

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

RESOLUTION 2021-__

A RESOLUTION OF THE SAN BENITO COUNTY PLANNING COMMISSION TO APPROVE A CONDITIONAL USE PERMIT TO ESTABLISH A WALNUT-HARVEST WAREHOUSING OPERATION IN NEW CONSTRUCTION FOLLOWING CONSIDERATION OF COUNTY PLANNING FILE **PLN210005**.

WHEREAS, the subject parcel is located at 1550 Fallon Road on unincorporated land $\frac{2}{3}$ -mile west-southwest of Fairview Road–Fallon Road intersection in San Benito County, California (Assessor's Parcel 017-060-009) and is 20 acres in area; 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 Guerra Nut Shelling Company has filed an application to obtain a use permit for establishing a 33,120-square-foot warehouse for storage of harvested walnuts as part of an existing off-site walnut processing business; and

WHEREAS, the said warehouse (illustrated in **Exhibit B**) would annually operate at highest intensity for harvest season during October with reduced activity in the subsequent seven months followed by minimal maintenance operation in the year's remainder; and

WHEREAS, County staff received the proposal as County Planning file PLN210005 and distributed this plan to responsible County and peer agencies for review and comment; and

WHEREAS, the Planning Commission of the County of San Benito reviewed the use permit at its regularly scheduled meeting held on November 17, 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 intensity of the activity and construction 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 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 §15061(b)(3) (common sense exemption with certainty of no significant environmental effect), provided compliance with conditions of approval; 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) 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 §15061(b)(3) (common sense exemption with certainty of no significant environmental effect).

Evidence: Conditions of project approval found in Exhibit A, including standard practices and regulations, would control environmental effects and prevent any impacts that could be found significant. These conditions address cultural resources, noise, artificial light, dust (particulate matter) emissions, stormwater runoff, erosion, traffic safety, fire hazard, wastewater disposal, water quality and availability, and hazardous materials. In addition:

- The project site is located in agricultural surroundings and governed by the General Plan land use district of Agriculture (A). This use would expand upon the idea of the area's agriculture with an activity complementing that land use.
- The use would require transportation of agricultural product to and from the site. This transportation already takes place in agricultural lands such as the project vicinity, and the use would not introduce transportation unfamiliar to this setting. The property is located directly adjacent to Fallon Road, an established thoroughfare mapped in the County General Plan as a collector facility. Access between the site and Fallon Road has been designed using engineering principles to prevent safety hazard.
- This parcel, located in the Airport Influence Area 1½ miles from the Hollister Municipal Airport, is sufficiently distant and low-intensity as to cause no conflict with airport operations.
- Of the 20-acre parcel, 16.85 acres, or 84 percent, would remain available for agriculture. The land area converted to built or paved use, located 110 feet from the nearest property line and serving agricultural business, would not inhibit existing agricultural use of surrounding lands.
- No Grade-1 soil is found on the site, and, though containing Prime Farmland, the property would continue to function actively as part of the local and regional agricultural economy.
- All construction would take place outside of 100-year flood zone areas.
- No wetlands are present on or adjacent to the site, with the freshwater ponds 600 feet and 1,300 feet east-northeast of the property the nearest wetland features.
- The site contains no critical habitat mapped by the United States Fish and Wildlife Service, while the nearest known sighting of sensitive wildlife has taken place two miles away.
- The site is not mapped as having high cultural and archaeological sensitivity.
- The project site is not located along a designated scenic highway, on or near a hazardous-waste site, or among similar built land uses that through accumulation would create a significant environmental effect.

Use Permit 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: Conditions of approval have been included for this project to manage impacts to the health, safety, and welfare of the surrounding residents. In addition, the project can be found consistent with the County General Plan:

- The General Plan Land Use Element designation for the site is Agriculture (A). The project proposes an activity supportive to agriculture. This is consistent with the A district's intent "to maintain the productivity of agricultural land ... [and] is applied to agriculturally productive lands of various types, including crop land, vineyards, and grazing lands. This designation allows agricultural support uses, such as processing, wineries, and other necessary public utility and safety facilities and one principal residential dwelling unit per lot. ... These areas typically have transportation access, but little to no public infrastructure."
- The General Plan land use designation of Agricultural (A) allows agricultural support uses including processing and wineries and, by extension, a warehouse to hold harvested crop.
- General Plan Policy LU-1.10 (Development Site Suitability). The subject property mostly lacks the hazards that the policy instructs projects to avoid.
- Policy LU-3.1 (Agricultural Diversification). The policy instructs that the County "support existing farms, vineyards, and other agricultural operations."

