

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

**A RESOLUTION OF THE SAN
BENITO COUNTY PLANNING
COMMISSION APPROVING A USE
PERMIT FOR THE SAN BENITO
HEMP CAMPUS (PLN190020)
LOCATED AT "GILROY GAITS,"
7800 LAKE ROAD, HOLLISTER, CA.
APN 013-050-028. COUNTY FILE
NO. PLN190020.**

Resolution No. 2019-03

WHEREAS, the Pacific Bay Capital Group filed a use permit application and development agreement request on April 11, 2019, to establish the San Benito Hemp Campus, a hemp and hemp product processing and manufacturing facility, at 7800 Lake Road, Hollister, CA, property owned by the Kevin Chambers Living Trust ("Subject Parcel," "Property," or "Project Site"); and

WHEREAS, the Subject Parcel APN 013-050-028 is south of and adjacent to the Frazier Lake Airport, beginning approximately 2000 feet east of the "Gilroy Gaits" monument entrance off of Frazier Lake Road, and is approximately 77 acres in area; and

WHEREAS, upon receipt of the use permit application and development agreement request, County staff distributed the proposal to responsible County and peer agencies for review and comment; and

WHEREAS, the Subject Parcel has a General Plan land use designation of Agricultural (A) and a Zoning designation of Agricultural Productive (AP); and

WHEREAS, the existing facility had been developed in the late 1980's as a 275,000 square foot turkey egg-raising facility under a use permit for agricultural production, and was later converted to an equestrian use facility in keeping with the allowed uses of the General Plan and Zoning Code; and

WHEREAS, the use of the Property as a hemp and hemp product processing and manufacturing facility is substantially different from the former use of the facility as a turkey egg-raising facility, a new conditional use permit has been required by the County; and

WHEREAS, the Planning Commission's recommendation to the Board of Supervisors on the proposed Development Agreement is addressed in a companion resolution to this resolution; and

WHEREAS, the use of the Property to process agricultural products conforms to the County of San Benito 2035 General Plan Agricultural (A) land use, and agricultural processing facilities are allowed with a conditional use permit in the Agricultural Processing (AP) zoning designation; and

WHEREAS, no unusual circumstances, features of the land, or unexpected issues have arisen that prevent approval of this use permit; and

WHEREAS, an Initial Study checklist was prepared for this project by the Applicant's environmental consultant, M-Group, with oversight and review by the County Resource Management Agency, in compliance with the California Environmental Quality Act CEQA; and

WHEREAS, the County assessed the potential for any substantial effect on the environment by the project and the Initial Study concluded that the project will not have a significant impact on the environment and was circulated for public review from May 20, 2019 to June 10, 2019; and

WHEREAS, potential issues related to process wastewater have been engaged responsibly by the applicant and RMA staff:

- 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 would install a new purification skip or oxidizing tank system.
- The operator will use a third party (water) testing regime to assure objectivity and disclosure; and

WHEREAS, potential issues related to traffic monitoring have been engaged responsibly by the applicant and RMA staff:

- The applicant, upon occupancy and reuse of facility structures with an "industrial" use, is obligated to pay "Industrial" use impact fees, including those associated with long-range traffic impacts, such as the TIMF (Traffic Impact Mitigation Fee).
- 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 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 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; and

WHEREAS, no new potential impact not already discussed and addressed in the proposed negative declaration have been identified; and

WHEREAS, 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 to protect the environment, staff recommends that the Planning Commission adopt a Negative Declaration (of no significant environmental impact); and

WHEREAS, on June 19, 2019, the Planning Commission in considering Use Permit PLN190020 as described herein and in the staff report, heard and received all oral and written testimony and evidence that was made, presented, or filed, and all persons present 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; and

WHEREAS, the Planning Commission of the County of San Benito finds that no enhancements or clarifications are necessary to the California Environmental Quality Act (CEQA) Findings and Evidence, nor to the Use Permit Findings and Evidence.

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 1: The initial study/ negative declaration for the San Benito Hemp Campus - 7800 Lake Road, Hollister, CA, (County File Number PLN190020; Use Permit and Development Agreement) has been prepared in compliance with the provisions of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the San Benito County Implementing Procedures for the California Environmental Quality Act.

***Evidence:** Materials in the preparation of the initial study and negative declaration are filed in the project record located at the San Benito County Planning Department in file PLN190020. Public review of the initial study was conducted from May 20, 2019 to June 10, 2019.*

***Evidence:** Notice of Availability of the proposed Negative Declaration was mailed to interested parties and to property owners within 300 feet of the project site and posted at public locations in the County, including the County of San Benito website (www.cosb.us).*

Finding 2: The Planning Commission has considered the initial study/ negative declaration together with all comments received from the public review process.

