

Exhibit B to PLN200007 Staff Report
BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

A RESOLUTION OF THE SAN BENITO COUNTY PLANNING) **Resolution 2020-__**
COMMISSION TO **APPROVE** A TEMPORARY USE PERMIT FOR A)
TWO-DAY MOTORCYCLE RACE EVENT ON MARCH 7 AND 8,)
2020, AT 21119 PANOCHÉ ROAD PROPOSED UNDER COUNTY)
PLANNING FILE PLN200007.)

WHEREAS, the subject parcel is located at 21119 Panoche Road, near Panoche Pass 7½ miles west-northwest of the Panoche Road–Little Panoche Road intersection, unincorporated San Benito County, California (Assessor’s Parcel 027-200-011 and 027-200-015) and is approximately 800 acres in area; and

WHEREAS, Brian Garrahan has filed an application to obtain a temporary use permit for a motorcycle race/event on said property with attendance by approximately 700 visitors and a riding course approximately seven miles in length, scheduled for March 7 and 8, 2020; and

WHEREAS, the said property currently has a General Plan land use designation of Rangeland (RG) and a zoning designation of Agricultural Rangeland/Open Space (AR/OS); and

WHEREAS, which allows short-term activities subject to County temporary use permit approval and enforcement under County Code Chapter 25.51; and

WHEREAS, the area of the proposed activity would comprise approximately two thirds of the subject property; and

WHEREAS, a similar event took place on the subject property on March 30 and March 31, 2019, and resulted in no formal complaints submitted to County Code Enforcement personnel; and

WHEREAS, the Planning Commission of the County of San Benito reviewed the temporary use permit at its regularly scheduled meeting held on February 19, 2020; and

WHEREAS, the Planning Commission of the County of San Benito reviewed all written and oral information presented to them by County staff and the public at the public hearing; and

WHEREAS, the Planning Commission finds the project exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines §15301 and §15304 for the project’s temporary nature, its site restoration requirement, the presence of existing roads on the site, and other factors indicating negligible environmental effects; and

WHEREAS, the Planning Commission finds that the proposed event, as a single occasion of use by riders of off-road vehicles rather than an ongoing activity, does not constitute the intensive level of off-road recreational vehicle use addressed by County General Plan Policy HS-8.4, which addresses noise levels and lists public park facilities where significantly greater use of these vehicles than that currently proposed on the subject property would be found, and is granted an exemption from noise level standards by Policy HS-8.8 for the event’s temporary nature; and

WHEREAS, the temporary activity has direct access to a public road (Panoche Road, or County Route J1) and proposes measures to manage cleanliness and safety; and

WHEREAS, the proposed temporary use offers a recreational opportunity to the public and may promote the local economy and scenic qualities of the area; 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: Pursuant to San Benito County Local Guidelines for the California Environmental Quality Act, this project qualifies for a Categorical Exemption under State CEQA Guidelines §15301 (Class 1, Existing Facilities) and §15304 (Class 4, Minor Alterations to Land).

Evidence: *Special events are a temporary use of land that will have negligible or no permanent effects on the environment. This proposed activity is a temporary use that would occur with conditions of approval including a requirement to perform event cleanup and restoration, and no healthy, mature, scenic trees would be removed. On the subject property, while a new motorcycle race course could have a substantial impact, on-site observation by County staff demonstrated that existing private roads are present that can feasibly be used by motorcyclists. Section 15301(c) states that “existing highways and streets, bicycle and pedestrian trails, and similar facilities” may be operated or leased under a Categorical Exemption provided that negligible or no expansion of use would occur. Meanwhile, §15304(e) grants a Categorical Exemption for minor alteration to land for “temporary use of land having negligible or no permanent effects.” As a temporary use, and provided post-event cleanup and restoration, proposed operation both on and off existing roads can be considered negligible expansion of use and minor alteration of the land.*

Temporary Use Permit Findings:

Finding 1: That the proposed use meets provisions for temporary use permits under San Benito County Code §25.29.025.

Evidence: *County Code §25.29.015(C)(6) allows special events including but not limited to bicycle races subject to conditions and limitations reasonably necessary to secure the public welfare.*

Finding 2: 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 Rangeland (RG), an area of low population density and long distances between land uses. The site is directly accessible from Panoche Road, also known as County Route J1, requiring no transportation across other private lands in order to access the project site. The applicant has proposed measures for cleanliness and safety, which would minimize need for emergency response and transportation of services beyond those associated with the event organizer. Conditions of approval have been included for this project to manage impacts to the area and reduce potential for conflict with neighboring land uses. A similar event occurred earlier on the site on March 30 and 31, 2019, with no formal complaints submitted to the County and its Code Enforcement staff. While Policy HS-8.4, a noise control policy under Goal HS-8, “limit[s] the use of off road recreational motor vehicles to those areas specifically designated for that purpose, (i.e. Clear Creek and Hollister Hills State Vehicular Recreational Area),” the proposed activity as a temporary event does not represent the level of ongoing, regular use of such motor vehicles typical of the specifically stated facilities. Policy HS-8.8 allows “[a]ctivities associated with County-permitted temporary events and festivals” such as this proposed event an exemption from noise standards of Goal HS-8.*

Finding 3: Through partnership among private entities, event organizers, and public agencies, the proposed use assists in the General Plan’s aim to increase and enhance opportunities for passive and active recreation similar to those opportunities sought by General Plan Goal NCR-3.