- *Policy LU-3.2 (Agricultural Integrity and Flexibility).* The County is expected to “provide for flexibility and economic viability of farming and ranching operations.”
- *Policy LU-3.6 (Agricultural Support Services).* The policy “encourage[s] services such as trucking, warehousing, and distribution centers in appropriate locations, to provide support for the economic viability of commercial agriculture.” The project site lies along Fallon Road, mapped as a collector facility in the General Plan Circulation Element, and adjacent to a portion of the orchard from which crop would be stored in the warehouse.
- *Policy ED-1.2 (Jobs/Housing Balance).* The use would potentially create jobs in support of agriculture.
- *Implementation Program ED-H (New and Existing Business Support).* The permit would reflect the program’s direction to develop “incentives to attract new investment and support existing local businesses, particularly small locally-owned businesses.”
- *Policy C-1.5 (Mitigating Transportation Impacts).* The construction would require payment of impact fees upon building permit issuance in addition to driveway turning-radius improvements as proposed in submitted plans.
- *Policy C-1.9 (Dedicate Rights-of-Way).* In accommodation of the new, increased use on the site, a condition of approval requires the project to dedicate right-of-way according to planned dimensions of the collector Fallon Road and the local roadway Grant Road, in addition to improvements for proper interface between Fallon Road and the driveway.
- *Policy NCR-1.1 (Maintenance of Open Space).* Although the project would convert 16 percent of the property’s Prime Farmland from direct agricultural use, the construction would serve as a feature of overall agricultural open-space use, including that found on the remaining 84 percent. The site contains no Grade-1 soil. The site is not closely located among known features cited by Policy NCR-1.1 for maintenance such as recreation, tribal resources, wildlife habitat, water-management elements, or recognized scenic resources. The development footprint lies outside of the area’s 100-year flood zone found on the opposite side of Grant Road and on this property’s far southeast corner, away from construction.
- *Policy NCR-4.5 (Groundwater Recharge) and Policy NCR-4.7 (Best Management Practices).* As a currently typical expectation of the proposed building and impermeable surfaces, the construction would direct stormwater to a swale that would approximate the recharge and off-site flow that would naturally occur.
- *Policy NCR-7.12 (Archaeological Artifacts).* While the project site is understood to have low sensitivity for cultural resources, compliance with standard procedures included in conditions of project approval would address potential for disturbance of any such resources.
- *Policy NCR-9.1 (Light Pollution Reduction).* A condition of approval requires compliance with exterior lighting limits under the Zone II regulations of County Code Chapter 19.31.
- *Goal HS-5 (regarding air quality improvement).* Conditions of approval include a dust-control measure to prevent particulate-matter pollution during construction. New truck traffic could create emissions to a minor extent limited under the proposed schedule of a peak five trucks per day in October followed by seven months of two daily trucks and the remaining four months idle.
- *Goal HS-8 (regarding noise limitation).* A condition of approval limits construction noise levels and the hours in which the construction may emit the noise, in addition to limiting operational truck noise.

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: 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 general public and to prevent hazard or nuisance to persons and property. Activity beyond the scope of the proposed use as approved by the County shall require further permit review.

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**.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 17TH DAY OF NOVEMBER 2021 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair
San Benito County Planning Commission

ATTEST:

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

Exhibit A to Resolution

Conditions of Approval

Planning:

