from the applicant proportionate to staff time to administer verification of applicant's satisfaction of conditions and mitigation measures. If multiple Final Maps are filed, separate agreements with new builders/owners may be required [Planning]

6. **CEQA Notice of Exemption.** The applicant/owner shall be required to file a Notice of Exemption for the project. The notice shall be provided by the County Planning Department and filed with the County Clerk within five (5) days of approval of the project. The applicant shall submit payment of the County Clerk administrative fee of \$50.00 to the Planning Department for the filing of the notice. [Planning, CDFG]

7. **Compliance Documentation.** Prior to recordation of the Parcel Map the permittee shall submit a summary response in writing to each of these Conditions of Approval documenting compliance with each condition, including dates of compliance and providing supporting reference documents or other evidence of compliance to the satisfaction of the Planning Director and County Engineer. [Planning]

8. **Base Zoning District.** The base zoning district is Rural (R). The uses, development standards and other provisions of the R District shall be effective except for those changes allowed by the approved C-1 Combining District as specified on the tentative parcel map exhibits. [Planning]

9. **Assessment.** Prior to recordation of the Parcel Map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act; this includes pre-payment of taxes for the current year the Parcel Map is recorded. [Planning, Assessor]

10. **Recordation.** The applicant shall submit a Parcel Map to the County for review and approval by the County Resource Management Agency. The applicant shall be responsible for recording the approved Parcel Map with the County Recorder. The tentative parcel map shall expire two (2) years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a Parcel Map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]

11. **Cultural Resources.** If, at any time in the preparation for or process of excavation or otherwise disturbing the ground, discovery occurs of any human remains of any age, or any significant artifact or other evidence of an archeological site, the applicant or builder shall:

- a. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
- b. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of not less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such

staking. Said staking shall not include flags or other devices, which may attract vandals.

c. Notify the Sheriff–Coroner of the discovery if human and/or questionable remains have been discovered. The Resource Management Agency Director shall also be notified.

d. Subject to the legal process, grant all duly authorized representatives of the Coroner and the Resource Management Agency Director permission to enter onto the property and to take all actions consistent with Chapter 19.05 of the San Benito County Code and consistent with §7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with §27460) of Part 3 of Division 2 of Title 3 of the Government Code.

12. **Fire Protection.** Prior to issuance of a building permit or beginning any construction for any one parcel, fire access and water supply for that parcel shall be in place and operable. A note to this effect shall be placed on an additional sheet to the parcel map. [Planning]

13. **Addressing.** Driveway addresses shall be installed so they are visible to responding emergency personnel. A note to this effect shall be placed on an additional sheet to the parcel map. [Planning]

14. **Temporary Addressing.** Prior to and during construction, temporary addressing shall be posted at the entrance to the project. It shall be plainly visible for emergency equipment. A note to this effect shall be placed on an additional sheet to the Parcel Map. [Planning]

15. **Dust Control.** A note shall be placed on the improvement plans for the proposed subdivision that states when any grading occurs for property improvements and/or development the owner shall water all graded areas at least twice daily. If dust is not adequately controlled, then a more frequent watering schedule shall be incorporated. All grading activities during periods of high wind (over 15 mph) are prohibited. [Planning]

16. **Exterior Lighting.** All exterior lighting for new development shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated, and off-site glare is fully controlled. All fixtures shall comply with County Ordinance. Prior to the issuance of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan which shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture. [Planning]

17. **Successors in Interest.** The conditions of any approval granted shall be binding on all successors in interest of the applicant property, whether succession is by agreement, operation of law, or other means, including but not limited to all future owners utilizing the use of the property as granted approval by the county. [Planning, Public Works]

#### ENVIRONMENTAL HEALTH DIVISION

18. **Potable Water.** The property is served by a private well. Parcel Map approval does not constitute validation of an acceptable drinking water system or source. Proof of a drinking water system or source will be required prior to the issuance of a building permit.

19. **Sewage Disposal.** The project does not include any new development at this time. No sewage disposal facilities currently exist on the property. Parcel Map approval does not constitute validation of site suitability for an acceptable sewage disposal system. Proof of an adequate

wastewater disposal system will be required prior to the issuance of a building permit.

20. **Hazardous Materials.** If any hazardous materials are to be stored during construction or in any proposed facilities/buildings/structures, a Hazardous Materials Plan must be completed and submitted to the Environmental Health Division.

#### FIRE DEPARTMENT

21. **Fire Code.** Any and all development on this property shall be required to meet the standards set forth in the latest editions of the 2016 California Fire Code, Public Resources Codes 4290 and 4291, Ordinances 822 and 823 of the San Benito County Code and other related codes as they apply to a project of this type and size.

#### PUBLIC WORKS DIVISION

22. **Improvement Plans.** Prior to recordation of the Parcel Map, the applicant shall submit for approval by the County Public Works Department and Planning Division, full size engineered improvement plans for review and approval by the County Engineer and County Planner. Said plans shall be submitted with all necessary supplementary data and reports. The improvement plan shall be submitted with the required Improvement Plan Check fees per Code Section 5.01.048. Improvement plans shall also comply with County Ordinance No. 1,004. [Public Works and Planning]

23. **Easements.** Prior to the recordation of the Parcel Map, all easements must be shown on the map. If the easements will be altered in any way, this must be reflected on the Parcel Map and taken into account in the Improvement Plans.

