

SAN BENITO COUNTY PLANNING COMMISSION

Minutes of January 5, 2005

Following the Pledge of Allegiance, Chair Machado called the meeting to order at 7:00 PM. Commissioners Bettencourt, Tognazzini, DeVries, and Araujo were present. Staff in attendance was (DoP) Rob Mendiola, Associate Planner Mary Paxton, Associate Planner Byron Turner, Assistant Planner Steven Valdez, Assistant Planner Grace Jensen, and Deputy Director of Public Works (DDPW) Arman Nazemi; Deputy County Counsel (DCC) Shirley Murphy; San Benito County Fire Marshal Jim Dellamonica and Clerk Trish Maderis.

Chair Machado read the standing rules of order: no new business agenda items heard after 10:30 PM; speakers are limited to five minutes with rebuttal limited to three minutes.

PUBLIC COMMENT

Chair Machado read the Public Comment format stating that this open forum period is provided to allow members of the public an opportunity to address the Planning Commission on general issues of land use planning and community development. It is not intended for comments on items on the current agenda, any pending items, or items that have been continued to a future public hearing date.

At completion of the Public Comment guidelines, Chair Machado opened the Public Comment.

Grant Brians, 6580 Fairview, said he wanted to welcome the new Commission members. Mr. Brians said he hoped the new Commissioners will continue the tradition that past Planning Commissions have had of careful consideration and that consistence will return to the decisions which had been lost over the last year

Ascertaining there were no others present to address matters not appearing on the agenda, Chair Machado closed the public hearing.

CONSENT AGENDA

Chair Machado called for the Consent Agenda, Commissioner Bettencourt moved for approval of the Consent Agenda, Commissioner Tognazzini seconded the motion and the vote was unanimous by all Commissioners present for the following items:

- Roll
- Public Hearing Notice
- Certificate of Posting

Welcome Newly Appointed Planning Commissioners

Chair Machado introduced and welcomed each of the newly seated Commissioners and provided a brief background of each.

ELECTION OF OFFICERS FOR 2005

COMMISSIONER ARAUJO NOMINATED COMMISSIONER BETTENCOURT TO BE CHAIR FOR THE ENSUING YEAR. HEARING NO OBJECTION TO THE NOMINATION, CHAIR MACHADO DECLARED COMMISSIONER BETTENCOURT TO BE THE NEW CHAIR, IMMEDIATELY TURNING THE GAVEL OVER TO HIM.

CHAIR BETTENCOURT OPENED NOMINATIONS FOR THE POSITION OF VICE-CHAIR. COMMISSIONER MACHADO NOMINATED COMMISSIONER DEVRIES, WITH COMMISSIONER TOGNAZZINI PROVIDING THE SECOND. BY THE FOLLOWING VOTE, COMMISSIONER DEVRIES WAS ANNOUNCED AS VICE-CHAIR: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Chair Bettencourt introduced Planning Department Staff, Public Works Staff, and the County Fire Marshall, and DCC Shirley Murphy, legal representative to the Commission.

REGULAR BUSINESS

Use Permit 885-04 - A request to renew an existing Use Permit for a cold storage facility at 1495 Searle Road. The cold storage facility is one-story, 20 feet in height and is constructed of unpainted tilt up concrete panels. The facility is divided into three storage rooms, each with individual temperature controls. A small office and equipment room is attached to the facility.

AP Valdez presented the staff report, telling the Commissioners this is a Cold Storage business which is currently operating under a Use Permit. AP Valdez explained that before the use Permit can be renewed, certain findings must be made. AP Valdez also called attention to the Conditions included in the Staff report.

AP Valdez presented the staff report. No storage is allowed after November 30 of each year. AP Valdez discussed with the Commissioners the hours of operation and point out the types of items stored. He said the applicant is asking a change of hours in operation, as well as to allow yearly storage of cold and dry items. Also requested, AP Valdez noted, is a change in hours of operation to become 6:00 a.m. to 7:00 p.m., which would be an increase in weekly hours of operation of two hours daily. Weekend hours of operation would not be affected, he said. The request for dry storage is new, as well, AP Valdez reported, this storage would be in effect during the months of December 1 and April 30 annually – such use previously was not permitted. AP Valdez asked Commissioners to look at Condition #12: *Hours of Operation* for a correction: November ~~±~~ 30.

Commissioner Tognazzini asked about the provision of an annual expiration of the Use Permit. DoP Mendiola clarified that this Use Permit, on initial presentation to the Commissioners, faced several complaints of previous activity on the site which caused the provision of an annual review/renewal process. He explained that not all Use Permits have this restriction, but this one does. Chair Bettencourt noticed that should the Commissioners wish, the restriction could be removed.

Commissioner DeVries requested clarification about the partial year use. DoP Mendiola said it appears this was the request of the applicant at the time of the initial permit.

Commissioner Machado asked explanation of differences in cold and dry storage. AP Valdez indicated the applicant is prepared to address this matter. Commissioner Machado wondered if the refrigeration factor would affect noise of the operation.

Chair Bettencourt opened the public hearing.

Elma Burke, 1494 Searle Road, San Juan Bautista, spoke to the Commissioners, telling them she is the applicant/owner of the facility. Ms. Burke said that originally she did not request year-round operations in the Use Permit because she 'didn't think about it'. "It wasn't until the November 30 date came around that I realized that my freezers couldn't be entered to get products out of them," Ms. Burke explained. "The dry storage is boxes and packing and things like that. That is why we want it for the whole year."

