

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

**A RESOLUTION OF THE SAN
BENITO COUNTY PLANNING
COMMISSION APPROVING
PLN180013, A USE PERMIT FOR A
VEGETABLE TRANSPLANT
NURSERY AT 1298 ORCHARD
ROAD, APN 016-090-018.**

Resolution No. 2018-0X

WHEREAS, Tanimura & Antle, Inc. and their representative Avila Construction filed an application on April 12, 2018, to construct a vegetable transplant nursery on property under their ownership at 1298 Orchard Road; and

WHEREAS, County staff received the proposal as Use Permit PLN180013 and distributed this plan to responsible County and peer agencies for review and comment; and

WHEREAS, the subject parcel straddles Orchard Road and the proposed facility is to be sited on the 96.52-acre portion of the property (APN: 016-090-018) west of Orchard and approximately 3,500 feet north-by-northeast of Fairview Road; and

WHEREAS, the applicants propose to construct the facility in phases with a central building, greenhouses, and outdoor growing beds; consisting of approximately 100,000 square feet of office, storage & maintenance areas, 700,000 square feet of greenhouses, and 500,000 square feet of outdoor growing and work areas; and

WHEREAS, the subject parcel has a General Plan designation of A Agriculture and a zoning designation of AP Agricultural Productive; and

WHEREAS, the County assessed the potential for any substantial effect on the environment for the project consistent with the requirements of the California Environmental Quality Act (CEQA) by preparing an Initial Study and Mitigated Negative Declaration (IS/MND), developing mitigation measures that would reduce any impact to below-substantial levels, and circulating the IS/MND for agency and public review from November 19, 2018 to December 20, 2018; and

WHEREAS, comments were received from the Native American Heritage Commission (NAHC) to verify that government-to-government consultation with relevant Native American nations had occurred as required under AB-52, and from the Monterey Bay Air Resources District (MBARD) to check calculations estimating greenhouse gas (GHG) emissions; and

WHEREAS, both inquiries were resolved to the satisfaction of each agency (*See CEQA IS/MND for letters from and responses to the Native American Heritage Commission (NAHC) and the Monterey Bay Air Resources District*); and

WHEREAS, no unusual circumstances, features of the land, or unexpected issues have arisen with the newly proposed location; and

WHEREAS, on January 16, 2019, the Planning Commission in considering Use Permit PLN180013 heard and received all oral and written testimony and evidence that was made, presented, or filed, and all persons present were given an opportunity to hear and be heard with respect to any matter related to the petition; 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: In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15074, the Planning Commission considered the proposed Initial Study / Mitigated Negative Declaration together with the comments received during the public review process prior to approving the project, and finds, on the basis of the whole record before it, including the initial study and any comments received, that any potential for the project to have a significant effect on the environment has been mitigated to a less than significant level, and that the Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis, and adopts the Mitigation Monitoring Reporting Program (MMRP) and Notice of Determination (NOD); and

***Evidence:** The proposed use would re-establish the historical use on a property that has been heavily impacted by greenhouses and intensive cultivation over a number of decades. The proposed project was circulated to responsible agencies and any review comments were incorporated into the IS/MND; and standard and special conditions of approval and mitigation measures were developed to minimize impact on the public generally, on neighboring residents, and on the environment.*

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

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:** The General Plan land use designation for the parcel is Agriculture (A), which is designed "to maintain the productivity of agricultural land" and allows agricultural support uses and facilities.*

Site location provides access to the entire row-cropped agricultural region, and is properly located in relation to the community as a whole, emergency services, and transportation infrastructure.

Traffic generated by the proposed facility would travel about 3,500 feet to Fairview Road (an arterial) and another 937 feet to SR156 (a state highway linking US101 and State Route 152). The arterial and state highway provide quick access to intensively cultivated agricultural regions around the County, and are constructed to a capacity and level of service that would not be burdened by the proposed project. The facility is reasonably sited within the service areas of the relevant emergency services agencies, and well within adequate response times.

