AGENDA
REGULAR MEETING
SAN BENITO COUNTY AIRPORT LAND USE COMMISSION

DATE: Thursday, May 16, 2019
3:00 P.M.

LOCATION: Board of Supervisors Chambers, 481 Fourth Street,
Hollister, CA 95023

COMMISSIONERS: Chair César E. Flores, Vice Chair Jim Gillio
Directors Anthony Botelho, Marty Richman, and Ignacio Velazquez
Alternates: San Benito County: Mark Medina;
City of Hollister: Rolan Resendiz; San Juan Bautista: Mary Vazquez Edge

Persons who wish to address the Board of Directors must complete a Speaker Card and give it to the Clerk prior to addressing the Board. Those who wish to address the Board on an agenda item will be heard when the Chairperson calls for comments from the audience. Following recognition, persons desiring to speak are requested to advance to the podium and state their name and address. After hearing audience comments, the Public Comment portion of the agenda item will be closed. The opportunity to address the Board of Director’s on items of interest not appearing on the agenda will be provided during Section B. Public Comment.

3:00 P.M. CALL TO ORDER:

A. ACKNOWLEDGE Certificate of Posting

B. PUBLIC COMMENT: (Opportunity to address the Board on items of interest not appearing on the agenda. No action may be taken unless provided by Govt. Code Sec. 54954.2. Speakers are limited to 3 minutes.)

CONSENT AGENDA
(These matters shall be considered as a whole and without discussion unless a particular item is removed from the Consent Agenda. Members of the public who wish to speak on a Consent Agenda item must submit a Speaker Card to the Clerk and wait for recognition from the Chairperson. Approval of a consent item means approval as recommended on the Staff Report.)

1. APPROVE Airport Land Use Commission Draft Special Meeting Minutes Dated April 18, 2019 – Gomez

2. FIND Project No. PLN190020, Associated with Assessor Parcel Numbers 013-050-028 and Located at 7777 Frazier Lake Road in the County of San Benito, CONSISTENT with the Adopted 2001 Comprehensive Land Use Plan for Frazier Lake Airpark – Lezama

Adjourn to ALUC Meeting on Thursday, June 20, 2019. Agenda Deadline is Tuesday, June 4, 2019 at 12:00 P.M.

In compliance with the Americans with Disabilities Act (ADA), if requested, the Agenda can be made available in appropriate alternative formats to persons with a disability. If an individual wishes to request an alternative agenda format, please contact the Clerk of the Council four (4) days prior to the meeting at (831) 637-7665. The Council of Governments Board of Directors meeting facility is accessible to persons with disabilities. If you need special assistance to participate in this meeting, please contact the Clerk of the Council’s office at (831) 637-7665 at least 48 ours before the meeting to enable the Council of Governments to make reasonable arrangements to ensure accessibility.
Agenda Item:

San Benito County
AIRPORT LAND USE COMMISSION
REGULAR MEETING
April 18, 2019 3:00 P.M.

DRAFT MINUTES

MEMBERS PRESENT:
Chair Flores, Director Gillio, Director Richman, Director Velazquez, and Alternate Botelho

MEMBERS ABSENT:
Director Medina

STAFF PRESENT:
Deputy County Counsel, Shirley Murphy; Executive Director, Mary Gilbert; Transportation Planner, Veronica Lezama; Transportation Planner, Regina Valentine; Secretary, Monica Gomez

CALL TO ORDER:
Chair Flores called the meeting to order at 3:36 P.M.

A. Acknowledge Certificate of Posting

Upon a motion duly made by Director Botelho, and seconded by Director Gillio, the Directors unanimously approved the Certificate of Posting. Vote: 5/0 motion passes.

B. PUBLIC COMMENT: None

CONSENT AGENDA:

1. Approve Airport Land Use Commission Draft Special Meeting Minutes dated March 21, 2019 – Gomez

2. Find Project No. 2018-04, Associated with Assessor Parcel Number No. 050-010-006, 050-010-007, and 050-010-008 Located on San Felipe Road in the City of Hollister, Consistent with the 2012 Hollister Municipal Airport Land Use Compatibility Plan – Lezama

There was no discussion or public comment on Consent Items 1&2.

