

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

**A RESOLUTION OF THE SAN
BENITO COUNTY PLANNING
COMMISSION APPROVING A
TENTATIVE PARCEL MAP FILE
PLN190037 TO DIVIDE THE LOT AT
'0' LADD LANE (APN 020-280-038)
INTO TWO PARCELS**

Resolution No. 2019-xx

WHEREAS, San Benito Engineering on behalf of the Lemos Family Trust (Anthony R. and Beverly J. Lemos, Trustees) filed an application to subdivide a lot under their ownership at '0' Ladd Lane (File # PLN190037) on June 20, 2019; and

WHEREAS, County staff received the tentative parcel map proposal and distributed this plan to responsible County and peer agencies for review and comment; and

WHEREAS, the subject property is located on both sides of Union Road just westerly of Ladd Lane in unincorporated San Benito County, CA (APN 020-280-038) and is approximately 17.07-acres in area; and

WHEREAS, the Tentative Parcel Map PLN190037 only proposes to subdivide the 17.07-acre subject lot into one 3.57-gross acre parcel and one 13.5-gross acre parcel with no new development proposed at this time; and

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

WHEREAS, the subject parcel has a 2035 General Plan Land Use Diagram designation of Residential Mixed (RM) and a Zoning Designation of Rural Residential (RR); 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); and

WHEREAS, on November 20, 2019, the Planning Commission considered the Tentative Parcel Map PLN190037 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 at the hearing were given an opportunity to hear and be heard with respect to any matter related to the project; 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 Subdivision 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 1: That the project is Categorical Exempt, per California Environmental Quality Act (CEQA) Guidelines Section 15315, Class 15 and 15061(b)(3).

***Evidence:** The site is presently vacant agricultural land and no new development is proposed at this time. The two-lot parcel map conforms to the General Plan and Zoning District. A Class 15 exemption consists of the division of property zoned for residential use into four or fewer parcels when the division is in conformance with the General Plan and zoning. Section 15061 applies when it can be seen with certainty there is no possibility that subdividing the property into two parcels as currently split by Union Road may 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:

Subdivision Findings

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

***Evidence:** The property is designated as Residential Mixed (RM)A on the 2035 General Plan Land Use Diagram and is in the Rural Residential (RR) the Zoning District. The purpose of the RM designation is to allow areas of unincorporated urban uses where circulation and utility services exist. This designation allows mixed-use developments that include residential, retail, and office uses. The maximum FAR is 0.8 and the maximum residential density is 20 dwelling units per acre. The property is currently vacant and used for agricultural purposes. No new development is proposed at this time. The proposed parcels are 13.5 and 3.57 gross acres in size. There are no adopted Specific Plans in this area.*

Finding 2: That the site is physically suitable for the type of development.

***Evidence 2:** No development is proposed as part of the project.*

Finding 3: That the site is physically suitable for the density of development.

***Evidence 3:** No development is proposed as part of the project.*

Finding 4: That the subdivision design or proposed improvements are unlikely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

***Evidence 4:** The site is not mapped or otherwise identified as suitable habitat for fish or wildlife. The existing 17.07-acre parcel is vacant agricultural land. No evidence is available of any potential to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife or their habitat.*

Finding 5: That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Evidence 5: No development is proposed as part of the project.

Finding 6: That 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: The previous County acquisition of public right-of-way and construction of Union Road effectively divided the property. No development is proposed as part of the project.

Finding 7: That Subject to Section 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. The subject property contains a Christmas tree nursery limited to 17.91 acres in tree cultivation that will remain in operation on the resulting 27.81 acre parcel. The parcel is very unlikely to sustain other commercial agricultural uses, now, or after subdivision.

Evidence: The project was reviewed by the San Benito County Assessor. The Assessor did not identify this property as subject to a Williamson Act Contract.

Finding 8: That subject to Section 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: No development is proposed as part of the project..

Finding 9: That the subject parcel's boundaries and terrain make it advisable for the Planning Commission to grant an exception to the specified depth-to-width ratio, pursuant to Code §23.25.011(B).

Evidence 9: The location of Union Road precludes the applicant from meeting the 1:3 lot width to lot depth ratio. The property was split into two pieces when Union Road was constructed. The boundaries of existing property and the new parcels are constrained by Union Road and associated right-of-way. The shapes of the two proposed parcels are also constrained by the shape and location of existing lot lines.

Finding 10: That, through characteristics specific to the subject property, and through aspects necessary to the proposed subdivision, the applicant has demonstrated the continued agricultural viability of parcels under 40 acres in size. (LU-3.12 Agricultural Viability of Small Parcel Sizes).

Evidence 10: The property is currently vacant agricultural land and no change in use is proposed as part of this parcel map. The viability of the property for agricultural use was previously compromised by the construction of Union Road through the property.