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 is located within a land use context consisting of residential and agricultural uses, impacts to which are mitigated by standard and special conditions of approval and by a mitigation monitoring and reporting program developed during the environmental review process.*

Evidence: *Visual and aesthetic impacts would be minimized by earth-toned non-reflective paint, shielded glare-reducing lighting, hours of operation, and landscape plantings strategically located to obscure and soften views of the facility's structural components. While a reasonable fit with existing uses and nearby surroundings, the intensive nature of the facility prompts these measures to reduce impacts on neighboring residences and farming operations. A Hazardous Materials Business Plan is required as a condition of approval, and no adverse impacts nor any damage, hazards, or nuisances are expected given that operational aspects—noise, light, pesticides, and herbicides—would be contained on-site and minimized by ordinance.*

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.*

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. [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]
 - a. 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.
 - b. Applicant Signature: _____
 - c. Date: _____
4. **Conformity with Plan:** The development and 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 substantially changed, modified or altered without written authorization from the Planning Department. All work shall be in accordance with the approved plans and with San Benito County Code. [Planning]
5. **Compliance Documentation:** Prior to issuance of building permits, 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]
6. **Notice of Determination (Fish & Game Fees):** The applicant/owner shall be required to file a Notice of Determination for the project and pay Fish & Game fees of \$2,354.75. 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 Planning Department for the filing of the notice. [Planning/CDFW]
7. **Aesthetics:** Standard conditions that address adverse impacts to neighboring persons and property apply to this project, in conformance with County ordinance, and are incorporated into the Mitigation Measures (MMs). *See* MMs AES 4.1-1 for **Landscape Plan requirements**.

See AES 4.5-2 for **Architectural Plan and Lighting Plan requirements**. All mitigation measures are found in the Mitigation Measures Monitoring Program (MMRP). [Planning]

- 8. Cultural Resources:** Standard conditions protecting cultural and archaeological resources apply to this project, and are incorporated into the Mitigation Measures (MMs). See MMs CUL 4.5-1, CUL 4.5-2, CUL 4.5-3, and CUL 4.5-4 in the attached Mitigation Measures Monitoring Program (MMRP). [Planning]
- 9. Tree Removal:** The owners/applicants shall adhere to the County tree protection ordinance (§25.29.210) by following and fulfilling the recommendations of the Tree Assessment dated June 14, 2018 and conducted/produced by ISA Certified Arborist #536 Frank Ono, and shall meet the mitigation measures incorporated into the Mitigation Measures Monitoring and Reporting Program (MMRP) and as specified in MMs BIO 4.4-3, BIO 4.4-4.

Division of Environmental Health:

- 10. Hazardous Materials:** Prior to issuance of building permits, the owner/applicant is required to complete a Hazardous Materials Business Plan (HMBP) and shall submit the HMBP to the County Division of Environmental Health (DEH). [Environmental Health]
- 11. Sewage Disposal:** A licensed engineer or (equivalent) knowledgeable in designing onsite waste water treatment systems shall be required to design the septic system for all commercial structures with plumbing. Additionally:
 - a. No part of the septic system shall be located in an area subject to vehicular traffic or parking.
 - b. The owner shall provide a detailed plot plan to DEH showing the location of the septic system and all distances from all structures and water wells (existing and proposed).
 - c. The owner shall provide to DEH, stamped and signed by the engineer, a detailed drawing of the septic system.
 - d. Prior to operation of the proposed facility, the owner/applicant shall secure permits and construct facilities to the satisfaction of the County Department of Environmental Health.
- 12. Water:** The owner/applicant has indicated a new drinking water well will be installed, and that there will be 54 employees plus visitors at this site. Prior to issuance of any building permits, and prior to beginning any construction activities:
 - a. The owner shall contact the State Office of Drinking Water if/when more than 25 employees and guests are present on-site during any time of business operations.
 - b. The owner/applicant shall obtain a permit to drill a new well from the County Water District.
 - c. The owner/applicant shall submit documentation to DEH that the water **quality** meets Title 22 requirements.
 - d. The owner/applicant shall provide documentation of sufficient water quantity to DEH. The required flow rate depends on the number of service connections. Two or more connections shall require a 24-hour pump test.
 - e. Prior to operation of the proposed facility, the owner/applicant shall secure permits and construct facilities to the satisfaction of the County Department of Environmental Health.
 - f. In the event that more than one structure is connected to and served by the water system, the owners shall contact DEH and provide the total number of structures served. More than two (2) connections to this water system require the owners to obtain a Small Water System

permit (LSWS) permit from DEH.

