



COUNTY OF SAN BENITO
RESOURCE MANAGEMENT AGENCY
PLANNING AND BUILDING INSPECTION SERVICES

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NOTICE OF DECISION

PERMIT NO.: Tentative Subdivision Map 16-99
PUBLIC HEARING DATE: September 21, 2016
APPLICANT: Son Nguyen
OWNER: Nguyen-Tran Family Trust
LOCATION: 1512 Santa Ana Road, Hollister
APN: 019-18-0-045-0
GENERAL PLAN: Residential Rural (RR)
ZONING: Rural Residential (RR)

IN ACCORDANCE WITH THE PROVISIONS OF ORDINANCE 479 SECTION 9 AND ORDINANCE 617 (COUNTY CODE §25.09.040 *ET SEQ.* AND §23.01.001 *ET SEQ.*) OF THE COUNTY OF SAN BENITO, STATE OF CALIFORNIA, TENTATIVE SUBDIVISION MAP 16-99, TO ESTABLISH 7 LOTS FOR RESIDENTIAL USE ON AN 8.63-ACRE SITE (ASSESSOR'S PARCEL 019-18-0-045-0), APPROVED BY THE PLANNING COMMISSION THE 21ST DAY OF SEPTEMBER 2016, SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL.

IMPORTANT NOTICE: Attention is called to the provisions of Section 51.2, Ordinance No. 479, which reads in part: "Any person aggrieved by any decision of the Planning Commission made under the provisions of this Ordinance may, within ten (10) days from the date of such decision appeal to the Board of Supervisors by written notice of appeal filed in duplicate with the County Clerk and shall set forth specifically wherein the Commission's findings were in error." Appeal forms can be obtained from the County Clerk's office, County Courthouse, Hollister.

California Environmental Quality Act (CEQA) Findings

Finding 1: The initial study for TSM 16-99 has been prepared in compliance with the provisions of the California Environmental Quality Act, the State CEQA Guidelines and the San Benito County Implementing Procedures for the California Environmental Quality Act.

Evidence: *All provisions including both State and County environmental guidelines and policies for the preparation of an initial study have been followed. The environmental documents in the preparation of the initial study are filed in the project record located at the San Benito County Resource Management Agency in file number TSM 16-99.*

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

Evidence: *The initial study and the staff report as well as verbal testimony was presented to the Planning Commission in preparation for, and during, the September 21, 2016, Planning Commission meeting.*

Finding 3: The mitigated negative declaration reflects the independent judgment of the Planning Commission.

Evidence: *County Resource Management Agency Planning staff prepared the initial study and the staff report, which were both reviewed by the Planning Commission. Based upon their review of the project information, the Planning Commission's decision reflects their independent evaluation and judgment of the project.*

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: *The Planning Commission considered all the evidence, both written and oral, presented at the public hearing prior to deciding to adopt the mitigated negative declaration and the Mitigated Monitoring Program. The Planning Commission determined that the mitigation measures and the conditions of approval included in the staff report would reduce the impacts of the proposal to a less than significant level.*

Subdivision Findings

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

Evidence: The General Plan Land Use Element designates the subject property as Residential Rural (RR). This designation allows the intensity of development proposed by TSM 16-99 and permitted by the project site's zoning district of Rural Residential (RR). The Land Use Element describes the Residential Rural district as being intended "for large-lot rural residential homes within areas of the county that are generally unsuitable for productive agriculture because of existing small property sizes, multiple property owners, and proximity to other more intensive residential development," a description applying to the proposed project and its setting. No specific plan affects the subject property.

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

Evidence: The project is consistent with the General Plan in terms of use and density. The proposed project would provide road right-of-way and surface, connections to water service, septic systems, and other infrastructure in a manner compliant with General Plan policies, and the proposal is consistent with the surrounding area. Planning and Public Works staff of the County Resource Management Agency have analyzed the proposed subdivision and determined that the subdivision's design and improvements are consistent with General Plan policies and Subdivision Ordinance design standards provided compliance with conditions of approval, including recording the final map no earlier than the construction of the standard-design Rosebud Avenue connection to Santa Ana Road. No specific plan affects the subject property.

