

STAFF REPORT

PROJECT DATA:

Application: PLN190020 The San Benito Hemp Campus
(Use Permit and Development Agreement)
Public Hearing: June 19, 2019
Applicant/Owner: Chambers/Pacific Bay Capital Group
Location: 7800 Lake Road, Hollister, CA 95023
APN: 013-050-028-000
General Plan: Agriculture (A),
Zoning: Agricultural Productive (AP)
Planner: Taven M. Kinison Brown, Principal Planner

PROJECT DESCRIPTION

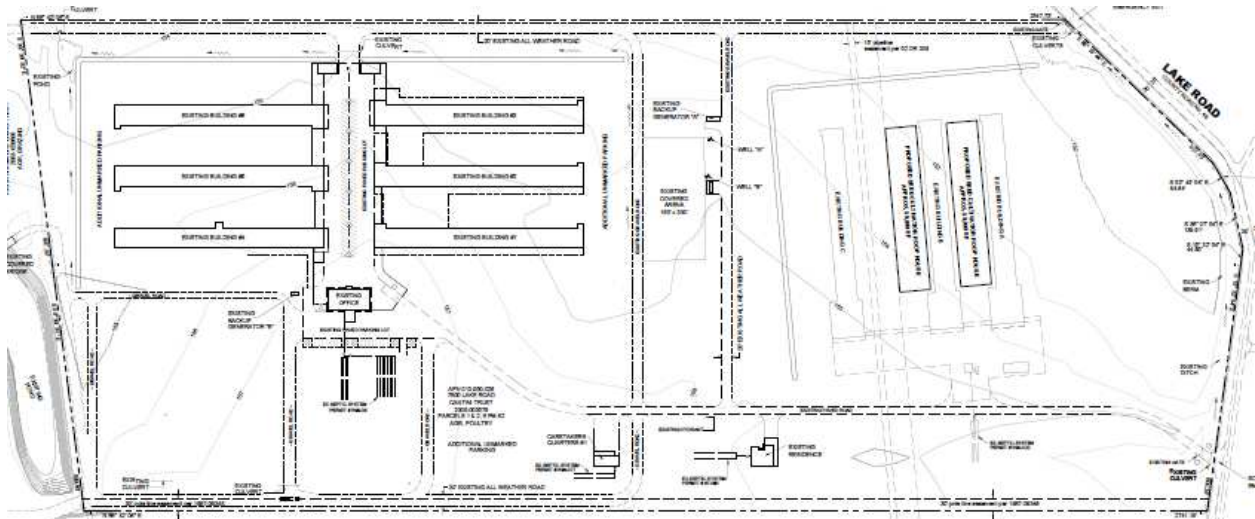
The Use Permit. The San Benito Hemp Campus is a proposal to reuse 275,000 square feet of existing structures at a former turkey raising facility on a 75-acre agriculturally (AP) zoned parcel south of and adjacent to the Frazier Lake Airport in the north county area. The applicants have also offered to enter into a Development Agreement with the County of San Benito. The property is presently used as an equestrian facility and for personal storage for the owner.



The San Benito Hemp Campus facility would provide for hemp cultivation and hemp-derivative manufacturing and oil extraction. The manufacturing processes will include compounding and formulating various hemp (CBD) products. The oil extraction facilities would involve TFE-Freon-based extraction processes. The project includes a proposal to erect 60,000 square feet of “hoop” greenhouses (or more formalized structures) to supplement seed production and cultivation. The San Benito Hemp Campus will process hemp grown elsewhere in the California region as the market will bear. Adjacent properties in the vicinity, not subject to this Use Permit review, will also be used to grow hemp for cultivation and processing at this facility. An emergency generator will provide back-up power. **(Please see Attachment 1 to Exhibit A).**



- (1-5) 25,000 sq ft + manufacturing
- (6) 25,000 sq ft + of Bio Mass Storage
- (7) 50,000 sq ft Extraction Plant
- (8-10) 25,000 sq ft + seed cultivation



The manufacturing areas would be developed in four of the six existing stables totaling 100,000 sf. A 25,000 sf. bio mass storage area would be established in the fifth and sixth existing stable buildings each. The 50,000 sf. area structure would be developed for TFE-Freon-based oil extraction. Seed cultivation areas would be established in the three existing stables located towards Lake Road totaling 75,000 sf. These areas potentially supplemented by two additional 25,000 sf. hoop houses or more formalized structures.



