

***BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO***

**A RESOLUTION OF THE SAN )  
BENITO COUNTY PLANNING )  
COMMISSION APPROVING )  
PLN180033, A USE PERMIT FOR AN )  
RV PARK AT THE PANOCHÉ INN, )  
29960 PANOCHÉ ROAD, PAICINES, )  
CA, APN 027-280-011. )**

**Resolution No. 2019-\_\_**

**WHEREAS**, Frank Saunders filed an application on July 2, 2018, to establish an RV Park with 21 stalls on property under their ownership at 29960 Panoche Road; and

**WHEREAS**, County staff received the proposal as Use Permit PLN180033 and distributed this plan to responsible County and peer agencies for review and comment; and

**WHEREAS**, the proposed RV Park would be located on the rear 2.5 acres of the same 6.53-acre subject parcel that now hosts the Panoche Inn, and which has been the site of a continuously-operating bar/restaurant for the last 85 years, minimum; and

**WHEREAS**, the subject parcel has an RG Rangeland designation in the General Plan, with a C-2 Neighborhood Commercial overlay zoning district and underlying AR Agricultural Rangeland base zoning; and

**WHEREAS**, the project conforms to the objectives of the RG Rangeland land use designation, and is consistent under C-2 Neighborhood Commercial and AR Agricultural Rangeland zoning with a conditional use permit; and

**WHEREAS**, the project carries out or otherwise fulfills several General Plan Policies designed to maintain economically viable agricultural operations, among them LU-3.6 Agricultural Support Services; as well as policies adopted to improve and increase the visitor/tourist economy, among them LU-3.7 Visitor Serving Uses in Agricultural Areas; and

**WHEREAS**, the County assessed the potential for any substantial effect on the environment consistent with the requirements of the California Environmental Quality Act (CEQA) by preparing an Initial Study and Mitigated Negative Declaration (IS/MND), developing mitigation measures that would reduce any impact to below-substantial levels, and circulating the IS/MND for agency and public review from October 21, 2019 to November 19, 2018; and

**WHEREAS**, no unusual circumstances, features of the land, or unexpected issues have arisen with the proposal; and

**WHEREAS**, on November 20, 2019, the Planning Commission in considering Use Permit PLN180033 heard and received all oral and written testimony and evidence that was

made, presented, or filed, and all persons present were given an opportunity to hear and be heard with respect to any matter related to the petition; and

**WHEREAS**, at the conclusion of the public testimony, the Planning Commission closed the public hearing, deliberated, and considered the merits of the proposal.

**NOW THEREFORE BE IT RESOLVED** that based on the evidence in the record, the Planning Commission of the County of San Benito hereby finds as follows:

### **California Environmental Quality Act (CEQA) Findings**

**Finding 1:** The initial study/mitigated negative declaration for the Panoche RV Park—29960 Panoche Road, Use Permit PLN180033—has been prepared in compliance with provisions of the California Environmental Quality Act (CEQA), 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/mitigated negative declaration are filed in the project record, file PLN180033, at the San Benito County Planning Department. Public review of the initial study was conducted from October 21, 2019 to Tuesday, November 19, 2019. Notice of Availability of the proposed Mitigated 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.*

**Finding 2:** The Planning Commission has considered the initial study/mitigated 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 on November 20, 2019.*

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

***Evidence:** The San Benito County Planning Department prepared the initial study, and incorporated the biological survey report prepared by biological consultant Ed Mercurio of Salinas, California. The Planning Commission considered and reviewed the initial study/mitigated negative declaration and considered public comments and supplemental information prior to action on the mitigated 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 consideration of the initial study/mitigated negative declaration, the Planning Commission found that the project as proposed, with the adoption of the mitigation measures and conditions of approval, would not have a significant effect on the environment.*

**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 project is properly located in relation to the General Plan, to the community as a whole, and to other land uses. The surrounding rangeland, nearby utilities (Panoche Solar Farm), and federal lands all constitute the proper land use context for the proposed use. The location would improve access to regional assets by providing overnight accommodations for visitors and commuters traveling to recreational amenities and job-sites, respectively.*

**Evidence:** *This project would be properly sited on a heavily-impacted parcel, a complementary location in relation to the surrounding rangeland in that it would “maintain open space and grazing land . . . in remote areas,” rather than building on lands valued as agricultural or environmental assets, which fulfills the purpose of the RG Rangeland land use designation.*

**Evidence:** *This commercial use is properly located in relation to “the community as a whole,” in a remote location, as specified by the General Plan, where it can serve residents by reducing unnecessary trips to Hollister and other outlying cities, reducing VMT in the process.*

**Evidence:** *The remote location has immediate access to the road network. The project is located on the south side of Panoche Road, about midway along its east-west segment through the Panoche Valley. The CalFire Antelope Creek Station is 9.1 miles west along Panoche Road, about 14 minute away. Ambulance response times are standard for wilderness areas at 90 minutes. The project is properly located in relation to public services and the transportation network.*

**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 use is located within a broad expanse of rangeland dedicated primarily to grazing livestock, on property with few neighbors and none close enough to be adversely affected in a way that could cause damage, hazard, or nuisance. Any effects have been estimated as less than significant, and standard conditions will further mitigate any expected effects to persons or property.*

**Evidence:** *Few adverse effects are associated with RV Park operations or activities, in a way that could be likely to cause damage, hazard, or nuisance to persons or property. Expected but less than significant effects would be further mitigated by standard conditions of approval.*