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

Evidence: The proposed subdivision, as conditioned, meets all requirements for the RR zoning district and complies with General Plan policies and Subdivision Ordinance design standards regarding the development of lots within the RR district. Conditions of project approval include mitigation for environmental effects of development on the property, and all effects can either be mitigated to a less-than-significant level or can be considered insignificant.

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

Evidence: The project as a whole proposes a density under the maximum defined for the site by the General Plan and Zoning Ordinance. The development proposed would resemble existing development in the neighborhood of the site. Adequate public services would be available, including utilities; provided compliance with conditions of approval, including recording the final map no earlier than the construction of the standard-design Rosebud Avenue connection to Santa Ana Road, transportation facilities would be considered adequately available. Areas of substantial environmental sensitivity are located away from the subject property. Any site constraints can be considered insignificant or can be treated as less than significant as a result of mitigation measures included as conditions of project approval.

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

Evidence: The site is not within a specially designated wildlife habitat area. The project's initial study/mitigated negative declaration discusses the project's effect on wildlife habitat and determines the project would have an impact that is less than significant.

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

Evidence: Appropriate County departments analyzed the project for potential serious public health problems, and the Resource Management Agency and Planning Commission find each condition necessary to ensure the public health, safety, and general welfare of the County. Said conditions include mitigation measures, established by the TSM 16-99 initial study/mitigated negative declaration, that address air and water quality and vector hazard.

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

Evidence: Easements for public access or use are generally required to be identified on tentative maps and to be maintained. An easement for access to a property not included in this project is noted on the tentative map, and conditions of approval include a requirement to preserve that access and prevent conflict with its use and purpose.

Finding 8: Subject to §66474.4 of the Government Code, the land is not subject to a contract entered into pursuant to the California Land Conservation Act of 1965.

Evidence: The property is not currently subject to a Land Conservation Act (Williamson Act) contract. The site does not meet the Government Code §66474.4 criteria requiring denial of a tentative subdivision map.

Finding 9: Subject to §66474.6 of the Government Code, the discharge of waste from the proposed subdivision into an existing community sewer system would not result in violation of existing requirements prescribed by the Central Coast Regional Water Quality Control Board pursuant to Division 7 of the Water Code.

Evidence: The proposed subdivision has been reviewed by the County Division of Environmental Health and has been found not to violate any existing requirements prescribed by the Central Coast Regional Water Quality Control Board. Use of a community sewer system is not proposed, with septic systems proposed for household sewage disposal and detention ponds on each proposed parcel for stormwater runoff.

Conditions of Approval

Planning:

1. **Indemnification:** APPLICANT shall defend, indemnify, and hold San Benito County, its agents, officers, and/or employees (hereinafter "COUNTY") free and harmless from any and all suits, fees, claims, demands, causes of action, proceedings (hereinafter collectively referred to as "Legal Action"), costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorneys' fees, expert witness fees, and court costs) incurred by COUNTY arising (directly or indirectly) or resulting from the review, processing, consideration, or approval of APPLICANT'S Project or action taken by COUNTY thereon, including Legal Actions based on the negligence of COUNTY. APPLICANT will reimburse COUNTY for any damages, costs, or fees awarded pursuant to any settlement, default judgment, or other judgment taken against the County, whether the result of Applicant's decision not to defend legal action or otherwise. COUNTY retains its discretion to direct counsel regarding whether to defend, settle, appeal, or take other action regarding any Legal Action. [Planning]
2. **Conditions of Approval:** Prior to or upon approval by the Planning Commission, Applicant shall sign the statement below certifying that Applicant is in agreement with all conditions of approval. [Planning]

I certify that I understand and agree to comply with all Conditions of Approval imposed by the Planning Commission, or Board of Supervisors as applicable, on this Permit.