1. **Indemnification:** APPLICANT shall defend, indemnify, and hold San Benito County, its agents, officers, and/or employees (hereinafter "COUNTY") free and harmless from any and all suits, fees, claims, demands, causes of action, proceedings (hereinafter collectively referred to as "Legal Action"), costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorneys' fees, expert witness fees, and court costs) incurred by COUNTY arising (directly or indirectly) or resulting from the review, processing, consideration, or approval of APPLICANT'S Project or action taken by COUNTY thereon, including Legal Actions based on the negligence of COUNTY. APPLICANT will reimburse COUNTY for any damages, costs, or fees awarded pursuant to any settlement, default judgment, or other judgment taken against the County, whether the result of Applicant's decision not to defend Legal Action or otherwise. COUNTY retains its discretion to direct counsel regarding whether to defend, settle, appeal, or take other action regarding any Legal Action. APPLICANT shall defend COUNTY'S actions with competent legal counsel of APPLICANT's choice without charge to COUNTY, subject to COUNTY approval, which shall not be unreasonably withheld. Nothing contained in the foregoing, however, shall be construed to limit the discretion of COUNTY, in the interest of the public welfare, to settle, defend, or appeal, or to decline settlement or to terminate or forego defense or appeal of a Legal Action. Furthermore, in no event shall COUNTY have any obligation or liability to APPLICANT in connection with COUNTY'S defense or prosecution of litigation related to the Project (including, but not limited to, the outcome thereof) or in the event COUNTY elects not to prosecute a case or defend litigation brought against it. If either COUNTY or APPLICANT determines in good faith that common counsel presents a bona fide conflict of interest, then COUNTY may employ separate counsel to represent or defend the COUNTY, and APPLICANT shall pay the reasonable attorneys' fees and costs of such counsel within thirty (30) days of receiving an itemized billing statement or statements. [Planning]
2. **Successors in Interest:** The conditions of approval are binding on all successors in interest of Applicant, whether succession is by agreement, operation of law, or other means, including but not limited to all future owners utilizing this use permit. [Planning]
3. **Conformity with Plan:** The development and use of the site shall conform substantially to the proposed project description, site plan (as illustrated in **Exhibit B**), 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 Resource Management Agency. All work shall be in accordance with the approved plans and with San Benito County Code. [Planning]
4. **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]
5. **Cultural Resources:** A note shall be placed on the project improvement plan to state that that any property owner who, at any time in the preparation for or process of excavation or otherwise disturbing the ground, discovers any human remains of any age, or any significant archaeological artifact or other evidence of an archeological site shall
 - a. cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains;
 - b. arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of no less than one hundred feet from the point of discovery,

provided that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking and that said staking not include flags or other devices which may attract vandals;

- c. notify the County Sheriff–Coroner and County Resource Management Agency of the discovery if human and/or questionable remains have been discovered; and
 - d. grant, subject to due legal process, to all duly authorized representatives of the Coroner and the Resource Management Agency permission to enter onto the property and to take all actions consistent with Chapter 19.05 of San Benito County Code, with State Health and Human Safety Code §7050.5, and with State Government Code Title 3 Division 2 Part 3 Chapter 10 (§27460 *et seq.*). [Planning]
6. **Construction Noise:** A note shall be placed on the project improvement plan to state that construction on the project site, in accordance with County Code §25.37.035 and County Code Chapter 19.39, shall be limited to the hours of 7 a.m. to 7 p.m. Monday through Saturday, with no construction activities allowed on Sundays and holidays. [Planning]
7. **Operational Noise:** A sign instructing that truck drivers shall minimize vehicle idling shall be installed on the site to reduce operation noise impacts to the surroundings. [Planning]
8. **Exterior Lighting:** All exterior lighting for new development shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. All fixtures shall comply with County Ordinance 748 (along with the requirements of Zone II regulations set within Ordinance 748). [Planning]
9. **Dust Control:** The applicant shall observe the following Best Management Practices requirements during grading activities:
- a. All graded areas shall be watered at least twice daily. If dust is not adequately controlled, then a more frequent watering schedule shall be incorporated. Frequency shall be based on the type of operation, soil, and wind exposure.
 - b. All grading activities during periods of high wind, over 15 mph, are prohibited.
 - c. Chemical soil stabilizers shall be applied to inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days).
 - d. Nontoxic binders (e.g., latex acrylic copolymer) shall be applied to exposed areas after cut-and-fill operations.
 - e. Haul trucks shall maintain at least two feet of freeboard.
 - f. All trucks hauling dirt, sand, or loose materials shall be covered.
 - g. Inactive storage piles shall be covered.
 - h. Wheel washers shall be installed at the entrance to construction sites for all exiting trucks.
 - i. Streets shall be swept if visible soil material is carried out from the construction site.
 - j. A publicly visible sign shall be posted that includes the telephone number and person to contact regarding dust complaints. The phone number of the Monterey Bay Air Resources District shall be included on the sign to ensure compliance with Rule 402 (Nuisance).
10. **Notice of Exemption (Fish & Game Fees):** The applicant/owner shall be required to file a Notice of Exemption for the project. The notice shall be provided by the County Planning Department and filed with the County Clerk within five (5) days of approval of the project. An administrative fee of \$50.⁰⁰ shall be submitted to the Resource Management Agency for the filing of the notice. [Planning/CDFW]