The Development Agreement. The applicants have also offered to enter into a Development Agreement with the County of San Benito. The Development Agreement will vest the Applicant's rights to conduct hemp related activities, including but not limited to cultivation, testing and distribution and derivative manufacturing and oil extraction and other hemp processing activities in accordance with County Code. The Development Agreement also addresses specific Community Benefits for San Benito County.

The Planning Commission will decide on the merits of the **Use Permit** for the reuse of the existing facility, and then make a recommendation on the ordinance to approve a **Development Agreement** to the Board of Supervisors who will take final action on the Development Agreement at a future duly noticed Board of Supervisors' meeting, potentially July 23, 2019.



SITE DESCRIPTION

The project site is located in the middle of a flat agricultural plain and does not involve a scenic vista. The external "old southwest" appearance of the existing structures is not expected to change. The project is not located within the scenic corridor. In light of surrounding land uses, the site does not contain any outstanding scenic qualities that the proposed project would adversely impact.

Physical Configuration – The main structures of the property were constructed in 1988 and since. As shown above, the campus consists of numerous structures. Please see the applicant's prepared materials (**Attachment 1 to Exhibit A**) and the website of the current user. <https://www.gilroygaits.com/facility.html>.



Scenic Highway: No

Seismic: A small portion of the eastern portion of the site, immediately adjacent to Lake Road, is located in the Alquist- Priolo Earthquake Zone for the Calaveras Fault.

Fire Hazard: Located within a Local Responsibility Area, outside of the designated moderate, high and very high fire hazards areas.

Floodplain: Zone X (outside of the 500-year floodplain as depicted on the FEMA floodplain map panel number 06069007D, dated April 6, 20109.

Archaeological Sensitivity: None.

Kit Fox Habitat: Within Impact Fee Area for Habitat Conservation Plan.

Other Endangered or Sensitive Species: None known.

Airport Influence Area: Frazier Lake Airpark

ACCESS, WATER, SEWER, UTILITIES AND OPERATIONS

Access: North of Shore Road, the project site takes access from Frazier Lake Road at the “Gilroy Gaits” monument entrance, approximately 2000 feet east of the monument. The property is bounded on the east by Lake Road. While not subject to this use permit review, the property owner owns several adjacent land holdings including the access parcel to Frazier Lake Road.

Water: The proposed Hemp Campus / product manufacturing site will use two on-site existing wells that have served the property for both the equestrian uses as well as the turkey egg-raising operations. The two wells provide potable water and are identified on sheet 3 of the site plan as “Well A” and “Well B”. There are no outside connections to these wells.

Sewer: The site is currently served by on-site wastewater treatment and disposal systems; no connection to an outside agency is required. Sewage disposal will be serviced by licensed third parties, and service reports submitted to the Division of Environmental Health. Conditions of approval submitted by the Division of Environmental Health will be followed.

Utilities:

The site is served by electrical and telecommunications infrastructure.

Solid Waste will be addressed in a waste handling and disposal plan prepared to the satisfaction of the Division of Environmental Health.

A Hazardous Materials Business Plan (HMBP) will be completed and submitted to the Division of Environmental Health for review and approval.

Operations – The proposed facility would operate seven days per week, 24 hours/day with two, twelve-hour shifts. Initially, the facility is expected to employ between 50 and 75 employees with potentially 125 employees at full development.

- Vehicle traffic generation would include employee-generated daily trips, along with truck trips relating to the operations.
- Between 25 and 50 truck trips per month would bring hemp and other extraction components, such as TFE-Freon, to the facility.
- Approximately 20 truck trips per month are expected to leave the facility with extracted hemp fiber and hemp products.

BACKGROUND

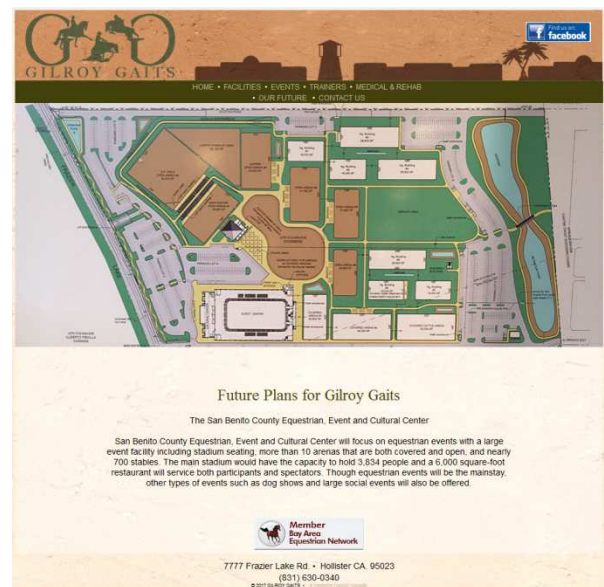
Initially constructed as a turkey egg-raising farm for Nicholas Turkey, Inc in 1988, (later purchased by Aviagen Turkeys and then discontinued and cleaned up), this 275,000 square foot