Applicant Signature:



Date:

06/06/19

3. **Conformity to Zoning:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Commission. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
4. **Compliance Documentation:** Prior to obtaining a building permit or approval of any administrative or conditional use permit, the individual applicants 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, Public Works]
5. **Assessment:** Prior to recordation of the subdivision map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act; this includes prepayment of taxes for the current year the final subdivision map is recorded. [Planning, Assessor]
6. **Recordation:** The applicant shall submit a subdivision map to the County and the subdivision map shall be approved by the County Resource Management Agency and recorded with the County Recorder. The tentative subdivision map shall expire two (2) years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a subdivision map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]
7. **Easements:** The subdivision map shall show all easements for access, utilities, and drainage. All future development shall maintain a ten (10) foot setback from the noted easements. [Public Works, Planning]
8. **Notice of Determination (Fish & Wildlife Fees):** The applicant/developer/owner shall file the Notice of Determination, provided by the County Resource Management Agency, with the County Clerk within five (5) days of approval of the tentative subdivision map. The State Department of Fish and Wildlife fee (\$2,210.25 as of January 1, 2016, per Fish & Game Code §711.4(d)) shall be submitted with the filing. A copy of the filed notice shall be submitted to the County Resource Management Agency. 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 §21167 and the project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code §21089(b)). [Planning, California Department of Fish and Wildlife]

9. **Habitat Conservation Plan Impact Fees:** In accordance with County Ordinance 541, which sets fees for the habitat conservation plan financing and kit fox protection measures, the applicant shall contribute, prior to recordation of the subdivision map, a habitat conservation plan mitigation fee of \$1,650 (\$150 to \$300 per parcel). [Planning]
10. **Conditions of Approval, Easements, and Restrictions:** Prior to recordation of the subdivision map all unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the subdivision map. [Planning]
11. **Construction Hours:** As required by County Ordinance 667, construction shall be limited to the hours of 7 a.m. to 7 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. [Planning]
12. **Parkland Dedication:** Pursuant to County Code §23.15.008 (Dedication of Parkland), the subdivider shall be required to dedicate land, pay a fee in lieu thereof or a combination of both, at the option of the County, for park and recreational purposes. [Planning, Public Works]
13. **Mitigation Monitoring:** Prior to the recordation of the parcel map, the applicant/owner, County Counsel and the County Resource Management Agency Director shall agree to and sign the Mitigation Monitoring Program form(s). [Planning]
14. **Exterior Lighting:** All exterior lighting for new development shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. All fixtures shall comply with County Ordinance 748 (along with the requirements of Zone II regulations set within Ordinance 748). [Planning]
15. **Cultural Resources:** If, at anytime 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 (commencing with §27460) of Part 3 of Division 2 of Title 3 of the Government Code. [Planning]
16. **Water Treatment:** Use of on-site regenerating water softeners shall be prohibited, while off-site regeneration softening systems may be used subject to the approval of the San Benito County Water District.

Public Works:

17. **Road Dedication:** Prior to recordation of the final subdivision map, the applicant shall make the following irrevocable offers of dedication to San Benito County and the public for public use per County Code §23.15.002:
 - a. The balance of road right-of-way (ROW) to make Rosebud Avenue a full 60-foot right-of-way along the subject property's whole frontage per County Code Chapter §23.29 (Road Standards).
 - b. 30-foot right-of-way along the eastern side of Lot 7 serving Assessor's Parcel 019-18-0-044-0.
18. **Road Improvements:** Prior to recordation of the final subdivision map, the applicant shall bond for or make the following roadway improvement per County Code Chapter 23.17:
 - a. For the subject property's entire frontage along Rosebud Avenue, widen and improve Rosebud Avenue to complete the balance of 40-foot total curb-to-curb width asphaltic concrete pavement on a 42-feet roadbed including but not limited to curb, gutter, sidewalk, street lights, and street trees.
19. **Improvement Plan:** Prior to issuance of building permit or any permit related to the development of the proposed project, the applicant shall be required to submit an Improvement Plan prepared by a licensed Engineer to County Resource Management Agency Public Works staff for review and approval.
 - a. Prior to the recordation of the final map or before release of the alternate bond, one set of "as-built" improvement plans on a suitable reproducible media shall be prepared by the applicant's engineer and delivered to County Resource Management Agency Public Works staff. [Public Works]
20. **Storm Drainage Easements:** Individual retention/detention ponds shall be reflected as storm drainage easements (SDE) on the final subdivision map, which shall include a note that states the following: "SDEs shall be kept clear of buildings and structures of any kind and shall be maintained by owner(s) and his/her successor(s) of interest."