**Evidence:** *County departments and responsible agencies have reviewed the proposal and recommended conditions of approval to address possible effects on persons and property.*

## Conditions of Approval

1. **Indemnification:** APPLICANT shall defend, indemnify, and hold San Benito County, its agents, officers, and/or employees (hereinafter “COUNTY”) free and harmless from any and all suits, fees, claims, demands, causes of action, proceedings (hereinafter collectively referred to as “Legal Action”), costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorneys’ fees, expert witness fees, and court costs) incurred by COUNTY arising (directly or indirectly) or resulting from the review, processing, consideration, or approval of APPLICANT’S Project or action taken by COUNTY thereon, including Legal Actions based on the negligence of COUNTY. APPLICANT will reimburse COUNTY for any damages, costs, or fees awarded pursuant to any settlement, default judgment, or other judgment taken against the County, whether the result of Applicant’s decision not to defend Legal Action or otherwise. COUNTY retains its discretion to direct counsel regarding whether to defend, settle, appeal, or take other action regarding any Legal Action. APPLICANT shall defend COUNTY’S actions with competent legal counsel of APPLICANT’s choice without charge to COUNTY, subject to COUNTY approval, which shall not be unreasonably withheld. Nothing contained in the foregoing, however, shall be construed to limit the discretion of COUNTY, in the interest of the public welfare, to settle, defend, or appeal, or to decline settlement or to terminate or forego defense or appeal of a Legal Action. Furthermore, in no event shall COUNTY have any obligation or liability to APPLICANT in connection with COUNTY’S defense or prosecution of litigation related to the Project (including, but not limited to, the outcome thereof) or in the event COUNTY elects not to prosecute a case or defend litigation brought against it. If either COUNTY or APPLICANT determines in good faith that common counsel presents a bona fide conflict of interest, then COUNTY may employ separate counsel to represent or defend the COUNTY, and APPLICANT shall pay the reasonable attorneys’ fees and costs of such counsel within thirty (30) days of receiving an itemized billing statement or statements. [Planning]
2. **Successors in Interest:** The conditions of approval are binding on all successors in interest of Applicant, whether succession is by agreement, operation of law, or other means, including but not limited to all future owners utilizing this use permit. [Planning]
3. **Agreement with All Conditions of Approval:** Prior to or upon approval by the Planning Commission, Applicant shall sign the statement below certifying that Applicant is in agreement with all conditions of approval. [Planning]
  - a. I certify that I understand and agree to comply with all Conditions of Approval imposed by the Planning Commission, or Board of Supervisors as applicable, on this Permit.
  - b. Applicant Signature: \_\_\_\_\_
  - c. Date: \_\_\_\_\_
4. **Conformity with Plan:** The development and use of the site shall conform substantially to the proposed project description, site plan, and conditions of approval as approved by the Planning Commission. Any increase in the nature or intensity of land use on the site beyond that already analyzed shall be subject to further Planning review and approval. Approved plans and specifications shall not be substantially changed, modified or altered without written

authorization from the Planning Department. All work shall be in accordance with approved Project Plans (*see* Attachment 1), and with San Benito County Code. [Planning]

5. **Compliance Documentation:** Prior to ground disturbance for this project, the applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
6. **Notice of Determination (Fish & Game Fees):** The applicant shall be required to file a Notice of Determination for the project and pay Fish & Game fees of \$2,354.75. The County Planning Department shall provide the Notice and file the Notice and fee with the County Clerk within five (5) days of project approval. An administrative fee of \$50.00 shall be submitted to the Planning Department for the filing of the notice. [Planning/CDFW]
7. **Development Lighting:** Shielded, downward-directed lighting fixtures shall be required to maintain night vision, preserve the rural character of the landscape, and minimize light pollution, in adherence to development standards (§19.31.001 Development Lighting). [Planning]
8. **Landscaping Plantings:** In accord with proposed site design (*see* Attachment 1), project shall include landscape plantings/trees sufficient to screen the RVs and project facilities from view, buffer visual impacts from Panoche Road, and generally preserve the aesthetic character of the landscape. The Project Site Plan proposes to plant ninety-one (91) trees along the site perimeter and at each unit, to shade RV stalls, screen the facility from view, and preserve the rural landscape. (§25.43.005(A)(D)). [Planning]
9. **Water Softeners:** Use of on-site regenerating water softeners shall be prohibited. Use of water softener loops shall be prohibited; no water softener loops may be installed. Any proposed off-site regeneration softening systems must be approved by the San Benito County Water District.

#### **Division of Environmental Health**

10. **Sewage Disposal:** Note, the existing septic system for the existing Panoche Inn may not meet current septic system requirements. Any change to the use of or construction to the existing structure will require upgrades, including replacement, to the existing septic system to meet current requirements.
  - a. The owner shall provide soils testing documentation that shows proof that installation of a septic system is feasible.
  - b. The septic system for this project is considered a commercial system and shall be designed by a licensed third-party civil engineer (or equivalent).
11. **Water:** The owner shall contact the State Water Resources Control Board, Division of Drinking Water (831-655-6934, Jan Sweigert, District Engineer/831-655-6939, State Board Monterey District Office), and shall obtain a Public Water System permit (15 service connections or serve 25 or more persons daily for at least 60 days out of the year), or otherwise satisfy District Water Board requirements. Please refer to Attachment 2 of Exhibit C, District Water Board's CEQA response letter to IS/MND for this project.