***Evidence:** The Planning Commission considered all evidence regarding this project, including any written and verbal responses from the public hearing June 19, 2019.*

Finding 3: The initial study/ negative declaration reflects the independent judgment of the Planning Commission.

***Evidence:** The Initial Study checklist was prepared by the Applicant's environmental consultant, M-Group, with oversight and review by the County Resource Management Agency, in compliance with the California Environmental Quality Act CEQA. The Planning Commission*

considered and reviewed the initial study/ negative declaration and considered public comments and supplemental information prior to action on the negative declaration.

Finding 4: The Planning Commission has found that there is no substantial evidence that the proposed project will have a significant effect on the environment.

Evidence: After considerations of the initial study/ negative declaration, the Planning Commission found that the project as proposed, with the adoption of the conditions of approval, would not have a significant effect 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 Element designation for the site is Agriculture (A) which allows support uses that directly support agricultural operations. The proposed hemp and hemp product processing and manufacturing facility is an agricultural product processing facility that conforms to this land use designation and to other General Plan provisions.

Evidence: The proposal represents the adaptive reuse of 275,000 square feet of existing facilities and will involve a relatively minimal 60,000 square foot addition of hoop house structures internal to building site locations, or the construction of new greenhouses in the same internal locations.

Evidence: The location of the existing facility in the relatively “open-sky” location adjacent to the Frazier Lake Airport, presents fewer potential impacts to sensitive users had the facility been located adjacent to urban uses. Additionally, the adjacent residential structures are under the control of the ownership and will be used in support of the hemp facility.

Evidence: As San Benito County is rural and configured with a minimum of major travel ways, the options for impacting the few arterial and collector roads, such as Hwy 25 and Frazier Lake Road are few and far between with any new major use or facility that can provide employment in the region. Regardless, new jobs will return to the already-constructed facility. It is in the County's interest to better use that facility than to allow it to come into disuse. Additionally, work shifts could be staggered to avoid peak travel on Hwy 25 and Frazier Lake Road.

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 project will be subject to the California Building Code. County departments and responsible agencies have reviewed the application and recommended conditions of project approval to address possible effects on the vicinity, to protect the general public, and to prevent hazard or nuisance to persons and property. Activity beyond the scope of the proposed use as approved by the County shall require further permit review.

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. Applicant shall comply with all terms set forth in the *final executed* Development Agreement with Pacific Bay Capital Group, attached hereto as Exhibit "A." Those terms are and shall be incorporated as conditions on this use permit. [Planning, County Counsel]
4. **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: _____

 LANCE McALPINE
PRESIDENT

Date: _____

6-19-19

5. **Conformity with Plan:** The development and use of the site shall conform substantially to the proposed project description, site plan, and conditions of approval and Development Agreement as approved by the Planning Commission and County Board of Supervisors (Exhibit "A"). Approved plans and specifications shall not be 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]
6. **Term of Use Permit:** If no investment or actions are taken on the Property to actualize and implement this Use Permit, this Use Permit will expire in one (1) year.
7. **Compliance Documentation:** The Applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition to the Planning Department, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
8. **Notice of Determination (California Fish & Wildlife Fees):** The Applicant shall file the Notice of Determination, provided by the County RMA, with the County Clerk within five (5) days of approval of this Use Permit. California Department of Fish and Wildlife fee of \$2,404.75 (\$2,354.75 + \$50.00 County Clerk Processing Fee) - Fish & Wildlife Code section 711.4(d)) must be submitted with the filing. A copy of the filed notice shall be submitted to the County RMA. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the Project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section 21089(b)). [RMA]
9. **Lighting:** The Applicant shall meet exterior lighting design requirements by complying with SBCC §19.31: Development Lighting. [Planning]
10. **Cultural Resources:** If, at any time in the preparation for or process of excavation or otherwise disturbing the ground, discovery occurs of any human remains of any age, or any significant artifact or other evidence of an archeological site, the applicant or builder shall:
 - a. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
 - b. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of not less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals.
 - c. Notify the Sheriff-Coroner of the discovery if human and/or questionable remains have been discovered. The Resource Management Agency Director shall also be notified.
 - d. Subject to the legal process, grant all duly authorized representatives of the Coroner and the Resource Management Agency Director permission to enter onto the property and to take all actions consistent with Chapter 19.05 of the San Benito County Code and consistent with §7050.5 of the Health and Human Safety Code and Chapter 10 (from §27460 on) of Part 3 of Division 2 of Title 3 of the Government Code. [Planning]

- 11. Impact fees.** 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 “industrial” uses, 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. An **ESTIMATE** of these “industrial use” impact fees (as of June 13, 2019) assessed for the whole of the project is below. Actual fees will be calculated and collected on a structure-to-structure basis as the applicant phases in the new use on the property.