Public Works:

- 13. Improvement Plan:** The owner shall submit a detailed Improvement Plan for approval by the County Engineer; submittal shall include an estimate of construction costs performed by the project engineer. Payment of the relevant plan checking fee, which shall be based on the engineer's estimate, will be required with the Improvement Plan submittal. An inspection fee will also be required prior to issuance of permit. [§23.31.001; § 23.31.02(E)&(G); §5.01.048]

The following elements of the Improvement Plan are required as conditions of approval:

- a. Grading Plan:** the owner/applicant shall submit a **Final Site Grading Plan** for the initial site grading of the entire 96-acre parcel before any Phase 1 activity begins. The Grading Plan shall be reviewed and approved by the County Engineer before any earthmoving begins, and include required notes relating to standard requirements, conditions and mitigations measures.
- b. Drainage & Erosion Control:** The applicant shall comply with County Drainage Standards by providing drainage and erosion control details for the project, including drainage calculations and construction details for the proposed bioswale, the two new storm water basin, and for the new impermeable surfaces created by this project. Drainage plans must show how the runoff will be contained within the site. Note that the existing ditch running along the length of the south property line carries runoff from off-site east of Orchard Road: the ditch runs south along Orchard, until it meets the project site's southern border, where it turns and runs west until it flows into the ditch along SR156. Hydraulic calculations shall determine whether capacities of the proposed bioswale and the property line drainage ditch are sufficient for either one to compromise the function of the other.
- c.** 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 requirement. A Waste Discharger Identification (WDID) number or Erosivity Waiver shall be provided to Public Works prior to the beginning of any construction activities..
- d.** The applicant shall provide confirmation that Central Coast Regional Water Quality Control Board (CCRWQCB) drinking water and septic requirements have been satisfied, and will be satisfied throughout the course of all six phases of the project.
- e. Roadway Dedication:** Prior to issuance of occupancy permit, the applicant shall dedicate land, along both east and west portions of the entire property frontage on Orchard Road, to complete the full 60 feet of right-of-way (ROW). Any permanent structures not part of the Orchard Road ROW improvements shall be constructed outside of the dedicated ROW.
- f. Traffic/Improvements:** Prior to issuance of occupancy permit, the applicant shall be required to improve Orchard Road along the entire property frontage to the full roadway width of 28' Asphalt Concrete (AC) on 38' Aggregate Base (AB) on Orchard Road, designed to support a Traffic Index (TI) of 8 per Traffic Impact Analysis (TIA). The existing road structural section shall be reconstructed or be provided with AC overlay to support TI of 8. Structural pavement details and calculations shall be included.

- g. Driveways and Aprons:** The applicant shall construct project driveway and entrances to meet Surface Transportation Assistance Act (STAA) truck turning radius and geometric design guidelines. The project engineer shall provide detailed driveway geometry showing STAA truck turning templates.
- h. Parking:** As part of improvement plan submittal, the applicant shall show and delineate parking spaces and confirm that the site can accommodate the anticipated employees, visitors and company vehicles, as well as truck loading and parking areas, per County Parking regulations.
- i. Encroachment Permit:** The applicant shall obtain a Public Works Encroachment Permit for any work performed within the County Right-of-Way (ROW) prior to commencement of any improvements associated with this project.

Soils/Geologic

- 14.** Design and implementation of any site improvements for this project shall be based on the recommendations of the Geotechnical Engineer per the Geotechnical Report (File No. 6944-18.04; Grice Engineering; June 15, 2018). A complete compilation of test reports along with a letter from the Geotechnical Engineer attesting to compliance with requirements and recommendations of said shall be submitted to Public Works and Planning upon completion of site improvements.