24. **SWPPP.** If disturbed area exceeds one (1) acre, the applicant shall be responsible for complying with the California State Water Resources Control Board's Construction Stormwater General Permit (General Permit) as amended, file a complete Notice of Intent (NOI) package, and develop a Storm Water Pollution Prevention Plan (SWPPP) conforming to the General Permit. A Waste Discharge Identification (WDID) number or Erosivity Waiver shall be provided to Engineering prior to start of any construction activities as part of this project. A note to this effect must be added on the Improvement Plans.

25. **Encroachment Permit.** Applicant must obtain an Encroachment Permit from Public Works Division for any work being performed within the County right-of-way or for any road offered for dedication to the County prior to commencement of any improvements associated with this project.

26. **Utility Plans.** As part of submission of the Improvement Plan for this project, the applicant shall include utility plans and have them approved by each corresponding utility company when applicable, which includes, but not necessarily limited to, sanitary sewer, water, gas, electric, telephone, and cablevision, and shall furnish copies said approved plans to Public Works Department for concurrence. Said plans shall be part of the approved Improvement Plan set.

27. **Geotechnical/Soils Report Compliance.** As part of the submission of Improvement Plans for this project, the recommendations of the geotechnical/soils investigation report shall be referenced and incorporated into the design of the improvement plans. Prior to recordation of the Parcel Map, a complete compilation of test reports along with a letter from Soils Engineer attesting

compliance with requirements and recommendations shall be submitted to Public Works Department upon completion of site improvements. A note shall also be placed on the Parcel Map referencing the aforementioned report for future reference by potential property owners. [§ 23.31.023]

28. **Bonds.** Prior to recordation of the Parcel Map, the applicant shall bond for or construct the roadway improvements necessary including the following:

a. **Improve Searle Road frontage** to County standards to the satisfaction of the County Engineer.

29. **Inspection.** Prior to the start of grading or construction of on-site or off-site improvements the applicant shall pay the required County inspection fees.

30. **Storm Drainage.** As part of the engineered improvement plans and prior to Parcel Map recordation, the project shall demonstrate compliance with County Drainage Standards (Section 23.17.003 (B)), including full construction details and calculations. All storm drainage easements shall be shown on the Parcel Map and constitute deed restrictions for the easements to be kept clear of buildings and structures of any kind. The proposed project is within the Enterprise Drainage Basin; therefore, prior to the recordation of the Parcel Map the applicant shall pay its fair share per Board Resolution 99-53, and per Hollister Partners contract approved by the Board of Supervisor on 8/12/2003 for the Enterprise Drainage Basin Benefit Area.

31. **Non-Buildable Areas.** Areas in excess of 30% slopes shall be designated on the recorded Parcel Map as “non-buildable areas”. [Public Works]

32. **Non-access Strip.** Identify and show on the recorded Parcel Map all slope areas greater than 20% along State Highway Route 129 to limit vehicular access as a “non-access strip”. [Public Works]

33. **Tree Removal.** Lot 2 shall be restricted to remove any trees within the development area in accordance with Article 7, Chapter 25.29 of the San Benito County Code without obtaining a permit.

34. **Hillside Development.** All development proposed on Lot 2 shall conform to Article 2, Section 25.29.030 Hillside Development Regulations.

35. **Traffic Report.** Prior to the issuance of a building permit or any new development, a traffic report shall be prepared to the satisfaction of the RMA Director to evaluate ingress and egress of vehicle and truck traffic to Lots 1 and 2 along Searle Road and Highway 129, including identification of any required traffic control measures at the intersection of State Highway 129 and Searle Road.

#### SAN BENITO COUNTY WATER DISTRICT

36. **Storm Water Discharge.** The development shall conform to all NPDES requirements in effect, as well as the Central Coast Regional Water Quality Control Board Basin Plan with regard to storm water discharge quality. The project may be required to develop and implement a Storm Water Management Plan. [SBCWD]

**Conditions of Approval Acceptance.** Prior to or upon approval of the Vesting Tentative Parcel Map PLN200001 by the Planning Commission, the Applicant shall sign the statement below

certifying that they have read and agree to the Conditions of Approval as approved by the Planning Commission. [Planning]

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

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

Applicant Print Name: \_\_\_\_\_

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

**PASSED AND ADOPTED** by the Planning Commission, County of San Benito, State of California on this 18<sup>th</sup> day of November 2020, by the following vote:

AYES:

NOES:

ABSTAINING:

ABSENT:

By \_\_\_\_\_

Valerie Eglund, Chair

San Benito County Planning Commission

**ATTEST:**

\_\_\_\_\_  
Taven M. Kinison Brown, Principal Planner  
Resource Management Agency  
County of San Benito

*(Resolution continues to next page for Attachment 1 Approved VTPM)*



