

# **SAN BENITO COUNTY PLANNING COMMISSION**

## **February 20, 2008**

### **Minutes**

PRESENT: Bettencourt, Machado, Scattini

ABSENT: DeVries and Tognazzini

STAFF: Director of Planning (DoP) Art Henriques; Assistant Planner (AP) Michael Krausie; Senior Planner (SP) Chuck Ortwein; Public Works Engineer (PWE) Art Bliss; Deputy County Counsel (DCC) Shirley Murphy; and Clerk Janet Somavia.

Chair Machado opened the Meeting at 6:01 p.m. as he led the pledge of allegiance to the flag and reiterated the standing rules of order.

#### ***DIRECTOR'S REPORT***

DoP Henriques reported on recent Board of Supervisor meetings and information on the following items:

- Joint meeting of the Planning Commission and Board of Supervisors on March 6, 2008 at 1:30 p.m. in the Board Chambers to look at the reports on the Phase I of the General Plan update and draft work program for next phase
- Mid-year budget status report from the CAO.
- Commissioner Bettencourt asked for a status report on the Hillside Ordinance.
- DoP Henriques reported that it is still at Board of Supervisor level and an update will be coming back to the Planning Commission in a couple of weeks.

#### ***PUBLIC COMMENT***

Chair Machado opened and then closed the opportunity for public comment as there were no persons present to address matters not appearing on the agenda.

#### ***CONSENT AGENDA***

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of February 6, 2008

**Commissioner Bettencourt made the motion to approve the Consent Agenda. Commissioner Scattini seconded this motion. The motion passed with a favorable vote of 3-0. Ayes: Bettencourt, Scattini and Machado**

## **CONTINUED CONSENT AGENDA**

- 4. MINOR SUBDIVISION NO. 1211-07 – APPLICANT: Eric Painter. LOCATION: 254 Payne Road. APN: 11-03-55. REQUEST: To subdivide 13.24 acres into two parcels of 8.24 acres and 5 acres. ZONING: Rural (R). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.  
*PLANNER: Chuck Ortwein ([cortwein@planning.co.san-benito.ca.us](mailto:cortwein@planning.co.san-benito.ca.us)) (continued from 2-6-08)***

SP Chuck Ortwein presented his staff report explaining application and request of the applicant. San Benito Engineering, the applicant's engineer, requested that this project be continued to the February 6, 2008 regular Planning Commission meeting to enable their review of the Public Works comments with the applicant.

SP Chuck Ortwein stated that the engineer would speak with the Commission regarding the Public Works conditions and would request the road conditions be waived or deferred.

With no questions from the Commission, Chair Machado opened the Public Hearing.

Ann Hall, engineer for the applicant, discussed Condition #13 which has to do with improvements to Payne Road. A PowerPoint presentation was then shown regarding the frontage on Payne Road. There was some confusion regarding Condition #14 and Condition #13. There are essentially two Payne Roads. The piece in question is the existing frontage on the portion of Payne Road that is currently developed. The requirement to improve the road is only a small portion of the road. The applicant is willing to dedicate the 30 feet to the County. They are asking the Commission to waive Condition #13. This is a rural road serving only 10 to 12 families.

Commissioner Scattini asked who maintains the road at this time. Ms. Hall stated that it is maintained by the County.

There was some discussion with the Commission regarding water, fire hydrants and length of road that would be improved.

Applicant Eric Painter stated that the property is actually fully developed. There would not be any further development and it would not create any further traffic.

With no other speakers wishing to address the Commission, Chair Machado closed the Public Hearing.

Commissioner Bettencourt then made a motion to approve Minor Subdivision No. 1211-07, adopt the Mitigated Negative Declaration, adopt the findings and conditions contained in the staff report with the deletion of Condition #13 based on the finding that the improvements are not necessary due to the area already being built out. Commissioner Scattini seconded the motion. With no further discussion Chair Machado called for a vote. Motion passed with 3-0 a unanimous vote. Ayes: Bettencourt, Scattini and Machado

### **CONDITIONS OF APPROVAL**

- 1. Hold Harmless:** Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]
- 2. Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Department. 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]
- 3. Compliance Documentation:** Prior to recordation of the parcel map, 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]
- 4. 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. [Planning, Assessor]
- 5. Recordation:** The applicant shall submit a parcel map to the County and the parcel map shall be approved by the County Planning Department and the County Public Works Department and recorded 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]
- 6. Fire Protection:** A note shall be placed on an additional sheet to the Parcel Map that states: "Prior to the issuance of any permits for new development, the applicant shall comply with all requirements of the California Department of Fire, including the provision of an adequate water supply and flow for fire suppression. This may require the installation of one or more above ground water storage tanks, residential fire sprinkler systems and fire hydrants." [County Fire]

