

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

A RESOLUTION OF THE SAN BENITO COUNTY PLANNING) **Resolution No. 2018-__**
COMMISSION RECOMMENDING TO THE BOARD OF)
SUPERVISORS APPROVAL OF PLN170009, A PETITION TO)
AMEND THE COUNTY ZONING MAP AND A PROPOSAL FOR A)
TENTATIVE SUBDIVISION MAP.)

WHEREAS, the subject parcel is located on the north frontage of South Ridgemark Drive between its intersections with Ridgemark Drive and Lanini Drive within the private Ridgemark residential and golf course development in San Benito County, California (Assessor's Parcel 020-650-020) and is 0.64 acres in area; and

WHEREAS, the subject property currently has a General Plan Land Use Element designation of Residential Mixed (RM) and a zoning designation of Residential Multiple (RM); and

WHEREAS, the subject property was earlier shaped into its current dimensions following review and approval of Lot Line Adjustment 05-468 under the authority of the San Benito County Planning Director; and

WHEREAS, the property has earlier been constructed with three residential duplex buildings, or six residences total, under County building permits 2013-471, -472, and -473; and

WHEREAS, the property owner Chao Wu has filed an application to subdivide the property into six lots of non-standard dimensions with non-standard building setbacks; and

WHEREAS, the project applicant has proposed to accommodate the subdivision's non-standard design elements by requesting rezoning of the property to the designation of Residential Multiple/Planned Unit Development (RM/PUD); and

WHEREAS, the Planning Commission of the County of San Benito reviewed the zone change and tentative subdivision map at its regularly scheduled meeting held on December 5, 2018, and reviewed all written and oral information presented to them by County staff and the public at the public hearing; and

WHEREAS, in accordance with County Code §23.25.004, a portion of the County Subdivision Ordinance regarding planned unit development, the Planning Commission finds the planned unit development conducive to a desirable living environment at no disadvantage to the general public in its departure from standard lot design including the use of reduced building setbacks to the extent shown on the tentative subdivision map; and

WHEREAS, the Planning Commission finds the form, layout, and intensity of the property's existing construction consistent with the land use designations currently in effect for the property under the General Plan Land Use Element and County Code Title 25 (Zoning) and also consistent with the Planned Unit Development (PUD) combining district as overlaid onto the Residential Multiple (RM) base district, provided the project's satisfaction of planned unit development provisions in the County Subdivision Ordinance (County Code §23.25.004); and

WHEREAS, the project neither proposes nor enables new construction on the already-built subject property; and

WHEREAS, all future and foreseeable use of the property would use infrastructure already available and established in the neighborhood; and

WHEREAS, the property owner has demonstrated that the property and the resulting lots, historically neighboring and separate from the surrounding Ridgemark development, have access to private Ridgemark roads equivalent to access by Ridgemark residents and property owners; and

WHEREAS, the Planning Commission has determined the project qualifies for Class 1 of Categorical Exemptions under California Environmental Quality Act Guidelines; 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 a Categorical Exemption under Section 15301(k) (Class 1, Existing Facilities).

Evidence: *The proposal would construct no new buildings and create no physical change. Six residences in three buildings were constructed on the property in 2016, following previous use of the site for an office, and the project would permit each residence to be under separate ownership, with no further changes proposed. All residents would continue to share the common driveway using a shared ingress/egress easement that crosses property lines. All necessary services and infrastructure to allow current and foreseeable-future use of the property were in place prior to this project. The proposal would not qualify for State CEQA Guidelines §15300.2's exceptions to Categorical Exemptions as it is located away from the attributes and circumstances listed in the exceptions.*

Zone Change Findings:

Finding 1: The approval of the zone petition will serve the public necessity, convenience and general welfare and is good zoning practice.

Evidence: *The rezoning would maintain the current Residential Multiple (RM) zoning terms of permitted and conditional uses and building intensity while modifying building standards in accordance with the purpose of the Planned Unit Development (PUD) combining district. The subdivision would provide a variation on the types of residential parcels available in the area, and the zone change would facilitate that. The result of the zone change would be reflective of previous nearby residential developments containing similar housing types on similar lot types.*

Finding 2: This zone change is consistent with the general plan and any applicable special plan.