Public Works:

11. **Drainage:** The applicant shall comply with County Drainage Standards, which may include notes in the exhibit, but will also require sufficient detail on the project improvement plan to show existing and/or proposed drainage facilities per County Code Chapter 19.17 (Grading, Drainage, and Erosion Control) to include, but not be necessarily limited to, the following:
 - a. Details of the proposed stormwater mitigation swale or other methods of dispersing storm waters to mitigate concentrated or increased runoff resulting from additional impermeable surface created by this proposed project.
 - b. Illustration showing information including but not limited to proposed drainage structure's location and its direction of flow, which eventually flows towards the existing or natural storm drain easement.
 - c. Confirmation of the adequacy of any existing or proposed storm drainage system or structures by hydraulic calculations.
 - d. All drainage improvements shall be installed prior to issuance of occupancy permit. [Public Works]
12. **Construction Erosion Control:** Prior to commencing grading activities, with disturbed area exceeding one acre, the applicant shall obtain a Construction Activities Storm Water General Permit (General Permit), file a complete Notice of Intent (NOI) package, and develop a Storm Water Pollution Prevention Plan (SWPPP) per State Water Resources Control Board requirements. A Waste Discharger Identification (WDID) number or Erosivity Waiver shall be provided to County Resource Management Agency Public Works personnel prior to start of any construction activities as part of this project. [Public Works]
13. **Road Right-of-Way Dedication:** Prior to issuance of occupancy permit, the applicant shall dedicate right-of-way (ROW) to San Benito County for public use or provide confirmation that the required ROW already exists:
 - a. Half of 60-feet ROW along the entire property frontage on Fallon Road.
 - b. Half of 60-feet ROW along the entire property frontage on Grant Road.
 - c. Any permanent structure not part of future ROW improvements shall be constructed outside of the dedicated ROW.
14. **Roadway Improvements:** Prior to issuance of occupancy permit, the applicant shall improve property frontage on Fallon Road to construct an asphaltic concrete (AC) driveway in compliance with Figure 205.1 of the Caltrans Highway Design Manual. [Public Works]
15. **Driveway Entrance Geometry:** The exhibit presented for project construction shall illustrate detailed driveway geometry showing truck turning templates adequate to meet STAA¹ truck turning radius and geometric design. [Public Works]
16. **Encroachment Permit:** In accordance with San Benito County Code §19.27.004, the applicant shall obtain a County Public Works Encroachment Permit for any work being performed within the County right-of-way or any road offered for dedication to the County prior to commencement of any improvements associated with this project. [Public Works]

Fire:

17. **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

¹ Surface Transportation Assistance Act of 1982.

Codes 4290 and 4291 and all other related codes as they apply to a project of this type and size. The facility shall include the following:

- a. Monitored sprinkler system with water storage.
- b. Fire Department connection (fire hydrant) within 100 feet of building.
- c. Knox key switch for automatic gates.
- d. Refreshed address markings to be larger and more visible. [Fire]

Division of Environmental Health:

18. Sewage Disposal:

- a. Prior to use of the subject property for the purposes permitted by this resolution, all proposed septic systems shall be designed by a licensed civil engineer (or equivalent) knowledgeable in designing on-site wastewater treatment systems. The septic system shall meet the current Tier 1 conditions as stipulated by the Regional Water Quality Control Board, or RWQCB (system requirements subject to change upon approval of San Benito County's Local Agency Management Plan, or LAMP, by the RWQCB).
- b. The owner shall provide an accurate detailed scaled plot plan drawn by a licensed civil engineer showing the existing septic system, existing structures, water systems, water courses, and property lines. A dual-leachfield system with a diversion valve is required for all commercial septic systems.
- c. The owner shall provide an accurate estimate of the maximum number of visitors and staff during any given time of business hours. [Environmental Health]