INDUSTRIAL	SQUARE FT OF BLDGS	Rate PER SQ FT	COST PER SQ FT
Traffic impact fee per 1,000	275	\$2,941.4300	\$808,893.25
Road Maintenance	275,000	\$0.0510	\$14,025.00
Schools	275,000	\$0.4200	\$115,500.00
Fire Protection	275,000	\$0.3200	\$88,000.00
Law Enforcement	275,000	\$0.1320	\$36,300.00
Detention Facilities Impact fee	275,000	\$0.2260	\$62,150.00
Habitat Impact Fee	275,000	\$0.0000	\$0.00
Parks & Recreation	275,000	\$0.0000	\$0.00
Library Impact fee	275,000	\$0.0000	\$0.00
Information Technology Impact fee	275,000	\$0.0230	\$6,325.00
General Government Impact fee	275,000	\$0.2260	\$62,150.00
SBHS IMPACT FEE	275,000	\$1.4000	\$385,000.00
		Total	\$1,578,343.25

When proposed for construction, new hoop houses or additional greenhouses will be subject to the County’s industrial impact fees in effect at the time such application is made. (Planning)

Building Division

- 12.** The following represent standard conditions of approval from the Building Division, received from Gary Lepori on June 6, 2019:

- All plan check, permit, impact or any other fees shall be paid **PRIOR** to any construction, repair, replacement, remodel, addition, or change of use or occupancy.
 - ALL** impact fees shall be paid in addition to any regular fees, deposits, in lieu fees, etc., for any development, subdivision, construction or improvement, including traffic, parks and recreation, school fees, etc.
 - If this Conditional Use Permit and development agreement conflicts with any county code or fee, the most restrictive interpretation that benefits the county shall prevail.
- PLN190020 // 7800 Lake Road, Hollister, CA // Pacific Bay Capital Group

- d. If any intention of this development agreement is meant to supersede any county code or fee, it shall be specifically addressed by code section and county document as doing so.
- e. Any construction or operation that damages or impacts the roadway shall be ground and overlaid with new asphalt from curb to curb, or pavement edge to pavement edge, completely across both lanes of the street, to the satisfaction of the county engineer, and to county specifications

Fire Department

13. These are the preliminary requirements for the manufacturing facility. The green houses if any may require sprinklers also. (Correspondence received from Charlie Bedolla, Battalion Chief/Fire Marshal Hollister Fire Department, June 5, 2019)
- a. Commercial Sprinkler system
 - b. Holding tanks for sprinkler system
 - c. Full notification monitored alarm system with sensors
 - d. Install Fire Hydrants
 - e. 26 foot fire access road, paved (360) the facility
 - f. Make notification with Environmental Health for a Hazardous Materials Business Plan
 - g. Make Contact with Monterey Region Air Quality Control
 - h. Knox box and Knox box key switches as needed.
 - i. Fire extinguishers located every 50 feet
 - j. Full lit up exit signs with bug-eye lighting.
14. **Fire Code:** 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]

Division of Environmental Health

15. The following comments were received from Darryl Wang of the Division of Environmental Health on May 8, 2019.
- a. **Sewage Disposal:**
 - i. The proposed project appears to be a commercial business. All existing septic systems shall be serviced by a licensed third party septic tank pumping/servicing company and those reports shall be submitted to this department for review.
 - ii. All existing septic systems designed for residential/SFD use shall be approved for commercial use by a licensed civil engineer (or equivalent) knowledgeable in designing onsite waste water treatment systems.
 - iii. Any proposed septic systems shall be designed by a licensed civil engineer (or equivalent) knowledgeable in designing onsite waste water treatment systems. Note, the septic system shall meet the current Tier 1

conditions as stipulated by the Regional Water Quality Control Board (system requirements are subject to change upon approval of San Benito County's LAMP by the RWQCB).