Phase I Site Assessment, Updated

- 15.** In conformance with ASTM Practice E 1527-13 requirements, an updated Phase I Environmental Site Assessment was required, conducted by CapRock Geology, and submitted to the County of San Benito (Ref. No. 5050-01, dated December 22, 2018). Prior to any construction activity or project approvals, all recommendations of the updated Phase I Environmental Site Assessment shall be fulfilled. The applicant shall conduct a limited Phase II Environmental Site Assessment and, **and prior to any project approvals**, shall submit the report to the County and obtain review and approval of the Phase II ESA report from Public Works and Planning. The Phase II Assessment will consist of sampling of shallow soil in the vicinity of the (Aboveground Storage Tanks) ASTs for hydrocarbons and shallow soil sampling near the discharge pipe to Pacheco Creek for pesticides, herbicides and heavy metals.

Fire

- 16. Sprinklers:** The applicant shall provide sprinklers in the central (non-greenhouse) building. The applicant shall provide 4 to 6 fire hydrants on the property.

The project, including driveway details, 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, Public Works]

- 17. Water Softeners:** Use of on-site regenerating water softeners shall be prohibited; off-site regeneration softening systems may be used subject to the approval of the San Benito County Water District. Use of water softener loops shall be prohibited; no water softener loops may be installed.

Monterey Bay Air Resources District—Air Quality

- 18. Trenching Activities:** When old underground piping or other asbestos-containing materials are encountered during trenching activities, **Rule 424** could apply. <https://www.arb.ca.gov/drdb/mbu/cur.htm>. Please contact Shawn Boyle in the Compliance Division at (831) 647-9411.
- 19. Irrigation Pumps:** For any irrigation pump installation, now or future, the Air District (MBARD) recommends the use of electric pumps, due to benefits to air quality, lower long-term maintenance costs, and improved efficiency. (pg. 35)
- 20. Permits Required:** Air District permits or registration with the California Air Resources Board (CARB) may be required for portable construction equipment with engines 50 Hp or greater. Please contact the Air District's Engineering Division at (831) 647-9411
- 21. Sensitive Receptors:** Due to nearby proximity of sensitive receptors (nearest ~250 feet from project site), the Air District recommends using cleaner than required construction and tree removal equipment conforming to ARB's Tier 4 emission standards, and whenever feasible, recommends that construction equipment use alternative fuels such as compressed natural gas (CNG), propane, electricity or biodiesel. This would have the added benefit of reducing diesel exhaust emissions.
- 22. Dust Control:** A Note shall be placed on the Final Grading, Landscape, and Engineering Plans listing the following dust control measures. To ensure proper implementation of the fugitive dust control measures *the owner/applicant shall*:
- Water all active construction areas at least twice daily. Frequency should be based on the type of operation, soil, and wind exposure.
 - Apply chemical soil stabilizers on inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days).
 - Apply non-toxic binders (e.g., latex acrylic copolymer) to exposed areas after cut and fill operations and hydro-seed the area.
 - Haul trucks shall maintain at least 2'0" of freeboard.
 - Cover all trucks hauling dirt, sand, or loose materials.
 - Plant tree windbreaks on the windward perimeter of construction projects if adjacent to open land.
 - Plant vegetative ground cover in disturbed areas as soon as possible.
 - Install wheel washers at the entrance to construction sites for all exiting trucks.
 - Pave all roads on construction sites.
 - Sweep streets if visible soil material is carried out from the construction site.
 - Post a publicly visible sign displaying the telephone number and person to contact regarding dust complaints. This person shall respond to complaints by taking corrective action within 48 hours. The phone number shall be visible to under Rule 402 (Nuisance).

THE MITIGATION MONITORING AND REPORTING PROGRAM

- 23.** The Mitigation Monitoring and Reporting Program for the Tanimura & Antle Project/ PLN180013, and Initial Study/Mitigated Negative Declaration, is hereby incorporated into these conditions of approval and made a part. See the attached pages that follow.