19. Water: For the new well (water system) proposed to be drilled to provide potable water for this project:

- a. Provide the construction log for the well.
- b. Complete a 24-hour pump test to document the new well has sufficient quantity of water for this project.
- c. Complete a Title 22 water analysis test to determine bacteriological and chemical qualities of the water source. [Environmental Health]

20. Hazardous Materials: If any hazardous materials are to be stored on the site of the proposed project, a Hazardous Materials Business Plan shall be completed and submitted to the County Division of Environmental Health. [Environmental Health]

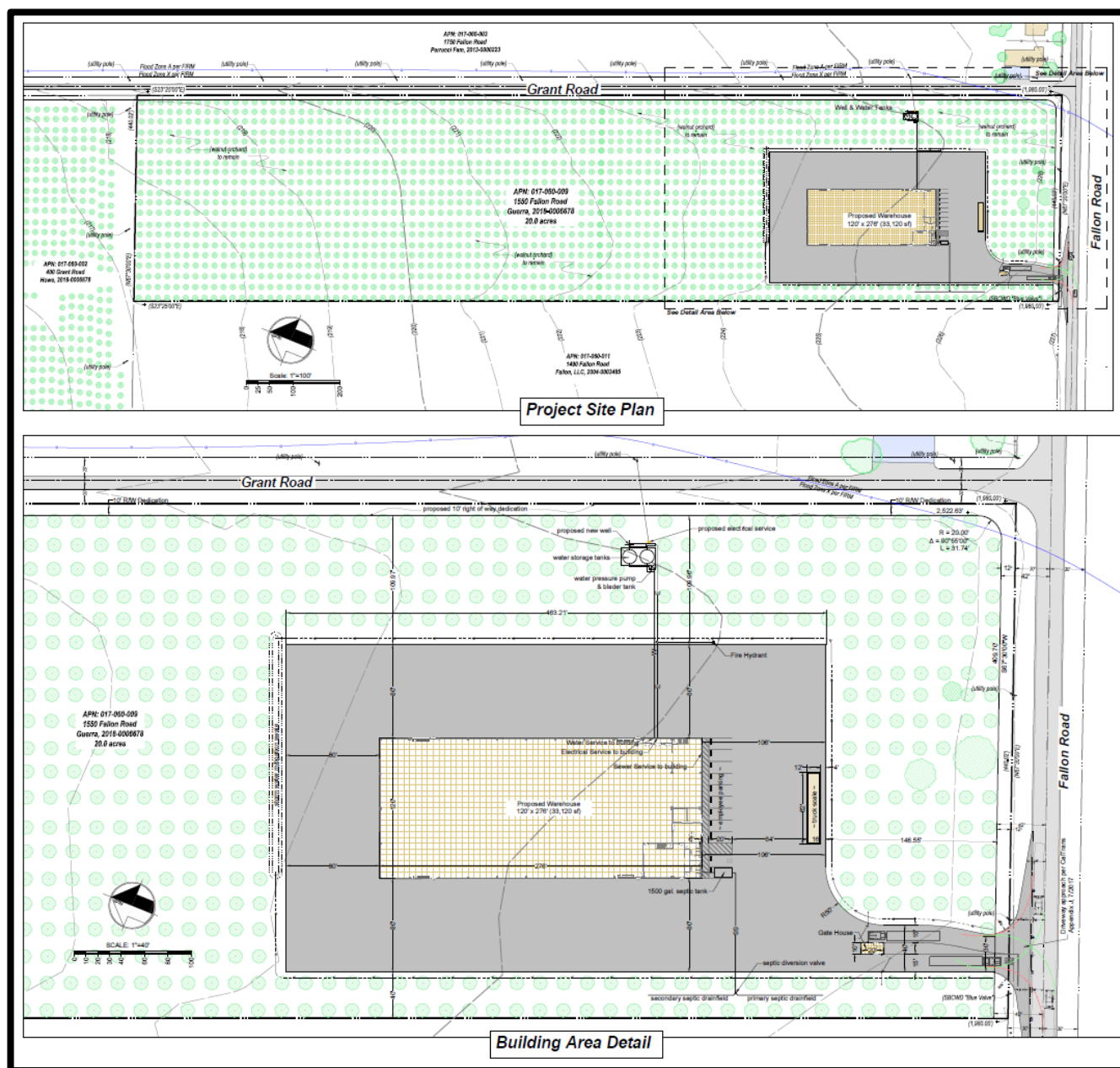
21. Agreement with All Conditions of Approval: Prior to or upon approval by the Planning Commission, Applicant shall sign the statement below certifying that Applicant is in agreement with all conditions of approval. [Planning]

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.