agricultural processing plant and property has been used as an equestrian boarding and training facility for many years. RMA records show that the equestrian use of the property was considered consistent with the Agricultural land use and Agricultural Productive zoning designations underlying the property. Building permits were simply applied for the installation of stalls, wash areas and electrical connections as necessary. No particular use permit was required for this facility.

San Benito County Equestrian, Event and Cultural Center. However, on the adjacent 93-acre property immediately to the west, where the Gilroy Gaits monument entrance and covered bridge are observed, a major use permit to develop an equestrian show park and event center with supporting ancillary uses was issued by the County July 20, 2011. (Use Permit No. 999-08, Grading Permit No. 08-394, Variance No. 10-30)

Other than the retention pond and covered pedestrian bridge which existed prior to the permit being issued in 2011, no other improvements to the western parcel other than the Gilroy Gaits entrance monument and sign appear to have been made in pursuit of the equestrian show park and event center. To staff, the permit appears to have expired according to Condition # 26:

26. Term of Permit: A use permit shall expire one year from the date of granting said permit unless construction and activities authorized by the permit for use of the subject property in conformance with the permit has commenced, in good faith, within one year of the approval date. If any such use ceases for a period of at least one year, the use permit shall become invalid and a new permit must be obtained prior to continuing said use. [Planning and Building]



LAND USE PLAN AND ZONING: The site is designated Agriculture (A) in the County General Plan and as Agricultural Productive (AP) in the Zoning Ordinance.

General Plan:

Agriculture (A) Land Use Description

The purpose of this designation is to maintain the productivity of agricultural land, especially prime farmland, in the county. This designation 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. Secondary dwellings are allowed for relative, caretaker/employee, and farm worker housing. These areas typically have transportation access, but little to no public infrastructure.

Goal LU-3:

To ensure the long-term preservation of the agricultural industry, agricultural support services, and rangeland resources by protecting these areas from incompatible urban uses

and allowing farmers to manage their land and operations in an efficient, economically viable manner.

LU-3.1

Agricultural Diversification. The County shall support existing farms, vineyards, and other agricultural operations and encourage the agricultural industry to continue diversification that includes organic, value-added, small-scale, sustainable, and community-supported agricultural practices throughout the county.

Zoning:

Agricultural Productive (AP)

The intent of the AP district is to provide for areas within the county to be used for agricultural production of any type as set forth in the general plan. (SBCC 25.07.020).

Conditional Uses

Conditional uses in an AP district shall be all those uses listed in §§ 25.07.005 and 25.29.106 of the SBCC.

25.07.005 Agricultural processing

ENVIRONMENTAL EVALUATION:

An Initial Study checklist was prepared for this project by the Applicant, Pacific Bay Capital Group and their environmental consultant, M-Group, with oversight and review by the County Resource Management Agency, in compliance with the California Environmental Quality Act CEQA (**See Exhibit C**). The study concludes that the project will not have a significant impact on the environment. The public review period for the (proposed) Negative Declaration began May 20, 2019 and ended June 10, 2019. The following comments were received and responded to by either the *applicant or staff*.

Process Waste Water Remediation (From Bill Morrison June 10, 2019)

- Specifically, what processing chemicals will be used?
 - *Applicant Response: Food grade R134a for extraction. Isopropyl alcohol for cleaning, dawn dish soap.*
- Where will the Material Safety Data Sheets (MSDS) for these chemicals be kept?
 - *Applicant Response: MSDS sheets will be located at all active locations for extraction and cleaning, a copy will be presented to the county for all solvents and cleaners.*
- What will the effluent containment be? That is, how will the post process wastewater that contains chemical residue used in the processing of this product be safely stored prior to remediation?
 - *Applicant Response: Trace amounts of isopropyl alcohol and dawn dish soap will be in the waste water.*
- How, specifically, will this wastewater be remediated?
 - *Applicant Response: Waste water will be remediated by first placing waste water into a tank equipped with Nano bubblers to oxidize any trace heavy metals, next the waste water will be carbon scrubbed and passed through a waste water remediation skid. Finally, the waste water will pass through reverse osmosis for re-use or for landscaping.*
- What regular testing will be done to assure expected results?