Upon a motion duly made by Director Gillio, and seconded by Director Botelho, the Directors approved Consent Agenda Items 1&2. Vote: 5/0 motion passes.

REGULAR AGENDA:

3. Receive Presentation and Comment on Draft Policies and Maps for the Airport Land Use Compatibility Plan for Frazier Lake Airpark – Lezama

Veronica Lezama provided an overview of the presentation. She introduced aviation consultant Walter Windus who went over the factors that prompted an update. He also provided an overview of the Draft Compatibility Policies and Maps and answered questions from the Board.
Director Gillio asked if commercial development proposed on Shore Road and the Frazier Lake area would be affected by this plan. He also asked what would happen if the proposed development wanted to expand.

Mr. Windus stated that any existing permitted development is not affected by the new plan. With regards to expanding the proposed development, he said they would be subject to the policies in the proposed Land Use Plan.

Director Botelho stated that the way he understood it, as long as they are not putting any schools or shopping centers out there, it is fine. A hemp manufacturing facility, a processing plant that is agriculturally centered wouldn’t really have any effect on the destinations and new proposed lines.

Mr. Windus agreed with Director Botelho’s comment. He stated that he didn’t anticipate changing the use to be inconsistent with either the current or the proposed Land Use Plan.

Ms. Lezama clarified that the County project that Board members mentioned was recently referred to staff. It will be reviewed with the existing Comprehensive Land Use Plan, therefore those policies won’t apply to that particular project.

Ms. Lezama went over the timeline and next steps for the plan. She stated that staff will be conducting preliminary public outreach with property owners located within the proposed Frazier Lake Airpark Airport Influence Area. The goal is to engage them early in the Plan’s development process and to provide an opportunity for one-on-one meetings to answer property owners’ questions and receive feedback.

Director Botelho asked how staff planned on notifying all of the property owners.

Ms. Lezama stated that staff would be using the County’s GIS program to generate a mailing list by highlighting and selecting properties that are within the Area of Influence. Staff would then send out a letter to those property owners.

Director Gillio indicated that the City of Hollister adopted a “notice of a proposed project” sign to be placed at project sites to inform the public of upcoming projects. He asked if it would be beneficial to do something similar and look into putting up a Notice of Proposed Project sign near the project location at Frazier Lake and Shore Road.

Ms. Lezama stated that staff would look into placing a similar Notice of Proposed project sign at those locations.

There was no public comment on Item 3.

Upon a motion duly made by Director Gillio, and seconded by Director Velazquez, the Directors adjourned the ALUC Meeting at 4:15 p.m. Vote: 5/0 motion passes.

ADJOURN TO ALUC MEETING THURSDAY MAY 16, 2019.
Staff Report
To: Airport Land Use Commission
From: Veronica Lezama, Transportation Planner
Telephone: (831) 637-7665
Date: May 16, 2019
Subject: Land Use Consistency Determination

Recommendation:

FIND Project No. PLN190020, Associated with Assessor Parcel Numbers 013-050-028 and Located at 7777 Frazier Lake Road in the County of San Benito, CONSISTENT with the Adopted 2001 Comprehensive Land Use Plan for Frazier Lake Airpark.

Summary:

The ALUC application associated with assessor parcel number 013-050-028, was reviewed in accordance with the adopted 2001 Comprehensive Land Use Plan for Frazier Lake Airpark.

Financial Considerations:

The Airport Land Use Commission (ALUC) has no adopted fee structure.

Background:

Land use actions proposed within the Frazier Lake Airpark Influence Area (Attachment 1) are subject to ALUC review to determine consistency with the 2001 Comprehensive Land Use Plan for Frazier Lake Airpark. The purpose of the Comprehensive Land Use Plan is to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards.