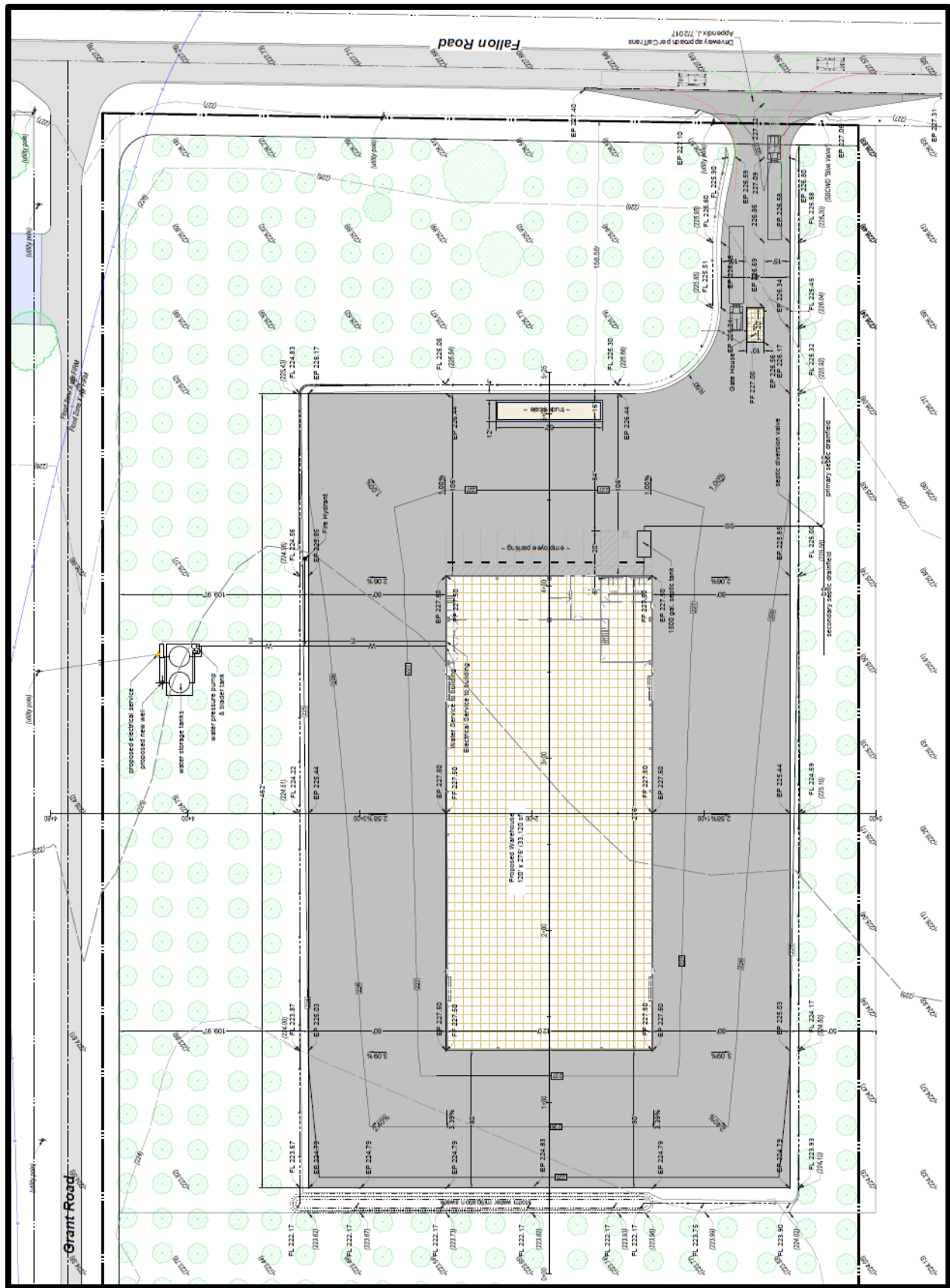
Applicant Signature: _____

Date: _____