- *Applicant Response: Our lab will be equipped with an Agilent 1290 Infinity II LC (liquid chromatography) to take scheduled samples of waste water; our samples will be validated at a third party waste water analytical chromatography laboratory.*
- What will the response be if these chemicals are detected in our water supply?
 - *Applicant Response: If trace amounts of isopropyl alcohol or dawn dish soap are detected we will install a new purification skip or oxidizing tank system. Typically, the waste water skids are designed for process treatment.*

Caltrans District 5, Chris Bjornstad June 10, 2019

- The Council of San Benito County Governments (SBCOG) collects development impact fees to help fund transportation projects of regional significance to address project long-range traffic impacts. Caltrans supports payment of the adopted SBCOG development impact fees by this project to mitigate cumulative impacts per CEQA.
 - *Staff Response: When developed in earlier years, the builder was granted an “agricultural exemption” and paid \$0.00 in impact fees. The applicant now, upon occupancy and reuse of facility structures with an “industrial” use, is obligated to pay the corresponding impact fees. Industrial use impact fees, including those associated with long-range traffic impacts, such as the TIMF (Traffic Impact Mitigation Fee), shall be paid upon occupancy and re-use of structures.*
- The traffic study should include information on existing volumes within the study area, including the State transportation system, and should be based on recent traffic volumes less than two years old. Counts older than two years cannot be used as a baseline. Feel free to contact us for assistance in acquiring the most recent data available.
 - *Staff Response:*
 - *Located 2000 feet east of Frazier Lake Road, 3/4 of a mile from Shore Road, and 2 miles from Hwy 25, the new employees and users of the San Benito Hemp Campus will likely use these well-traveled ways, as well as Lake Road to the east. These are the same arterials and collectors that supported the past 30+ years of the facility as a 275,000 square foot turkey egg-raising facility, and presently a horse boarding and training facility with the associated, trailers, trucks and support vehicles.*
 - *The San Benito County Engineering / Public Works Division also recognizes the “continuation” of activities at this property and has crafted an “active” condition of approval that allows the County Engineering Division to hold the applicant responsible for updated traffic counts and monitoring and to adjust operations if necessary to enhance the movement of vehicles in this region. The condition reads:*
 - *The applicant/developer shall hire a traffic Engineer to monitor the traffic during its operation within 12 months of the permit issuance. The traffic monitoring data shall include but is not limited to the following: turning movements in and out of the project site, daily traffic volumes, parking demands, and any impacts to intersections, roads and/or highway segments. The monitoring data shall be evaluated to determine whether traffic operations are within acceptable limits and shall also determine and/or identify significant traffic impact, if any. A traffic report shall be submitted for review and approval by the County and shall include recommendations for mitigation for any traffic impacts when necessary. Moreover, the applicant will be required to mitigate any traffic impacts identified in said study.*

Potential issues related to Process Wastewater and Traffic Monitoring have been engaged responsibly by the applicant and RMA staff. The short summary is that the wastewaters will be captured in closed systems that will be subject to primary, secondary and tertiary treatments, and will offset the use of fresh potable waters for landscaping purposes. The use of high-tech closed loop systems for processing hemp will capture gasses and liquids and may result in insignificant releases of known household products, such as isopropyl alcohol and dish detergent. And, if such is the case, the applicant has noted in their operations that they would install a new purification skip or oxidizing tank system. And lastly that the operator will use a third party testing regime to assure objectivity and disclosure.

As no new potential impact not already discussed and addressed in the proposed negative declaration has been identified, staff recommends that the Planning Commission adopt a Negative Declaration (of no significant environmental impact). Compliance with Federal, State and Local codes, best management practices and the use of modern state of the art equipment by the applicant are sufficient.

ANALYSIS:

Reuse of an underutilized facility.

Staff views this project as an adaptive reuse of an underutilized agricultural production facility. Aside from two 30,000 square foot liner hoop houses (or more formalized structures) to be added between existing structures on the developed property, there will virtually be no new construction, nor the impacts associated with new development and construction. Appropriate access, water supply, septic systems, utilities, hardscapes, offices, manufacturing floor areas, shipping points, and site circulation patterns are all present. The applicant will simply move equipment into existing structures, and likely need electrical or minor interior structural permits to get underway.