Evidence: *For the reasons set forth in the Staff Report, incorporated herein by this reference, the Planning Commission finds that this zone change is consistent with the general plan. No further special plan, such as a specific plan, is in effect in this location.*

Planned Unit Development Findings:

Finding 1: The plan is consistent with the purposes of planned unit development.

Evidence: *In accordance with the purposes of County Code §25.19.001, the development proposes to satisfy a demand for attached residences on smaller-than-standard lots under separate ownership, adding to the area a variety in type, design and layout of dwellings as envisioned in the PUD zone's purpose. While the PUD zoning district prohibits planned unit development on Grade-1 soils such as those on this site, the property has long been unsuitable and out of use for agriculture as a result of its lot size, its residential-development surroundings, and its history as a built property.*

Finding 2: The plan does not depart from zoning and subdivision regulations, insofar as it proposes lots of non-standard dimensions with reduced building setbacks. However, the reasons for the departures are deemed to be in the public interest.

Evidence: *The plan departs from standard regulations in that it proposes zero setback between units sharing common walls and diminished setbacks from lines drawn between neighboring duplex buildings. This accommodates separate ownership of each unit and permits a form of ownership similar to other housing nearby in the neighborhood but minimally found in the greater community area.*

Finding 3: The location, amount, reliability, and adequacy of common open space in the plan are sufficient.

Evidence: *The built project site is insufficient in land area to provide an open-space feature in itself. The applicant is nevertheless required under County Code §23.15.008 and §25.19.003(E) to contribute to the County's parkland dedication fund at a rate based on acres per capita of population.*

Finding 4: The physical design of the plan makes adequate provisions for public services, vehicular traffic, recreation, and visual enjoyment.

Evidence: *The proposal complies with applicable standards for the provision of services and infrastructure. The existing site design includes a common driveway to simplify connection to South Ridgemark Drive, and the new parcel lines would maintain this feature. The development is not of a size deemed to necessitate the physical establishment of a park, and per the County Subdivision Ordinance the applicant will be required to contribute to the parkland dedication and improvement fund.*

Subdivision Findings:

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

Evidence: *Following the Board of Supervisors' approval of the zone change petition, the subdivision, with required conditions of approval, will comply with General Plan policies regarding land use under the Residential Mixed (RM) designation in terms of the map. The existing residential development on the property is consistent with the RM designation in its layout and intensity, and the subdivision proposes no change to the site other than drawing lot lines. The approval of the tentative map will not be effective unless and until the Board of Supervisors approves the zone change. No specific plan is in effect on this property.*

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

Evidence: *No further development is proposed or enabled by the proposed subdivision map. The residences around which lot lines would be drawn were ministerially approved and constructed under the RM zoning district, mapped and defined in compliance with the General Plan in effect at that time. The residences continue to meet the General Plan development-intensity standards currently in effect, and the subdivision map would not change this. Planning and Public Works staff have analyzed the proposed subdivision and determined that the subdivision's design and improvements are consistent with General Plan policies and Subdivision Ordinance design standards regarding Planned Unit Developments and subdivisions. There are no specific plans applicable to the subject property.*

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

Evidence: *No further development is proposed or enabled by the proposed subdivision map. Residential use of the property after the subdivision map's recording would continue as before. Access would remain sufficient through Ridgemark internal streets, and water and sewer service would continue to be provided by the Sunnyslope County Water District.*

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

Evidence: *The project as a whole meets the maximum density defined for the site by the General Plan and Zoning Ordinance. No further development is proposed or enabled by the proposed subdivision*

map. Access, water service, and sewer service would continue to be available to this property as before, its density adequately accommodated.

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

Evidence: *The property is already developed. When initially constructed, the property's residences were located among other existing residences in an established neighborhood. The property had already once been developed with an office prior to its replacement by the residences. The subdivision would not enable further development or intensified land use.*

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

Evidence: *The appropriate County departments analyzed the project for potential serious public health problems. The site is not located close to natural hazards, does not sit near incompatible land uses, and is served by public water and sewer services. The six residences were constructed on a single lot under these circumstances, and the subdivision would not change that.*

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

Evidence: *Any easements for public access or use have been identified on the tentative map and shall be maintained.*

Finding 8: Subject to §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: *Given its size and location, the property is neither currently subject to nor eligible for a Land Conservation Act (Williamson Act) contract, and the Government Code §66474.4 criteria requiring denial of a tentative subdivision map are not relevant.*

Finding 9: Subject to §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: *The site is already developed and currently receives properly functioning sewer service by the Sunnyslope County Water District. The subdivision, proposing no new development, would not change that.*

Finding 10: The proposed planned unit development relates satisfactorily to the neighborhood in which it is proposed to be established.