Mitigation Monitoring & Reporting Plan

MM	Mitigation Measure	Responsible Agency or Party	Timing of Verification	Method of Verification	Verification of Completion	
					date	reviewer initials
AES 4.1-1	<p>The project proponent shall submit a landscaping plan for review and approval by the RMA Planning Division prior to the issuance of a building permit. The landscaping plan shall incorporate landscape plantings every 10 to 15 feet along the 300- to 400-foot frontage of Highway 156, from Pacheco Creek to the project boundary to partially screen potential views of the project from Highway 156. Landscaping shall consist of drought-tolerant native species along with other acceptable species identified by the County. Final landscaping plan shall identify the location, number, and types of plantings that would soften the visual impacts from Highway 156 and shall identify success metrics, such as survival and growth rate for the plantings. Plant material shall be selected to grow to be at least fence height (6 to 8 feet tall) and be strategically placed to minimize impacts to scenic views from those traveling on Highway 156.</p> <p>The above referenced standards, components and materials shall be denoted on building plans. A copy of said standards, components, and materials shall be submitted with grading and building plans prior to issuance of building permit(s) for project development.</p> <p>Note: The purpose of this mitigation is to reduce impacts from short-range views of the project from Highway 156 through the strategic placement of landscape planting; complete visual screening of the project site is not proposed.</p>	<p>Owner/ Agent</p> <p>Tanimura & Antle / Avila Construction</p>	<p>Prior to issuance of building permits</p>	<p>Review & Approval of Landscaping Plan by Planning Division</p>		
AES 4.1-2	<p>The scenic character and quality of the area surrounding the project site would be protected by taking the following (or equivalent) actions:</p> <p>Prior to issuance of the first building permit for the project, the project proponent shall submit architectural plans for review and approval by County Planning staff.</p> <p>Lighting Plan/Lighting Design shall be included in the architectural plans, and shall follow all necessary design requirements as outlined in County Code § 19.31.</p> <p>The architectural plans shall include all proposed building elevations, materials, colors, textures, light fixtures, and perimeter fencing, and shall satisfy the following:</p> <ul style="list-style-type: none"> ▪ Building colors compatible with surrounding terrain (earth tones and non-reflective paints) shall be used on exterior surfaces of all structures, including greenhouses, fences and walls. 	<p>Owner/ Agent</p> <p>Tanimura & Antle / Avila Construction</p>	<p>Prior to issuance of building permits</p>	<p>Review & Approval of Architectural Plans by Planning Division</p>		

	<ul style="list-style-type: none"> ▪ High contrast color combinations, such as very dark brown adjacent to white, shall be avoided on the exterior of buildings or individual structures' roofs, walls, and fascia. ▪ Roof vents shall be the same earth tone shade as the surrounding roof surface. ▪ Use minimally reflective glass and paint colors to minimize reflective glare. <p>The above referenced standards, components, and materials shall be denoted on building plans and apply to all phases of the project. A copy of said standards, components, and materials shall be submitted with grading and building plans prior to issuance of building permit(s) for project development.</p>					
BIO 4.4-1	<p>A note shall be placed on Final Grading and Building Plans that the Project shall adhere to the following requirements:</p> <p>Activities that may directly affect (e.g. vegetation removal) or indirectly affect (e.g. noise/ground disturbance) nesting raptors and/or nesting bird species occurring within or immediately adjacent to the project site will be timed to avoid the breeding and nesting seasons. Specifically, the project applicant will schedule grading with heavy machinery and vegetation &/or tree removal after September 16 and before January 31.</p> <p>If activities must occur during the breeding and nesting season (February 1 through September 15), a qualified biologist shall conduct pre-construction surveys for nesting raptors and other protected nesting bird species within 300 feet of the proposed construction activities. Pre-construction surveys should be conducted no more than 7 days prior to the start of the construction activities during the early part of the breeding season (February through April) and no more than 14 days prior to the initiation of these activities during the late part of the breeding season (May through August).</p> <p>If raptor or other bird nests are identified within or immediately adjacent to the project site during the pre-construction surveys, the qualified biologist shall notify the proponent and an appropriate no-disturbance buffer shall be imposed within which no construction activities or disturbance shall take place (generally 300 feet in all directions for raptors; other avian species may have species-specific requirements) until the young of the year have fledged and are no longer reliant upon the nest or parental care for survival, as determined by a qualified biologist.</p>	<p>Owner/ Agent</p> <p>Tanimura & Antle / Avila Construction</p>	<p>Upon submittal of Grading and Landscaping Plans (Note) / Prior to any construction activities.</p>	<p>Review & Approval of Grading Plans by Public Works and Planning</p> <p>Review & Approval of Building Plans by Building and Planning</p>		