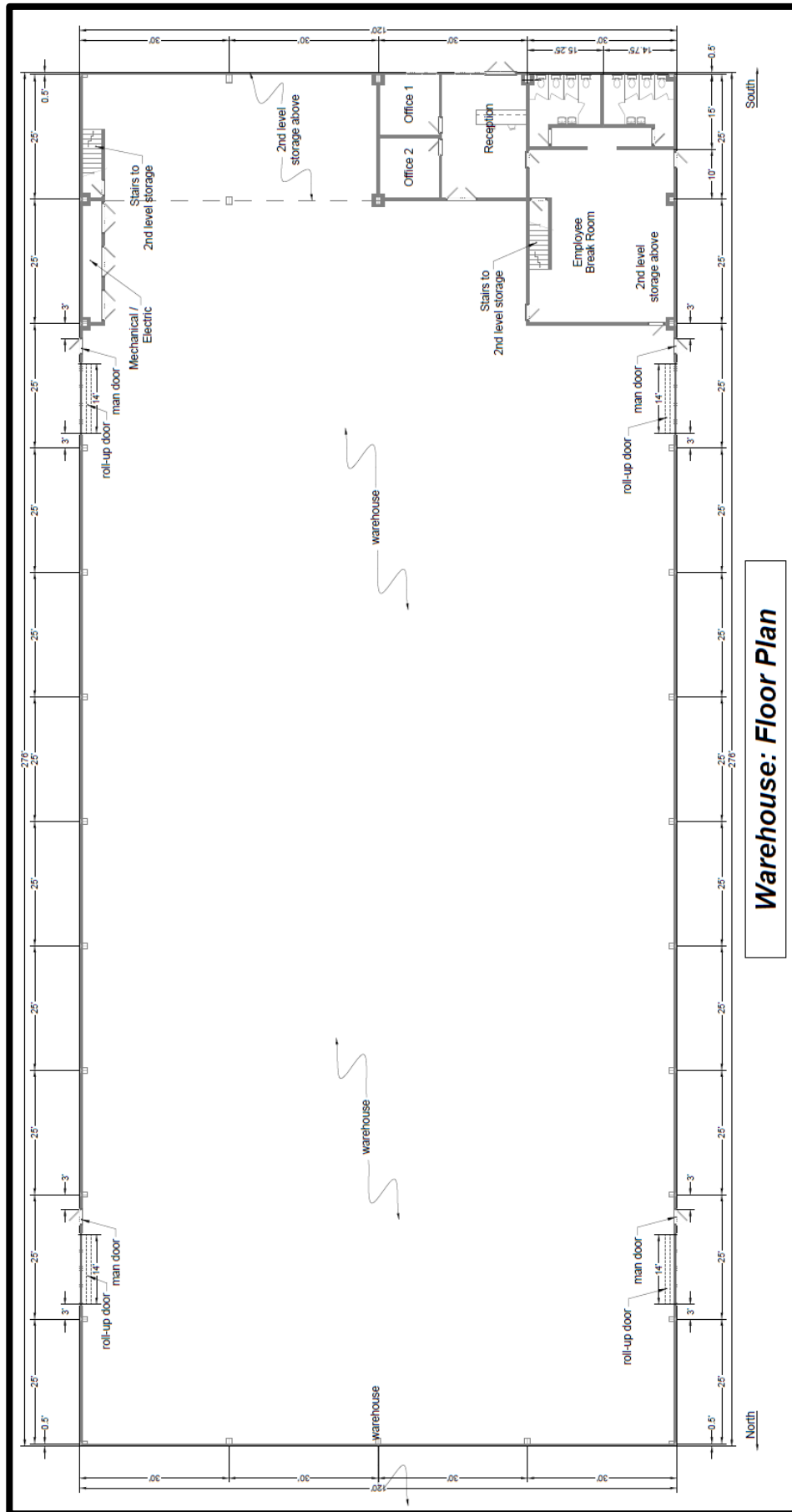
Site Illustrations



Site plan.