ALUC is in the process of updating the 2001 Comprehensive Land Use Plan for Frazier Lake Airpark. The name of the existing Plan will change to Airport Land Use Compatibility Plan for Frazier Lake Airpark, but the new provisions are not applicable to this project as the Plan has yet to be adopted.

Staff Analysis:

ALUC staff received an application for a Consistency Determination with the adopted 2001 Comprehensive Land Use Plan for Frazier Lake Airpark. In the course of a project review, the Airport Land Use Commission considers a number of policies including: Noise, Safety, Airspace Protection, and Overflight. An analysis of each of the four compatibility factors is discussed below, following the project description.
Project Description:

The project site is located south and adjacent to Frazier Lake Airpark (Attachment 2). The applicant is proposing to reuse 275,000 SF of existing structures at a former raising facility on an agriculturally (AP) zoned parcel totaling 75-acre (Attachment 3). The applicant is proposing to use the site as a Hemp Campus facility that would provide for hemp cultivation and hemp-derivative manufacturing and oil extraction. The project also includes a proposal to erect two 30,000 SF “hoop” greenhouses for seed production and cultivation. The proposed facility would operate seven days per week, 24 hours/day with two, twelve-hour shifts. Initially, the facility is expected to employ between 50 and 75 employees with potentially 125 employees at full development.

An analysis of each of the Comprehensive Land Use Plan’s four compatibility factors is discussed below.

Noise Policy

The Noise Policy objective is to avoid establishment of noise-sensitive land uses in the portions of airport environs that are exposed to significant levels of aircraft noise. The magnitude noise impacts are depicted by four contours, which show the greatest annualized noise impacts anticipated to be generated by the airport over its operational life.

The project is proposed on APN 013-050-028, which is located within the 55-60 db, 60-65 db, 65-70 db, and 70-75 db CNEL noise contours (Attachment 4). According to Table 4-1: Noise Compatibility Guidelines (Attachment 5), the project is Clearly Acceptable within the 55-60 db, 60-65 db, and 65-70 CNEL Noise Contours. However, within the 70-75 db CNEL the project is Conditionally Acceptable. The Noise Guidelines state that within this contour, “new construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design.” However, no structure is proposed within the 70-75 db CNEL (Attachment 4). As such, the project is consistent with the Comprehensive Land Use Plan’s Noise Policy.

Safety Policy

The Safety Policy objective is to minimize the risks associated with an off-airport aircraft accident or emergency landing. The policy focuses on reducing the potential consequences of such events by limiting sensitive land uses (i.e. residential) and intensities of non-residential uses (i.e. commercial, industrial, agricultural, etc.). This policy is defined in terms of the geographic distribution of where accidents are most likely to occur based on the Frazier Lake Airpark Safety Zones.
The proposed project was review in accordance with the Comprehensive Land Use Plan’s Safety Zone Compatibility Guidelines, Table 4-2 (Attachment 6), which addresses the three safety criteria discussed below:

1. **Land Use Designation**
   The project is proposed within the Traffic Pattern Zone (Attachment 7). According to Table 4-2: Safety Zone Compatibility Guidelines (Attachment 6), “special functions (schools, hospitals, nursing homes etc.) should be discouraged unless no other feasible alternative are available.”

   However, the applicant is not proposing any of the above-mentioned sensitive land uses. The project site is zoned Agricultural Productive, which “intent...is to provide for areas within the county to be used for agricultural production of any type as set forth in the general plan...The Project will comply with the applicable goals, policies, and programs contained in the adopted County General Plan. San Benito Code Sections 25.07.005 describes the conditional uses allowed in the zoned district, specifically Subsection (V) lists ‘Agricultural processing’ and Subsection (B) lists ‘Commercial greenhouses and mushroom growing facilities’ as conditionally permitted uses.” As such, the proposed Agricultural Productive uses are consistent within the Traffic Pattern Zone.