Staff has prepared a draft Resolution for Planning Commission consideration and action on the Conditional Use Permit (**Exhibit A**) that includes findings and evidence to support those findings, and standard and custom conditions of approval. Notable conditions address: Impact Fees; Building codes, standards and fees; Fire Department systems and access; sewage, water, solid waste, hazardous materials; County drainage requirements; traffic monitoring and mitigation, payment of regional impact fees and observing current traffic patterns, an avigation easement to the adjacent Frazier Lake Airport; and concerns of the San Benito County Water District (which have already been addressed through project design);

Development Agreement

The Development Agreement with Pacific Bay Capital Group (**Attachment 2 to Exhibit B**) is basically a business agreement with the County. When entered into mutually, Development Agreements serve to:

.... Strengthen the public planning process, to encourage private participation in comprehensive, long range planning and to reduce the economic costs of development by enabling the county and a developer seeking county approval of a development project to enter into a development agreement which vests certain development rights and which requires a developer to provide additional public benefits. The appropriate use of development agreements will reduce uncertainty in the development review process, will promote long-term stability in the land use planning process and will result in significant public gain (SBCC 19.11.001 (b).)

To be finally negotiated with the Board of Supervisors, a development agreement and draft ordinance (**Attachments 1 and 2 of Exhibit B**) have been prepared for Planning Commission inspection and recommendation that outline the “agreement” to this point in time. In summary:

- **Developer’s Rights and Mutual Obligations:**
 - Developer shall have the **right to develop** (and use) the project site, in accordance with project approvals and provisions of the Development Agreement.
 - Developer **is subject to all rules, federal, state and local regulations**, including the payment of fees and impact fees in effect at the time of the new occupancy and use of structures.
 - Should federal or state laws change, and require modification of local County regulations, the developer will be obligated to comply.
 - **Standard Operating Procedures.** For the safety and security of employees as well as the neighboring community.
- **Community Benefits:**
 - **Community Benefit Fees.** Quarterly Gross Annual Receipts. The Developer has agreed to pay 1% of its gross annual receipts.
 - One percent (1%) of gross annual receipts shall be paid on all project activities, but not limited to Cultivation, Manufacturing, Distribution, Laboratory Testing and any other Hemp Activities occurring on site.
 - Should a **future tax** be levied, the developer shall pay the greater amount between either the amount of such tax, or the 1% of gross annual receipts, but not both.
 - **Frazier Lake Road Improvements.** The applicant has agreed to keep and maintain Frazier Lake Road at the intersection of the property and one mile in either direction in good working order and repair.
 - A \$500,000 bond shall be posted as a fallback to the County should the developer not commence with identified repairs and maintenance in a timely manner.
 - **Local Employment Opportunities.** Within two years of approval, the developer is expecting 75-100 work opportunities and a payroll of \$3,000,000 to \$4,000,000 annually.
 - The developer has agreed to make their best effort in hiring local residents.
 - **Reimbursement of Legal and Staff Costs**
 - **Sales and Use Tax.** Developer shall exert in good faith its best efforts to have all sales and use taxes related to its Hemp Activities occur in the County, and direct contractors and subcontractors to do the same.

While the final language of the attached draft Development Agreement with the Pacific Bay Capital Group may be changed and enhanced by the time of Board of Supervisors consideration, expected July 23, 2019, the Development Agreement is evidence of a collaboration and partnership with this business entity for the purpose of additional public gain and benefit, and for a more certain regulatory environment for the developer. As the business grows and is successful, the public benefits grow.

A draft Resolution (**Exhibit B**) has been attached for Planning Commission action recommending approval to the Board of Supervisors. Comments, additions and edits may be offered by the Planning Commission for BOS and applicant consideration, prior to the execution of the Development Agreement.

STAFF RECOMMENDATION: Staff recommends that the Planning Commission review the staff report, receive a presentation from staff, take testimony from the applicant and public and then act on the matter by approving the two resolutions.

- The Use Permit Resolution contains the findings and evidence to adopt the (CEQA) negative declaration of no significant environmental impact and approve the Use Permit and conditions of approval, and
- The Development Agreement Resolution also contains the CEQA findings, and the findings and evidence to support the Development Agreement with Pacific Bay Capital Group and the adoption by the Board of Supervisors of an Ordinance to approve the Development Agreement.

Attachments

EXHIBIT A: Resolution for Use Permit Approval with:

Attachment1: Applicant's project materials and plans

EXHIBIT B: Resolution for Recommending Approval of a Development Agreement with:

Attachment1: Draft Development Agreement

Attachment 2: Draft Ordinance

EXHIBIT C: Environmental documentation and proposed Negative Declaration