BIO 4.4-2	<p>A note shall be placed on Final Grading and Landscaping Plans that the Project shall adhere to the following requirements: Prior to site work involving any tree removal (22 trees to be removed, as shown in project plans) a tree removal contractor shall verify absence of active animal or bird nesting sites at the project site. If any active animal or bird nesting sites are found prior to tree removal, work shall be stopped until a qualified biologist is contracted to ensure that no nests of species protected by the Migratory Bird Treaty Act or the California Fish and Game Code will be disturbed during construction activities.</p>	<p>Owner/ Agent</p> <p>Tanimura & Antle / Avila Construction</p>	<p>Upon submittal of Grading and Landscaping Plans (Note) / Prior to any site work</p>	<p>Review & Approval by Public Works AND Planning Division</p>		
BIO 4.4-3	<p>A note shall be placed on Final Grading and Landscaping Plans that the project shall adhere to the following requirements. The project applicant and construction manager shall be responsible for implementing the best management practices presented below prior to tree removal or site grading.</p> <p>A) Do not deposit any fill around trees, which may compact soils and alter water and air relationships. Avoid depositing fill, parking equipment, or staging construction materials near existing trees. Covering and compacting soil around trees can alter water and air relationships with the roots. Fill placed within the drip-line may encourage the development of oak root fungus (<i>Armillaria mellea</i>). As necessary, trees may be protected by boards, fencing or other materials to delineate protection zones.</p> <p>B) Pruning shall be conducted so as not to unnecessarily injure the tree. General principals of pruning include placing cuts immediately beyond the branch collar, making clean cuts by scoring the underside of the branch first, and for live oak, avoiding the period from February through May.</p> <p>C) Native live oaks are not adapted to summer watering and may develop crown or root rot as a result. Do not regularly irrigate within the drip line of oaks. Native, locally adapted, drought resistant species are the most compatible with this goal.</p> <p>D) Root cutting should occur outside of the springtime. Late June and July would likely be the best. Pruning of the live crown should not occur February through May.</p> <p>E) Oak material greater than 3 inches in diameter remaining onsite more than one month that is not cut and split into firewood should be covered with clear plastic that is dug in securely around the pile. This will discourage infestation and dispersion of bark beetles.</p> <p>F) The Monterrey Bay Air Resources District advises not to burn the wood from the 22 trees slated for removal. In case the trees are disposed of via wood chipping, please make sure to contact the Air District's Engineering Division at (931) 647-9411 to discuss if a Portable Registry is necessary for the wood chipper being utilized for this project. [MBARD]</p> <p>G) If trees along near the development are visibly declining in vigor, a Professional Forester or Certified Arborist should be contacted to inspect the site to recommend a course of action.</p>	<p>Owner/ Agent</p> <p>Tanimura & Antle / Avila Construction</p>	<p>Upon submittal of Grading and Landscaping Plans (Note) / Prior to tree removal or any site grading; during all construction activities</p>	<p>Review & Approval by Public Works AND Planning Division</p>		