2. **Population Densities**
   Projects must also comply with the indicated population densities set in the Comprehensive Land Use Plan. According to Table 4-2: Safety Zone Compatibility Guidelines (Attachment 6), non-residential uses are allowed to have a maximum population density of 150 people or more per acre. Initially, the 75-acre project site is expected to employ between 50 and 75 employees with potentially 125 employees at full development. The proposed facility would operate seven days per week, 24 hours/day with two, twelve-hour shifts. As such, the proposed Agricultural Productive use is consistent within the Population Densities allowed in the Comprehensive Land Use Plan.

3. **Maximum Lot Coverage**
   Projects must also comply with the indicated Maximum Coverage by Structures criteria set in the Comprehensive Land Use Plan. According to Table 4-2: Safety Zone Compatibility Guidelines (Attachment 6), the maximum coverage by structures shall be 50 percent of gross area or 65 percent of net area, whichever is greater.

   The project also includes a proposal to erect two 30,000 SF “hoop” greenhouses for seed production and cultivation for a total of 60,000 SF on a 75-acre site. The project proposes 60,000 SF of new structures on a 75-acre site (3,267,000 SF), which has a Coverage by Structures of 1.8%. The existing structures have a coverage of 8.25%. The total coverage of both existing (270,000 SF) and proposed (60,000 SF) structures totals about 10% of the 3,270,000 SF site. As such, the Coverage by Structures is consistent within the Population Densities allowed in the Comprehensive Land Use Plan.
Other Applicable Conditions:

The Comprehensive Land Use Plan for Frazier Lake Airpark also specifies the following uses as prohibited in all airport safety zones:

- Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing or an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.

- Any use that would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.

- Any use which would generate smoke or water vapor, or which would attract large concentrations of birds, or which may otherwise negatively affect safe air navigation within the area.

- Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

Airspace Protection Policy

The Airspace Protection Policy seeks to prevent creation of land use features that can be hazards to the airspace required by aircraft in flight and have the potential for causing an aircraft accident to occur. In evaluating the airspace protection compatibility of any proposed development, the following three categories of hazards to airspace shall be taken into account:

1. The height of structures and other objects situated near the airport are a primary determinant of physical hazards to the airport airspace.

   **ALUC Staff Analysis:** The project also includes a proposal to erect two 16’ “hoop” greenhouses for seed production and cultivation. The two structures (A and B) are proposed within the Transitional Surface (Attachment 8), a surface extending outward and upward from the sides of the Primary Surface and from the sides of the Approach Surfaces at a slope of 7 to 1. The first structure, labeled as site “A” is proposed at a distance of approximately 605 feet from the end of the water runway. The second structure, labeled as site “B” is proposed approximately 765 feet from the end of the water runway. The enclosed drawing (Attachment 9) shows that the proposed structures, “A” and “B,” would not penetrate the Transitional Surface and therefore consistent with the Height Restriction Area Policy.
2. Land use features that have the potential to attract birds and certain other wildlife to the airport area are also to be evaluated as a form of physical hazards, per FAA Advisory Circular 150/5200-33B, *Hazardous Wildlife Attractants on or Near Airports*.

*ALUC Staff Analysis*: The applicant indicated that no waste will be generated at the site. If at any point in the future, if waste is produced, the applicant will need to ensure that it is properly enclosed at all time in order to avoid attraction (nesting) of birds.

3. Visual hazards of concern include certain types of lights, sources of glare, and sources of dust, steam, or smoke.

*ALUC Staff Analysis*: The ethanol discussed in the environmental document will be enclosed and not emitted into the air, as confirmed by the applicant.

4. Electronic hazards are ones that may cause interference with aircraft communications or navigation.

*ALUC Staff Analysis*: There are no hazards identified.

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**Overflight Policy**

The Overflight Compatibility Policy is intended to help notify people, through real estate disclosures, about the presence of aircraft overflight near airports so that they can make informed decisions regarding acquisition or lease of property in the affected areas. Overflight policies do not apply to non-residential development.