21. Utilities:

- a. As part of submission of the Improvement Plan for this project, the applicant shall include utility plans and have them approved by each corresponding utility companies when applicable, which includes but is not necessarily limited to sanitary sewer, water, natural gas, electricity, telephone, and cable telecommunications, and shall furnish copies said approved plans to County Resource Management Agency Public Works staff for concurrence. Said plans shall be part of the final or approved Improvement Plan.
- b. All proposed utilities within the project site and along peripheral streets shall be placed underground except those facilities exempted by Public Utilities Commission regulations (County Code §23.17.003(F)). All necessary utilities shall be installed along with the development or improvement of the proposed project. [Public Works]

22. Homeowners' Association: In accordance with County Code §23.25.007, a homeowners' association (as defined in County Code §23.01.004), duly incorporated under the laws of the State of California, shall be formed for this subdivision. The covenants and restrictions for the subdivision shall provide for its formation and operation and delineate the rights and obligations of the association, its directors', and its members (which must include the right of the association, through its members, to levy assessments that are a legal obligation of members and a lien on subdivided property owned by members of the association). The homeowners association shall be activated at or before the time of approval of the final or parcel map, for the purpose of street lighting, street sweeping, road maintenance, storm drainage, landscaping maintenance and other services directly related to the subdivision. An applicant may propose another option to developing a homeowners association. If so, the applicant's request shall be brought before the Board of Supervisors, reviewed and approved prior to or during approval of the final subdivision map, and any approved alternative shall be activated at or before the time of approval of the final map by the Board of Supervisors. The proposed subdivision may join or annex to an existing homeowners' association or County Service Area(s) for road maintenance purposes subject to approval by the Board of Supervisors and LAFCO for annexation into a CSA. A funding mechanism shall be established by applicant prior to issuance of the final map in an amount to be determined by County to fund any CSA. [Public Works]

23. Encroachment Permit: Pursuant to §19.27.004 of the County Code, the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County right-of-way or any road offered for dedication to the County prior to commencement of any improvements associated with this project. [Public Works]

24. Improvements Warranty Security: In accordance with County Code §23.17.009, upon completion of required improvements, the applicant shall provide warranty security in the amount not less than 10 percent of the estimated cost of construction of the improvements to guarantee the improvements against any defective work or labor done or defective materials used in the construction or installation of the improvements throughout the warranty period which shall be the period of one year following completion and acceptance of the improvements. [Public Works]

Environmental Health:

25. Septic System Soils Suitability: The County may require owners of lots created by the subdivision to verify soils suitability upon application for installation of septic systems. [Environmental Health]

County Fire:

26. Fire: Prior to final approval of occupancy, any and all development on the project property shall meet the standards set forth in the latest adopted editions of the California Fire Code, California Building Code, related County Ordinances, Chapter 23.27 of the San Benito County Code, and any other related State and Federal codes as the apply to a project of this type and size. [Fire]

Sunnyslope County Water District:

27. Water Service Agreement: The applicant shall enter into a water service agreement with Sunnyslope County Water District to specify terms and conditions for water service. [Sunnyslope County Water District]

Mitigation Measures:

28. Dust Control: The applicant shall observe the following requirements during such grading activities when applicable:

- a. All graded areas shall be watered at least twice daily. If dust is not adequately controlled, then a more frequent watering schedule shall be incorporated. Frequency shall be based on the type of operation, soil, and wind exposure.
- b. All grading activities during periods of high wind, over 15 mph, are prohibited.
- c. Chemical soil stabilizers shall be applied to inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days).
- d. Nontoxic binders (e.g., latex acrylic copolymer) shall be applied to exposed areas after cut-and-fill operations.
- e. Haul trucks shall maintain at least two feet of freeboard.
- f. All trucks hauling dirt, sand, or loose materials shall be covered.