7. **Easements:** The parcel 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 & Game Fees):** The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval of the tentative map. Department of Fish and Game fee \$1,976.75 – Fish & Game Code section 711.4(d)) must be submitted with the filing. A copy of the filed notice shall be submitted to the County Planning Department. 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 section 21167 and the project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section 21089(b)). [Planning]
9. **Conditions of Approval, Easements, and Restrictions:** All unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the parcel map. [Planning]
10. **County Service Area:** Prior to recordation of the final map, the applicant shall make application to LAFCO to join a County Service Area (CSA #43) for fire and sheriff protection. All related processing fees, including State Equalization fees, must be submitted prior to recordation of the final map. [LAFCO, Planning]
11. **Improvement Plans:** As a condition approval, the applicant shall be required to submit and have approved, by the County Public Works Department, improvement plans for the proposed subdivision.

**Public Works Conditions:**

12. Prior to recordation of the parcel map for this project, the applicant shall make an irrevocable offer of dedication:
  - a. Half of a 60 feet right-of-way along the entire frontage on Payne Road.
13. ~~Prior to recordation of the parcel map, the applicant shall enter into a deferred improvement agreement for frontage improvements along Payne Road.~~
14. The applicant shall ensure that the proposed lots comply with County Drainage Standards and provide erosion control details. Included in this will be drainage calculations and construction details for either a retention or detention pond for impermeable surfaces that exist on site. All drainage improvements must be installed or bonded for prior to recordation of the parcel map.

**Planning Conditions:**

15. **Tree Removal:** Should the removal of any trees be required for the improvement of any existing roadway to county standards, the applicant shall apply for a discretionary permit for the removal of woodlands as may be applicable.
16. **Mitigation Monitoring:** Prior to the recordation of the parcel map, the applicant/owner, County Counsel and the Planning Director shall agree to and sign the Mitigation Monitoring Program form(s).
17. **Deed Restriction:** Prior to recording the final map, the applicant shall record deed restrictions stating “All areas with slopes greater than 30% shall be designated non-buildable.” A note with this statement shall also be placed on the parcel map. [MM1 }

18. **Future Development:** A note shall be placed on an additional sheet to the Parcel Map that states: “Prior to the issuance of any permits for new development on Parcel 1 or 2, the applicant shall provide sufficient information to demonstrate that drainage facilities which meet County standards will be provided for the site. Such information shall include flood information as well as the location, design, and supporting calculations for proposed drainage facilities.” [MM2]

**PUBLIC HEARING ITEM ~ COMMISSION ACTION**

5. **USE PERMIT NO. 985-08**– APPLICANT: Aromas Water District. LOCATION: 41 Seely Ave. APN: 011-21-0094 REQUEST: The applicant is seeking a Use Permit in order to build a 2,500 square foot government office building and sheriff's substation ZONING: Rural Transitional (RT) ENVIRONMENTAL EVALUATION: Categorically Exempt [15303(c)] PLANNER: *Michael Krausie* ([mkrausie@planning.co.san-benito.ca.us](mailto:mkrausie@planning.co.san-benito.ca.us))

AP Michael Krausie presented his staff report explaining the application. The applicant proposes to build a 7700 square foot parking lot branching off a common use driveway. The proposed building is needed to accommodate current and future growth of Aromas Water District. Currently the Aromas area does not have sheriff's office or a police station. A proposed substation in the building would provide a needed report station for both San Benito and Monterey Counties. The parcel is approximately 1.24 acres in size and staff is currently processing a Lot Line Adjustment in order to allow for enough buildable area for the building, parking lot and septic system. Staff recommends approval.

AP Krausie noted a correction to condition #12 - Change from **removal** of scenic easement to **amend** scenic easement.

AP Krausie then showed a PowerPoint presentation showing the proposed location of the building and parking lot.

Commissioners discussed the role of the Sheriff's office from San Benito and other counties. It was stated that they would not incur any of the cost. Because of the Aromas fire station location adjoining, this would in effect make a mini government center.

Chair Machado then opened the public hearing.

Larry Cain, General Manager, Aromas Water District addressed the Planning Commission. He noted the District was trying to build a facility to serve the people of San Benito County. Currently their facility is in Monterey County. The existing pumping station is on the property that they are making the lot line adjustment for. They would like to have an office adjacent to this pumping station. He noted the scenic easement is a legal matter and the Water District feels that this easement has already been dealt with.

With no further speakers, Chair Machado closed the public hearing.

DoP Henriques gave some background regarding the project proposal and the scenic easement. DCC Shirley Murphy alerted the Commission that modifying the easement as a condition of approval for Board review may not be as easy as it sounds.