The property owner shall grant an avigation easement to the County of San Benito similar in form to Exhibit 1, Sample Avigation Easement, on page 7-2 of the 2001 Airport Comprehensive Land Use Plan for Frazier Lake Airpark (Attachment 10).

The San Benito County Airport Land Use Commission has the following project conditions of approval for the County of San Benito’s consideration.

1. 8 foot high chain link fence surrounded with concertina (razor) wire on top to deter intruders.
2. 24/7/365 onsite security personnel.
3. Automatic sprinklers with adequate onsite water supply to suppress any fire that may occur.
4. The property owner shall grant an avigation easement to the County of San Benito similar in form to Exhibit 1, Sample Avigation Easement, on page 7-2 of the 2001 Airport Comprehensive Land Use Plan for Frazier Lake Airpark (Attachment 10).

Executive Director Review: ________ Counsel Review: No
Supporting Attachment(s):

1. Airport Influence Area
2. Project Location Map
3. Project Site Plan
4. Noise Contour Map
5. Table 4-1: Noise Compatibility Guidelines
6. Table 4-2: Safety Compatibility Guidelines
7. Safety Zones Map
8. Transitional Surface Map
9. Transitional Surface Map with Distance Measurements
10. Sample Avigation Easement
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
San Benito Hemp Campus
7777 Frazier Lake Road
San Benito County, California

Project Information:

- **Project Name:** San Benito Hemp Campus
- **Applicant:** Pacific Bay Capital Group, LLC
- **Owner:** Kevin Chambers Living Trust
- **Engineer:** Kelley Engineering & Surveying
- **Scale:** as noted
- **Assessor’s Parcel Number:** 013-050-028
- **Zoning:** AP
- **General Plan:** AP
- **Ex Land Use:** Equine Boarding
- **Property Area:** 77 acres
- **Project Area:** 77 acres

Notes:

- **BOUNDARY NOTE:** The property lines depicted hereon are based on record information only and do not constitute a survey of the land. Said record information provided by Title Report prepared by Chicago Title Company, Title Number 09-97101044-JO dated 7/13/2009.
- **UTILITY NOTE:** The types, locations, sizes and/or depths of existing underground utilities as shown on this plan are approximate and were determined from sources of varying reliability. Only actual excavation will reveal the types, extent, sizes, locations and depths of such underground utilities. The engineer can assume no responsibility for the completeness or accuracy of its delineation of such underground utilities which may be encountered, shown or not shown on the plan.
- **FLOOD ZONE:** This Project lies entirely within Zone X, areas determined to be outside the 0.2% annual chance floodplain according to FIRM 06069C0075D, 4/16/2009.
- **SEISMIC ZONE:** No portions of this project are within any Seismic Special Studies Zone according to the State of California Special Studies Zone Map, San Felipe Quadrangle, dated January 1, 1982. The western limit of a Special Studies Zone along the Calaveras Fault lies immediately east of the property.

Sheet Index:

1. Cover Sheet & Notes
2. Site Plan - Existing Conditions
3. Building Area Detail - Proposed Conditions
In accordance with section 6735 (a) of the Professional Engineer's Act these plans are PRELIMINARY and therefore do not bear the signature and seal of a registered civil engineer.
The western edge of a seismic special studies zone along the Calaveras Fault runs approximately along the west line of Lake Road. The project site is not within this special studies zone.

Easement for waste way or ditch along west side of road per 55 OD 187 15' pipeline easement per 52 OR 338 30' pole line easement per 1987-09348

Use Permit Site Detail
San Benito Hemp Campus
APN 013-050-028
ATTACHMENT 4
SAN BENITO AIRPORT LAND USE COMMISSION (ALUC)
Project APN: 013-050-028

NOTE: THIS MAP IS FOR PLANNING PURPOSES ONLY AND IS NOT INTENDED FOR CONSTRUCTION OR NAVIGATIONAL PURPOSES.