- iv. Note, a dual leach field system with a diversion valve is required for all commercial septic systems.

b. Water:

- i. Applicant shall provide adequate sources of potable and drinking water on the Project Site sufficient to serve the Project and its employees at the Project's full capacity, which adequacy and sufficiency shall be determined by the Environmental Health Department.
- ii. Prior to occupancy of the Project Site, Applicant shall obtain any and all applicable permits required by the Department of Environmental Health, and any other enforcement agency with jurisdictional authority over the Project or Project Site.

c. Solid Waste:

- i. Applicant shall provide a storage and removal plan for all types of solid waste materials that will be generated by this Project, excluding general garbage and trash, to the satisfaction of the Director of Environmental Health Department or designee, and obtain all applicable permits required thereby prior to occupancy of the Project Site.
- ii. Provide name and contact number of Disposal Company that will remove all solid waste materials.

d. Hazardous Materials:

- i. A Hazardous Materials Business Plan (HMBP) must be completed and submitted to the Department of Environmental Health prior to occupancy of the Project Site.

Engineering Services Division / Public Works:

16. The following comments were received from Miguel Sanchez of the Engineering Services Division on June 7, 2019. "Public Works has reviewed the 2nd submittal of the proposed San Benito Hemp Campus. The following comments are factors which will need to be accounted for in subsequent submittals for this project. New comments are in bold."

a. County Drainage Requirements:

- i. As a condition of approval, the applicant shall comply with County Drainage Standards and shall submit the overall drainage scheme of the existing site. Included in this will be the details for any existing, detention ponds and other drainage facilities or structures. Drainage calculations shall also be submitted to show that the proposed drainage facilities will be capable of handling the total runoff due to the impermeable surfaces existing on the site. (PW acknowledges as "Satisfied")

b. Traffic Study

- i. The applicant/developer shall contribute towards maintenance of Frazier Lake Road by providing a minimum 2" AC overlay from the

center point of the property driveway to one (1) mile in each direction on Frazier Lake Road, within one (1) year from the approval of the use permit and to provide further maintenance thereafter upon determination for the maintenance need by the County.

- ii. 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.

Caltrans:

17. The following comments were received from Chris Bjornstad, Transportation Planner with Caltrans District 5) on June 10, 2019
 - a. 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.
 - b. 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.

San Benito County Airport Land Use Commission (ALUC)

18. The following comments were received from Veronica Lezama of the Frazier Lake Airport ALUC, on May 21, 2019
 - a. Under Policy 4.2.1.4 of the Comprehensive Land Use Plan, the County of San Benito shall obtain aviation easements for any development within the AIA under County jurisdiction. The property owner shall grant an aviation easement to the County of San Benito similar in form to Exhibit 1, Sample Aviation Easement, on page 7-2 of the 2001 Airport Comprehensive Land Use Plan for Frazier Lake Airport.

San Benito County Water District

19. Upon reviewing the "Notice of Proposed Negative Declaration", SBCWD has noted a couple areas of concern. They are as follows:
 - a. Section VII.e - In regards to wastewater disposal, the high groundwater conditions prevalent in the area may impact on-site disposal due to increased waste production.

- b. Section VII.e - At buildout, 125 employees and visitors, delivery, and miscellaneous people will be more than 1600 gal/day and exceed current treatment capacity.
- c. Section X.a - Project may affect groundwater quality due to nitrogen loading.
- d. Section X.d - Project will be subject to flooding during heavy rain events. For example, the area the property is located in flooded in 1995 due to heavy rains.
- e. Cumulative impacts to water supplies, wastewater treatment, and water resources will need to be assessed. Technical memorandums for reviewing water and wastewater options at the subject property will need to be prepared to address flow and supply requirements for development at the property. These memorandums will need to consider maximized recycled water use, protection of the County's groundwater resources, and potential water quality issues or detail the treatment options and costs. Additional data is needed regarding treatment options, construction costs, and operation and maintenance costs to determine feasibility. In addition, if removal of sodium and chloride or TDS is required, it is expensive and energy intensive. The waste product or brine will need to be trucked off-site to a proper disposal facility which will also have cumulative impacts related to the project. The additional energy consumption and trucking will contribute to environmental and traffic impacts that were not addressed.
- f. If there any questions, feel free to contact the SBCWD engineering department at 831-637-8218 or by email at engineering@sbcwd.com.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 19TH DAY OF JUNE 2019 BY THE FOLLOWING VOTE:

AYES: Commission Rodriguez, Commissioner Egland, Commissioner Navarro
Commission Gibson & Commissioner Eggert

NOES:

ABSENT:

ABSTAIN:



Robert Rodriguez, Chair
San Benito County Planning Commission

ATTEST:



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

Attachment 1 Applicant's Project Materials and Plans