DCC Shirley Murphy then stated that the scenic easement was a condition of a subdivision map in 1975. To modify this would possibly require re-looking at the CEQA issues and possibly amending the final map.

Commissioner Bettencourt asked does not Condition #12 cover the environmental issues? DCC Shirley Murphy stated no because of the restriction on the original subdivision. To do further development without further CEQA review would be in violation of CEQA. The Board of Supervisors cannot amend this easement without doing further review or possibly amending the final map.

There was then much discussion between Staff, the Commissioners and DCC Shirley Murphy.

DoP Henriques requested that this project be continued until the next meeting so that Staff and County Counsel could research this further and define the final steps needed to conclude the matter.

Commissioner Scattini moved to continue Use Permit 985-08 until the March 5, 2008 meeting. The motion was seconded by Commissioner Bettencourt. With no further discussion Chair Machado called for a vote. The Motion passed with a 3-0 unanimous vote. Ayes: Bettencourt, Scattini and Machado

## ***REGULAR AGENDA – COMMISSION ACTION***

### **6. FY 2005-2006 Preliminary Allocations - Requests for Extension/Re-Allocation**

SP Chuck Ortwein presented ten projects requests for Extension/Re-allocation. All allocations are those that were partially allocated in 2005. Planning Staff is recommending approval of the requests for re-allocation. All extensions will expire on February 10, 2010 or the first Planning Commission meeting in February, 2010.

There was a brief discussion among the Commissioners after which Chair Machado opened the public hearing. There being no speakers, Chair Machado closed the public hearing.

There being no further discussion Chair Machado called for a motion. Commissioner Bettencourt moved to extend the following projects for one year. A second was given by Commissioner Scattini. Chair Machado called for a vote. The motion passed on a unanimous vote of 3-0. Ayes: Bettencourt, Scattini and Machado

<u>Project No.</u>	<u>Applicant(s)</u>	<u>Location of Property</u>
PA 05-03, MS 1170-05	Sanchez, Bob	Fairview Road
PA 05-05, TSM 07-75	A & R Property	Union Road
PA 05-10, TSM 08-77	Hilden	Ridgemark

PA 05-11, MS 1180-05	Corotto	Southside Road
PA 05-12, MS 1181-05	Corotto	Southside Road
PA 05-13 MS 1177-05	Grabeel	Fairview Road
PA 05-14	Beresini	Wright Road
PA 05-15, MS 1213-07	Kamboj	Aromas
PA 05-18	Leonardini	Cowden Road
PA 05-19, MS 1195-06	Prado	Fairview Road

Chair Machado inquired if PA 05-23 and PA 05-25 were losing their allocations since they had not requested extension/re-allocation. SP Chuck Ortwein answered in the affirmative.

***DISCUSSION ITEM***

7. San Benito County Code Chapter 7A.1 ~ Habitat Conservation Fees  
*PLANNER: Chuck Ortwein ([cortwein@planning.co.san-benito.ca.us](mailto:cortwein@planning.co.san-benito.ca.us))*

SP Chuck Ortwein stated that at the last meeting there was some confusion in how we collect our conservation fees and how they were assessed. Therefore, he is presenting this discussion item and memorandum to clarify the confusion. The County is currently in the process of considering a habitat conservation plan.

DoP Henriques stated that part of what this County needs to decide, is do we want to develop a program by private owners or develop public habitat areas. Do we want to switch from land regulators to land stewards? He noted Staff was hoping to get a consultant soon to help the County look at the pros and cons of different approaches.

SP Chuck Ortwein stated that these fees are for producing a plan and implementation of the plan.

8. San Juan Bautista Water System Demand & Capacity Evaluation

SP Chuck Ortwein presented a letter received from the City of San Juan Bautista regarding the Commission’s request for information concerning that City’s ability to provide water services to proposed projects within the municipality’s planning area. The letter was also presented to the Board of Supervisors on February 5, 2008.

DoP Henriques wanted to let the Commission know that the City of San Juan Bautista is proposing increasing its sphere of influence in this area.

**INFORMATIONAL – NON-ACTION ITEM**

Commissioner Bettencourt commented that on his decision earlier regarding the waiver or deferment he would much rather have deferred this. Could we look into amending the ordinance? DoP Henriques stated that Staff will put this on the next meeting.

Commissioner Scattini asked that we provide the Commission with the 2008 information in the back of their packets. Clerk Janet Somavia stated that they will be inserted in the next packet.

**ADJOURNMENT**

On a motion by Commissioner Bettencourt with a second by Commissioner Scattini carried with Commissioner Machado concurring, the meeting was adjourned at 7:00 p.m.

***Minutes prepared by:***  
*Janet Somavia*  
*Planning Commission Clerk*

***Attest:***  
*Art Henriques*  
*Director of Planning*