BIO 4.4-4	<p>A note shall be placed on Final Grading and Landscaping Plans that the Project shall adhere to the following requirements. Prior to the commencement of any construction activities on the project site, the following tree protection measures shall be implemented and approved by a qualified arborist or forester retained by the project applicant:</p> <ul style="list-style-type: none"> ▪ Trees located adjacent to the construction area shall be protected from damage by construction equipment by the use of temporary fencing and when necessary through wrapping of trunks with protective materials. ▪ Fencing shall consist of chain link, snowdrift, plastic mesh, hay bales, or field fence. Existing fencing can also be used. ▪ Fencing is not to be attached to the tree but free standing or self-supporting so as not to damage trees. Fencing shall be rigidly supported and shall stand a minimum of height of four feet above grade and should be placed to the farthest extent possible from the trees base to protect the area within the trees drip line (typically 10-12 feet away from the base of a tree). ▪ In cases where access or space is limited for tree protection it is permissible to protect the tree within the 10-12 feet distance after determination and approval by a qualified forester or arborist. ▪ Soil compaction, parking of vehicles or heavy equipment, stockpiling of construction materials, and/or dumping of materials should not be allowed adjacent to trees on the property especially within fenced areas. ▪ Fenced areas and the trunk protection materials should remain in place during the entire construction period. <p>During grading and excavation activities:</p> <ul style="list-style-type: none"> ▪ All trenching, grading or any other digging or soil removal that is expected to encounter tree roots should be monitored by a qualified arborist or forester to ensure against drilling or cutting into or through major roots. ▪ The project architect and qualified arborist should be onsite during excavation activities to direct any minor field adjustments that may be needed. ▪ Trenching for retaining walls or footings located adjacent to any tree should be done by hand where practical and any roots greater than 3-inches diameter should be bridged or pruned appropriately. ▪ Any roots that must be cut should be cut by manually digging a trench and cutting exposed roots with a saw, vibrating knife, rock saw, narrow trencher with sharp blades, or other proper root pruning equipment. ▪ Any roots damaged during grading or excavation should be exposed to sound tissue and cut cleanly with a saw. 	Owner/ Agent Tanimura & Antle / Avila Construction	Upon submittal of Grading and Landscaping Plans (Note) / Prior to commencing any construction activities; and during all construction activities	Review & Approval by Public Works AND Planning Division		
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	<p>If at any time potentially significant roots are discovered:</p> <ul style="list-style-type: none"> ▪ The arborist/forester will be authorized to halt excavation until appropriate mitigation measures are formulated and implemented. <p>If significant roots are identified that must be removed that will destabilize or negatively affect the target trees, the property owner will be notified immediately and an assessment and determination for removal will be made as required by law for treatment of the area that will not risk death, decline, or instability of the tree consistent with the implementation of appropriate construction design approaches to minimize affects, such as hand digging, bridging or tunneling under roots, etc.</p>					
CUL 4.5-1	<p>A note shall be placed on Final Grading and Landscaping Plans that the Project shall adhere to the following requirements contained in Mitigations CUL 4.5-1 through CUL 4.5-4:</p> <p>The project applicant shall retain a qualified archaeologist (project archaeologist) to be present on the project site from the start of ground disturbing work for the planned construction. If potentially significant archaeological resources are discovered, the project archaeologist is authorized to halt excavation until any finds are property evaluated. If a find is determined to be significant, work may remain halted near the find to permit development and implementation of the appropriate mitigations (including selective data recovery) with the concurrence of the CEQA Lead Agency (San Benito County). At the discretion of a qualified archaeologist, monitoring could be discontinued if there is enough information collected from direct observation of the subsurface conditions to conclude that cultural resources do not exist.</p>	<p>Owner/ Agent</p> <p>Tanimura & Antle / Avila Construction</p>	<p>Upon submittal of Final Grading & Landscaping Plans /</p> <p>During construction activities</p>	<p>Review & Approval by Public Works and Planning Division</p>		
CUL 4.5-2	<p>Prior to construction, the project applicant's project archeologist shall conduct a sensitivity training for cultural resources for all onsite personnel involved in ground disturbing activities.</p>	<p>Owner/ Agent</p> <p>Tanimura & Antle / Avila Construction</p>	<p>Prior to any construction activities</p>	<p>Review & Approval by Public Works and Planning</p>		
CUL 4.5-3	<p>If archaeological resources or human remains are accidentally discovered on the project site during construction, work shall be halted by the construction manager within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented. Materials of particular concern would be concentrations of marine shell, burned animal bones, charcoal, and flaked or ground stone fragments. (Ref: Health and Safety Code 7050.5)</p>	<p>Owner/ Agent</p> <p>Tanimura & Antle / Avila Construction</p>	<p>During all grading and construction activities</p>	<p>Review & Approval by Planning Director</p>		