Evidence: *The existing residences on the site are similar in nature to the attached residences nearby on Donna's Lane and the zero-lot-line townhouses to the west on Ridgemark Drive and continues the overall residential pattern in the greater neighborhood. The proposed parcel lines would not change these characteristics.*

BE IT FURTHER RESOLVED by the Planning Commission of the County of San Benito that, based on the foregoing findings and considerations and based on the evidence in the record, the Planning Commission hereby recommends that the Board of Supervisors adopt of the proposed ordinance attached hereto as Exhibit "A," to amend the zoning map for the subject property from Residential Multiple (RM) to Residential Multiple/Planned Unit Development (RM/PUD); and

BE IT FURTHER RESOLVED by the Planning Commission of the County of San Benito that, provided the aforementioned zoning map amendment, and based on the foregoing findings and evidence in the record, the Planning Commission hereby recommends that the Board of Supervisors approve the tentative subdivision map subject to the following conditions of approval:

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. **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: _____

4. **Conformity with Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Commission. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]

5. **Recordation:** The applicant shall submit a subdivision map to the County and the subdivision map shall be approved by the County Resource Management Agency and recorded with the County Recorder. The tentative subdivision 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 subdivision map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]
6. **Compliance Documentation:** Prior to recordation of the final subdivision map, 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]
7. **Assessment:** Prior to recordation of the final subdivision map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act; this includes pre-payment of taxes for the current year the final subdivision map is recorded. [Planning, Assessor]
8. **Easements:** The final subdivision map shall show all easements for access, utilities, and drainage.
 - a. It is the applicant's responsibility to provide utility easement(s) to each of the utility companies whose services are necessary for the proposed subdivision. [Public Works, Planning]
9. **Notice of Exemption:** A Notice of Exemption, in accordance with State CEQA Guidelines §15060, shall be filed for the project. The notice shall be provided by County Resource Management Agency Planning staff 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]
10. **Parkland Dedication:** Prior to final subdivision map approval, and pursuant to County Code §23.15.008 (Dedication of Parkland), the subdivider shall be required to dedicate land, pay a fee in lieu thereof or a combination of both, at the option of the County, for park and recreational purposes. [Planning, Public Works]
11. **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]
12. **Water Treatment:** Use of on-site regenerating water softeners shall be prohibited.

Public Works:

13. **Enterprise Drainage Basin Benefit Area:** The proposed project being within the Enterprise Drainage Basin, the applicant shall contribute, prior to the recordation of the final map, to the existing mapped Enterprise Drainage Basin Benefit Area in a per-lot amount representing a fair share per County Board of Supervisors Resolution 99-53, and per Hollister Partners contract approved on August 12, 2003, by the Board of Supervisors. [Public Works]
14. **Homeowner's Association:** Prior to recordation of the final subdivision map, the applicant shall join the existing Homeowner's Association for the purposes of street lighting, street sweeping, and maintenance of road, drainage, open space and landscape improvements. Also, prior to recordation of the final subdivision map, the applicant shall annex to the existing County Service Area or submit evidence that the proposed subdivision is already part of the Homeowner's Association and had already been annexed to the existing County Service Area. [Public Works]

Fire:

15. **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.
 - a. Prior to final subdivision map approval, parking along the subject property's street frontage shall be prohibited, with curbs along property frontage painted red to preserve emergency-personnel access. [Fire]
 - b. Prior to final subdivision map approval, to address fire safety between dwellings on separate lots, the applicant shall demonstrate the existing structures' compliance with Section 706 of California Building Code, regarding fire walls. [Building]

Division of Environmental Health:

16. **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]

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 5TH DAY OF DECEMBER 2018 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN

Mark Tognazzini, Chair
San Benito County Planning Commission

ATTEST:

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