- g. Inactive storage piles shall be covered.
- h. Wheel washers shall be installed at the entrance to construction sites for all exiting trucks.
- i. Streets shall be swept if visible soil material is carried out from the construction site.
- j. A publicly visible sign shall be posted that includes the telephone number and person to contact regarding dust complaints. The phone number of the Monterey Bay Unified Air Pollution Control District shall be included on the sign to ensure compliance with Rule 402 (Nuisance). [Mitigation Measure 1 (Air Quality)]

29. Geotechnical Engineering:

- a. The applicant shall submit engineered improvement plans for this project that comply with the recommendations of the geotechnical investigation with the file number SB11007, dated April 2016, prepared for this property by Haro, Kasunich & Associates, Inc., and on file at the San Benito County Resource Management Agency.
- b. Prior to recordation of the final subdivision map, a complete compilation of test reports along with a letter from the soils/geotechnical engineer attesting compliance with requirements and recommendations of the soil investigation report shall be submitted to County Resource Management Agency Public Works staff upon completion of site improvements.
- c. A note shall be placed on the final subdivision map to this effect. [Mitigation Measure 2 (Geology and Soil), Public Works]

30. Drainage:

- a. As part of the submission of engineered improvement plans for this project, the applicant shall comply with County Drainage Standards and therefore shall provide storm drainage system capable of collecting and conveying runoff generated by the proposed project for a 100-year flood. The storm drain system shall provide for the protection of abutting and off-site properties that could be adversely affected by any increase in runoff attributed to the proposed subdivision. Included in this will be drainage calculations and full construction details for the proposed individual retention/detention ponds. All drainage improvements shall be installed or bonded for prior to recordation of the final subdivision map.
- b. Prior to start of grading/construction activities, a Stormwater Pollution Prevention Plan (SWPPP) prepared by a certified Qualified SWPPP Practitioner (QSP) or Qualified SWPPP Developer (QSD) shall be submitted to County Public Works Department. A QSD/QSP shall be retained for the duration of the construction and shall be responsible to coordinate and comply with requirements by the Regional Water Quality Control Board, to file a Notice of Intent (per Construction General Permit Order No. 2009-0009-DWQ as amended by 2010-0014 DWQ), and to monitor the project as to compliance with requirements until its completion. [Mitigation Measure 3 (Hydrology and Water Quality), Public Works]

31. Map Recording After Road Extension: The final subdivision map resulting from Tentative Subdivision Map 16-99 shall occur at no time earlier than the completion and County acceptance of road improvements composed of extensions to Rosebud Avenue and Gardenia Lane as proposed for Assessor's Parcel 019-18-0-046-0 by Tentative Subdivision Map 16-95, a six-lot subdivision approved by the County on June 15, 2016. [Mitigation Measure 4 (Transportation/Traffic)]

32. Vector Control: The applicant or subsequent property owner/developer shall employ measures to prevent the spread of vector-borne diseases. Prior to recordation of the final subdivision map and upon completion of the proposed detention pond's construction, the applicant or subsequent property owner shall schedule an inspection with the Office of the Agricultural Commissioner to verify the detention pond's use of vector control measures. [Mitigation Measure 5 (Utilities and Service Systems)]

Planning Commission:

33. Affordable Housing: Applicant shall pay \$4,500 per lot for an affordable housing fee as volunteered at the Planning Commission.



Michael Kelly
Associate Planner
County of San Benito