CUL 4.5-4	<p>If human remains are found at any time on the project site, work must be stopped by the construction manager, and the County Coroner must be notified immediately. If the Coroner determines that the remains are Native American, the Native American Heritage Commission will be notified as required by law. The Commission will designate a Most Likely Descendant who will be authorized to provide recommendations for management of the Native American human remains. (Ref: California Public Resources Code Section 5097.98; and Health and Safety Code Section 7050.5).</p> <p>Specific County of San Benito provisions and further measures shall be required as follows if human remains are found:</p> <p>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:</p> <ol style="list-style-type: none"> 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. 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. Notify the Resource Management Agency Director. The RMA Director shall also be notified within 24 hours if human and/or questionable remains have been discovered. The Sheriff and Coroner shall be notified immediately of the discovery as noted above. 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. [Planning] 	Owner/ Agent Tanimura & Antle / Avila Construction	During all grading and construction activities	Review & Approval by RMA Director; Planning Division		
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GEO 4.6-1	<p>A note shall be placed on Final Grading and Building Plans that the project applicant shall be required to implement all of the recommendations from the Geotechnical Report and all recommendations from the <u>updated</u> Phase I Site Assessment Report.</p> <p>As a Condition of Approval for this project, a Phase II Assessment shall be conducted and will consist of sampling shallow soil in the vicinity of the ASTs (Aboveground Storage Tanks) for hydrocarbons, and shallow soil sampling near the discharge pipe to Pacheco Creek for pesticides, herbicides and heavy metals (<i>see</i> updated Phase 1 Site Assessment, CapRock Geology, Ref. No. 50501, December 22, 2018).</p>	Owner/ Agent Tanimura & Antle / Avila Construction	Upon submittal of Grading Plans (Note)/ Prior to any project approvals or construction activity	Review & Approval by Planning Division		
LU 4.10-1	Per the County, prior to issuance of building permit, in accordance with County Ordinance 541, the project applicant shall contribute a habitat conservation plan mitigation fee in the amount required by the County Planning Department.	Owner/ Agent Tanimura & Antle / Avila Construction	Prior to issuance of building permits	Review & Approval by Planning Division		
TRA 4.14-1	Prior to construction, the project applicant shall be responsible for payment of the San Benito County Regional Transportation Impact Mitigation Fee (TIMF), which would represent the project's contribution towards countywide roadway improvements funded by the fee program. San Benito County will determine the exact fee amount attributable to this project.	Owner/ Agent Tanimura & Antle / Avila Construction	Prior to any construction activities	Review & Approval by Planning Division		
TRA 4.14-2	<p>Prior to construction, the project applicant shall complete all testing and analysis required to determine the pavement thickness of Orchard Road needed to comply with applicable County requirements for pavement loading, subject to review and approval by the County Public Works Department.</p> <p>If after review by Public Works, the County Engineer determines that pavement thickness would be adequate to meet County requirements, no further action is required.</p> <p>If testing and analysis indicate additional improvements would be necessary for full project buildout, the County shall inform the applicant of requirements for funding and improvements for the full buildout of the project and enter into an agreement for future timing and completion of construction improvements.</p>	Owner/ Agent Tanimura & Antle / Avila Construction	Prior to any construction activities	Review & Approval by Planning Division		
TRA 4.14-3	Prior to the issuance of final building permit, the project will perform a traffic study to determine the then-current daily traffic volume on Orchard Road between Fairview Road and the project site. If said volumes are shown at levels at or over 1,500 vehicles per day, the project applicant shall be responsible for improving road structure and width <i>the full length of Orchard Road between Fairview Road and the project site</i> prior to the issuance of the final building permit for the project, unless already constructed by others. This roadway widening shall conform to the standards and requirements of the County of San Benito.	Owner/ Agent Tanimura & Antle / Avila Construction	Prior to issuance of final building permit	Review & Approval by Public Works and Planning Divisions		

**PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF
SAN BENITO THIS 16TH DAY OF JANUARY 2019 BY THE FOLLOWING VOTE:**

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair
San Benito County Planning Commission

ATTEST:

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

[illegible]