Legend

- < 55-60 dB CNEL
- 60-65 dB CNEL
- 65-70 dB CNEL
- 70-75 dB CNEL
- 75-80 + dB CNEL
- Flight Track
- Parcels
- Runways
- Airport Property

Frazier Lake Airpark, San Benito County
<table>
<thead>
<tr>
<th>LAND USE CATEGORY</th>
<th>55-60</th>
<th>60-65</th>
<th>65-70</th>
<th>70-75</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential – low density Single-family, duplex, mobile homes</td>
<td>*</td>
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<td>***</td>
<td>***</td>
</tr>
<tr>
<td>Residential – multi-family</td>
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<tr>
<td>Transient lodging - motels, hotels</td>
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<tr>
<td>Schools, libraries, churches, hospitals, nursing homes</td>
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<td>Auditoriums, concert halls, amphitheaters</td>
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<td>Sports arena, outdoor spectator sports</td>
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<tr>
<td>Playgrounds, neighborhood parks</td>
<td>**</td>
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<tr>
<td>Golf courses, riding stables, water recreation, cemeteries</td>
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<tr>
<td>Office buildings, business Commercial and professional</td>
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<tr>
<td>Industrial, manufacturing, utilities, agriculture</td>
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</tbody>
</table>

* Clearly Acceptable: Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

** Conditionally Acceptable: New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design.

Residential: Conventional construction, but with closed windows and fresh air supply systems or air conditioning will normally suffice. Some outdoor activities may be adversely affected.

*** Normally Unacceptable: New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design. Residential: Outdoor activities are likely to be adversely affected.

**** Clearly Unacceptable: New construction or development should generally not be undertaken.

Source: Based on San Benito County Amended Noise Element, General Plan Revision, August 1984, Page 30
### SAFETY ZONE COMPATIBILITY GUIDELINES

**Frazier Lake Airpark**

<table>
<thead>
<tr>
<th>Safety Zone</th>
<th>Maximum Population Density</th>
<th>Maximum Coverage By Structures</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Runway Protection Zone – RPZ</td>
<td>10 people per acre confined to the sides and outer end of the RPZ</td>
<td>-0-</td>
<td>No residential - no special functions (schools, hospitals, storage of flammable materials, etc.) or large concentrations of people</td>
</tr>
<tr>
<td>Inner Safety Zone – ISZ</td>
<td>Nonresidential 40-60 people per acre</td>
<td>25 percent of net area</td>
<td>Very low-density residential. 10 acres or more per dwelling unit - Nonresidential uses should be activities that attract relatively few people - No concentrations of people directly on the extended centerline of the runway - No special functions (schools, hospitals, storage of flammable materials, etc.)</td>
</tr>
<tr>
<td>Outer Safety Zone – OSZ</td>
<td>Nonresidential 60-100 people per acre</td>
<td>50 percent of gross area or 65 percent of net area, whichever is greater</td>
<td>Rural residential, 2-5 acres per dwelling unit - Small neighborhood shopping centers and two-story office buildings are permitted - No special functions (schools, hospitals, etc.)</td>
</tr>
<tr>
<td>Traffic Pattern Zone – TPZ</td>
<td>Nonresidential 150 people or more per acre</td>
<td>50 percent of gross area or 65 percent of net area, whichever is greater</td>
<td>Residential subdivision densities of 4-6 dwelling units per acre are permitted - Special functions (schools, hospitals, nursing homes, etc.) should be discouraged unless no other feasible alternatives are available</td>
</tr>
</tbody>
</table>

Source: Based on 1993 *Airport Land Use Planning Handbook* prepared by the California Department of Transportation, Division of Aeronautics
This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
FAR Part 77 Surfaces

Frazier Lake Airpark, San Benito County

NOTE: THIS MAP IS FOR PLANNING PURPOSES ONLY AND IS NOT INTENDED FOR CONSTRUCTION OR NAVIGATIONAL PURPOSES

Map prepared May 2019
Exhibit 1
Sample Avigation Easement

This indenture made this ____ day of ______________20 __, between _________________________ hereinafter referred to as Grantor, and the County of San Benito a political subdivision in the State of California hereinafter referred to as Grantee.

The Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual and assignable easement over the following described parcel of land in which the Grantor holds a fee simple estate.

The property which is subject to this easement is described as _____________________________ on “Exhibit A” attached and is more particularly described as follows:

[Insert legal description of real property]

The easement applies to the airspace above an imaginary plane over the real property. The plane is described as follows:

The imaginary plane above the hereinbefore described real property, as such plane is defined by Part 77 of the Federal Aviation Regulations and consists of a plane [describe approach, transition, or horizontal surface]: the elevation of said plane being based upon the Frazier Lake Airpark Airport official runway end elevation of 153 feet Above Mean Sea Level (AMSL), as determined by a San Benito Engineering survey dated February 11, 2000 the approximate dimensions of which said plane are described and shown on Exhibit A attached hereto and incorporated herein by reference.

The aforesaid easement and right-of-way includes, but is not limited to:

(1) For the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons, or any aircraft, of any and all kinds now or hereafter known, in, through, across, or about any portion of the Airspace hereinabove described; and

(2) The easement and right to cause or create, or permit or allow to be caused or created within all space above the existing surface of the hereinabove described real property and any and all Airspace laterally adjacent to said real property, such noise, vibration, currents and other effects of air, illumination and fuel consumption as may be inherent in, or may arise or occur from or during the operation of aircraft of any and all kinds, now or hereafter known or used, for navigation of or flight in air; and

(3) A continuing right to clear and keep clear from the Airspace any portions of buildings, structures, or improvements of any kinds, and of trees or other objects, including the right to remove or demolish those portions of such buildings, structures, Improvements, trees, or other things which extend into or above said Airspace, and the right to cut to the ground level and remove, any trees which extend into or above the Airspace; and

(4) The right to mark and light, or cause or require to be marked or lighted, as obstructions to air navigation, any and all buildings, structures, or other improvements, and trees or other objects which extend into or above the Airspace; and

(5) The right of egress to, passage within, and egress from the hereinabove described real property, for the purposes described in subparagraphs (3) and (4) above at reasonable times and after reasonable notice.
For and behalf of itself, its successors and assigns, the Grantor hereby covenants with the County of San Benito, for the direct benefit of the real property constituting the Frazier Lake Airpark Airport hereinafter described, that neither the Grantor, nor its successors in interest or assigns will construct, erect, or grow in or upon the hereinabove described real property, nor will they permit to allow, any improvement, tree or other object which extends into or above the or which constitutes an obstruction to air navigation, or which obstructs or interferes with the use of the easement and rights-of-way herein granted.

The easements and rights-of-way herein granted shall be deemed both appurtenant to and for the direct benefit of that real property which constitutes the Frazier Lake Airpark Airport, in the County of San Benito, State of California; and shall further be deemed in gross, being conveyed to the Grantee for the benefit of the Grantee and any and all members of the general public who may use said easement or right-of-way in landing at, taking off from or operating such aircraft in or about the Frazier Lake Airpark Airport, or in otherwise flying through said Airspace.

This grant of easement shall not operate to deprive the Grantor, its successors or assigns, of any rights which may from time to time have against any air carrier or private operator for negligent or unlawful operation of aircraft.

These covenants and agreements run with the land and are binding upon the heirs, administrators, executors, successors and assigns of the Grantor, and, for the purpose of this instrument, the real property firstly hereinabove described is the servient tenement and said Frazier Lake Airpark Airport is the dominant tenement.

DATED: ____________          _________________________________________________

_________________________________________________

STATE OF CALIFORNIA }  ss
COUNTY OF SAN BENITO }

On _____________, before me, the undersigned, a Notary Public in and for said County and State, personally appeared ____________________________________________, and ____________________________________________, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

____________________________________________
Notary Public

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