Evidence: *The County expresses through General Plan Policy ED-5.5 its intent to establish outdoor recreation opportunities, which may include private facilities such as this project site. The proposed use has potential to promote the local economy and showcase the area’s scenic landscapes and natural*

resources. Provided adherence to conditions of approval, including post-event cleaning, the activity will not adversely impact agricultural operations, farmland, or productivity.

Finding 4: That the proposed use, if it complies with all 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: *County departments and responsible agencies have reviewed the application and recommended conditions of project approval to address possible effects on the vicinity and the overall County 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. A similar event occurred earlier on the site on March 30 and 31, 2019, with no formal complaints submitted to the County and its Code Enforcement staff.*

Finding 5: That the proposed use requires no “presence-absence” studies of archaeologically sensitive sites (Robert R. Cartier, Presentation of Archaeological Sensitivity Maps; July 1991).

Evidence: *The proposed use involves no subsurface excavations, no surface grading, and no additional facilities or new structures. Conditions of approval require reporting and cessation of activities following any discovery of evidence of an archeological site such as human remains or significant archaeological artifacts.*

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, the Planning Commission hereby approves the temporary use permit subject to the following conditions of approval found in Exhibit A.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 19TH DAY OF FEBRUARY 2020 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

Valerie Eglund, Chair
San Benito County Planning Commission

ATTEST:

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

Conditions of Approval of Temporary Use Permit:

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. 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. **Conformity with Plan:** The 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 changed, modified or altered without written authorization from the Planning Department. All activity shall be in accordance with the approved plans and with San Benito County Code. [Planning]
 - a. The approval is hereby granted for an event to take place on March 7 and 8, 2020, only. This approval of a temporary use does not imply any permanent authorization and does not constitute any guarantee of future approvals, entitlements, or authorization.
 - b. Any project activity shall occur in accordance with the proposed Project Site Plan (**Attachment 1**) and Operations Plan (**Attachment 2**).
3. **Review/Revocation:** In the event of a compelling public necessity, non-compliance, problems, concerns, or complaints, this permit will be subject to further review and conditioning, or, if necessary, revocation by the County Resource Management Agency Planning staff and/or Planning Commission. [Planning]
4. **Waste Disposal/Event Cleanup:** The applicant/event organizer shall conduct event cleanup, make provisions for waste disposal, and restore the site to its original condition (County Code §25.29.015, Temporary Uses). The County enforcing officer may require guarantees to assure removal of any debris or refuse resulting from this temporary use, so as to restore the premises to the prior condition.

5. **Security:** Prior to operation, the applicant shall confer with the County Sheriff's Office to ensure adequate security measures are enforced for the event.
6. **Emergency Medical Response:** Emergency first aid/medical personnel and transportation shall be present on-site.
7. **Traffic:** The applicant shall be responsible for traffic safety in the area for the entire duration of the event. The applicant shall provide traffic control devices not limited to signage and flags and shall have standby traffic control personnel ready to direct traffic when the need arises at the peak traffic period entering and exiting the event. If Sheriff and/or California Highway Patrol officers will be hired for the above purpose, then their recommendations shall be followed.
8. **Parking:** All parking directly associated with the permitted event shall take place on the subject property. No parking directly associated with the permitted event shall take place in any location outside Assessor's Parcels 027-200-011 and 027-200-015 or on roads and easements serving properties other than the said Assessor's parcels. [Planning]
9. **Cultural Resources:** The property owner/applicant, if at any time discovering any human remains of any age, or any significant archaeological artifact or other evidence of an archeological site, shall
 - a. cease and desist from further 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 no less than one hundred feet from the point of discovery, provided that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking and that said staking not include flags or other devices which may attract vandals;
 - c. notify the County Sheriff-Coroner and County Resource Management Agency of the discovery if human and/or questionable remains have been discovered; and
 - d. grant, subject to due legal process, to all duly authorized representatives of the Coroner and the Resource Management Agency permission to enter onto the property and to take all actions consistent with Chapter 19.05 of San Benito County Code, with State Health and Human Safety Code §7050.5, and with State Government Code Title 3 Division 2 Part 3 Chapter 10 (§27460 *et seq.*). [Planning]

County Division of Environmental Health (DEH):

10. **Hazardous Materials:** If any hazardous materials are to be stored on the site of the proposed project, a Hazardous Materials Business Plan shall be completed and submitted to the County Division of Environmental Health. [Environmental Health]
11. **Sewage Disposal:** The estimated number of attendees and spectators for the event is 600 to 800 persons. The owner/organizer shall provide a minimum of 10 portable toilets and 4 hand wash stations from a provider approved by this department. [Environmental Health]
12. **Water:** Drinking water shall be provided from an approved water system or source to the satisfaction of the Environmental Health. [Environmental Health]
13. **Food:** The applicant/organizer shall complete the Community Event Organizer's Permit Application if more than two temporary food facilities will be present at the event. [Environmental Health]

Fire:

14. **Fire Code:** The applicant shall provide fire extinguishers, and follow fire guidelines. All activities shall meet California Fire Code standards, 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 25.07.025. [Fire]