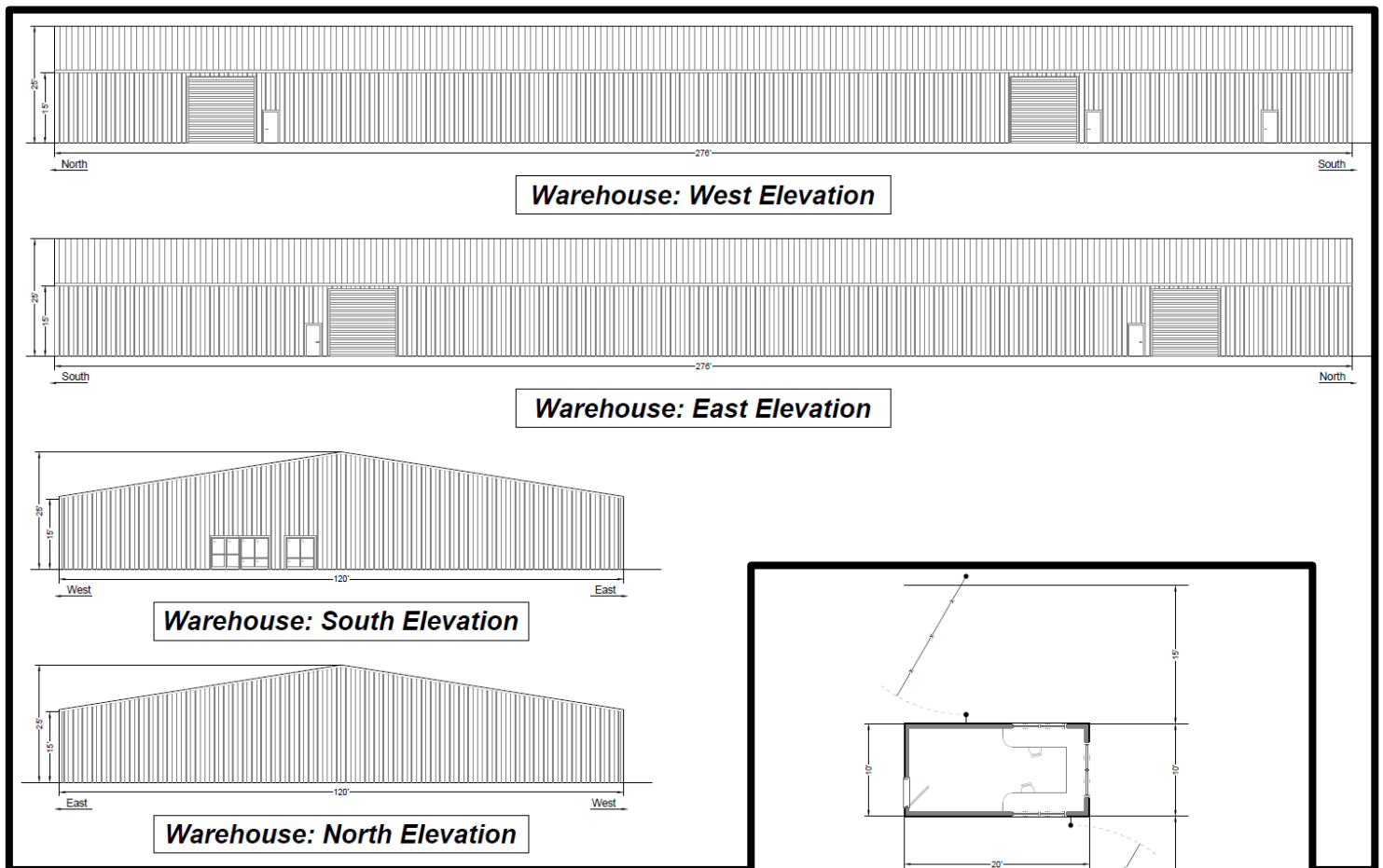


Site plan (closer view), including warehouse, surrounding drive and parking, and entry with gatehouse at south.



Warehouse: Floor Plan

Warehouse floor plan, including office and second-floor storage at south end with harvest storage across rest of floor.



Elevations of warehouse and entry gatehouse.