Finding 11: The design and location of each lot in the subdivision, and the subdivision as a whole, are consistent with any applicable regulations adopted by the State Board of Forestry and

Fire Protection pursuant to Sections 4290 and 4291 of the Public Resources Code (GC §66474.02, subd. (A) (1)).

Evidence: *The property is located in the Non-wildland/Non-urban fire severity zone. No development is proposed as part of the project. No Forestry resources are affected by the parcel map. The subdivision does not preclude the implementation of appropriate fire safety standards.*

BE IT FURTHER RESOLVED by the Planning Commission of the County of San Benito that based on the foregoing findings and evidence in the record, that the proposal to subdivide the 17.07-acre property at '0' Ladd Lane, APN 020-280-038, into two parcels of 13.5-acres and 3.57-acres, is approved with the following conditions of approval.

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. [County Counsel]
- 2. Conformity to Plan.** The development of the site shall conform substantially to the proposed Lemos Tentative Subdivision Map prepared by San Benito Engineering, dated September 5, 2019 and the Conditions of Approval as approved by the Planning Commission. [Planning]
- 3. Conditions of Approval.** Prior to or upon approval of the tentative subdivision by the Planning Commission, the Applicant shall sign the statement below certifying that they are in agreement with all Conditions of Approval. [Planning]

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

Applicant Signature: _____

Date: _____

4. **CEQA Notice of Exemption** (Fish & Game Fees). The applicant/owner shall be required to file a Notice of Exemption for the project. 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. The applicant shall submit payment of an administrative fee of \$50.00 to the Planning Department for the filing of the notice. [Planning, CDFG]
5. **Compliance Documentation.** Prior to recordation of the Parcel Map the permittee 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. **Assessment.** Prior to recordation of the parcel map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act; this includes pre-payment of taxes for the current year the final parcel map is recorded. [Planning, Assessor]
7. **Recordation.** The applicant shall submit a parcel map to the County for review and approval by the County Resource Management Agency. The applicant shall be responsible for recording the approved Parcel Map with the County Recorder. The tentative parcel 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 parcel map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]
8. **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 (commencing with §27460) of Part 3 of Division 2 of Title 3 of the Government Code.

ENVIRONMENTAL HEALTH DIVISION

9. **Water.** Parcel map approval does not constitute validation of an acceptable drinking water system or source. Proof of a drinking water system or source will be required prior to the issuance of a building permit.

10. Sewage Disposal. Parcel map approval does not constitute validation of site suitability for an acceptable sewage disposal system. Proof of an adequate wastewater disposal system will be required prior to the issuance of a building permit.

11. Hazardous Materials. If any hazardous materials are to be stored in any existing or proposed facilities/buildings/structures, a Hazardous Materials Plan must be completed and submitted to the Environmental Health Division.

FIRE DEPARTMENT

12. Fire Code. Any and all development on this property shall be required to meet the standards set forth in the latest editions of the 2016 California Fire Code, Public Resources Codes 4290 and 4291, Ordinances 822 and 823 of the San Benito County Code and other related codes as they apply to a project of this type and size.

PUBLIC WORKS DIVISION

13. ROW Dedication. Prior to recordation of the Parcel Map, the applicant shall dedicate the necessary right-of-way width to make Union Road a 110-foot right-of-way along the entire property frontage.

14. Subsequent Conditions. The following conditions shall be added as notes to the Final Parcel Map and will apply prior to the issuance of any subsequent Building permits.

- a. **Traffic Impact Mitigation Fee.** The applicant shall pay applicable Traffic Impact Mitigation Fees (TIMF).
- b. **Communities Facilities District.** The applicant shall be responsible for the project area to annex into Mello-Roos Community Facilities District (CFD) No. 2018-1 at the applicant's expense, and the applicant will pay any such taxes/fees as may be determined reasonable by the County.
- c. **Undergrounding.** The applicant shall install or bond for all proposed utilities within the project area and along streets to be placed underground except those exempted by the Public Utilities Commission regulations.
- d. **Dedication of Parkland.** The applicant shall comply with County Code §23.15.008 for the dedication of parkland, or pay a fee in lieu thereof or a combination of both, at the option of the County.
- e. **Easements.** Existing access to APN 020-280-013 is across new Parcel One (1). Prior to the sale or title transfer of either the new Parcel One (1) or APN 020-028-013, appropriate easements shall be granted by the applicant as legally required to secure any common access driveways or for water wells, tanks, water lines and associated equipment serving one parcel, but located on the other parcel, to the satisfaction of the County. [Public Works, Planning]

**PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF
SAN BENITO THIS 20TH DAY OF NOVEMBER 2019 BY THE FOLLOWING VOTE:**

AYES:

NOES:

ABSENT:

ABSTAIN:

Robert Rodriguez, Chair
San Benito County Planning Commission

ATTEST:

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

[illegible]