Chair Bettencourt asked about the truck traffic to the facility. Ms. Burke said Gary Beccio would speak on that, and indicated that a letter had been sent to the Commissioners from Hollister Ranches Limited which showed no objections to the operations. Hollister Ranches Limited, Ms. Burke said, is the developer for San Juan Vista Estates, north of the operation she runs.

Gary Beccio, PO Box 1076, Freedom, discussed the operation with the Commissioners. Mr. Beccio said he rents the facility from Ms. Burke from which he operates Happy Boy Farms. Mr. Beccio explained that the dry storage is for boxes, etc., that needed for packing. "Because the Use Permit expired November 30," Mr. Beccio told Commissioners, "it was necessary to remove 12 pallets of onions out of the facility; therefore they are out in the rain now. The reason for not asking for year-round storage appears to have been a misunderstanding. It is important to have a year-round operation for refrigeration. With respect to the hours of operation, it is light at 6:00 a.m. and to work later is just impractical. The number of trips-in to the facility really won't change." He continued that he has a trucking facility at a different location and much of the produce is loaded there so that reduces the impact to the neighbors.

Commissioner Araujo asked whether the cold storage will be in use year-round? Mr. Beccio clarified that the use of refrigeration coincides with the original Use Permit, which is the season originally requested. The time from November 30 to June 1, only dry storage will be used at the site, Mr. Beccio said, adding there would be no refrigeration.

Chair Bettencourt clarified that all the company trucks to the site are bobtailed, two-axel. Mr. Beccio said there is a forklift stored at the facility to facilitate loading; however, the use of such equipment in the 'off season' is minimal. Chair Bettencourt reiterated that the cold storage would be used as in the past – and under the terms of the present Use Permit – with no cold storage use during the 'off season', only dry storage, with Mr. Beccio agreeing that is the case.

Commissioner DeVries asked Mr. Beccio to speak to the number of truck trips into and out of the facility. Mr. Beccio says the Use Permit restricts use to storage, and not packaging nor packing so the packing is done at the nearby facility – many times palletized for transport – to be picked up. "On an average day, 6:00 a.m. to 7:00 p.m. maybe five trips of our own company and perhaps one or two from another company's trucks may be in and out," he said. Responding to further questions from the Commissioners, Mr. Beccio said that the increase in hours requested would not increase the truck traffic.

Grant Brians, 6580 Fairview, said he thinks it would be wise for the Commissioners to put the Use Permit on a more permanent approval basis. He recalled that a perception by a neighbor that there had been a vast number of problems and issues: smells, for example, which caused an inappropriate agricultural use in an area where now there are homes. Mr. Brians said that was the primary reason for having it a one-year permit: to see that things ran as they were supposed to. Mr. Brians said that because he is involved in agriculture, he wanted to urge the Commissioners to make it as easy as possible – without unduly burdening residents – to keep farming going in the area. Mr. Brians said he is familiar with the Happy Boy Farms and wanted to recommend approval of the request.

Jan Freeman said she is the 'neighbor next door' and has a few problems with the 'so called amendment of two hours' (of operation). Ms. Freeman stated the hours of operation of the Use Permit have not been followed, and it's usually been about 8:00 p.m. that the operation ceases, and that frequently there have been 18-wheelers there at that time. "What you need to do is ban 18-wheelers in there. They are using 18-wheelers in there 'all the time' and they're staying overtime," Ms. Freeman declared. "This is not improving. Now if you add two more hours...look what time it got dark tonight." Ms. Freeman continued to voice concerns about noise, lighting (she cited Condition #6 to support that argument), and traffic. "This is a residential area, and you're talking about going into commercial use, year-round," Ms. Freeman said. Ms. Freeman objected vigorously to the extension of time, use, and the fact that the Use Permit appears not to be monitored. [Planning Staff informed that they do visit the site for compliance.] Ms. Freeman said this is not a small scale agriculture operation, and has doubled the size and scope of the operations presented for the original Use Permit. She reiterated several times about the times of operation, noise, traffic, and lighting, and cited concerns about enforcement.

Sally O'Neil, family member of owner, said the property was purchased in 1968 with the cold storage being constructed in 1970, and the previous speaker had bought property next door shortly thereafter. Ms. O'Neil said that Smuckers had worked with the family in using the cold storage for several years with no complaints, noting that it has taken '31 years for a complaint to surface and the operation was in place when the neighbors purchased'.

Joe Tonascia, former Planning Commissioner, said Ms. O’Neil summed it up best: the operation has been there for over 30 years with refrigeration running. Everybody knows that the cold storage operation was there. Mr. Tonascia said, “The owner should be allowed to run the refrigeration year round if they have to. Are we here in this County paying ‘lip service’ to support agriculture or do we *support agriculture*? Do we support the farmers?”

Mr. Tonascia told those present that when Mr. Beccio started his business he used a washer to spin dry the lettuce for bagging; “I was out there and I watched him. He started from the ground up and he made it. He sold that business and now he’s coming back into the business, and I’m happy to see him doing that. He has a good, organic operation. I think it’s great. Are we going to roll over for all the residents in this County when something that they don’t like is going on with agriculture? I have that problem all the time. I try to work around it, but sometimes you just can’t do it and you have a business to run. So do you want to see the fields, open space, or do you want to see houses? I run a cooler and packing sheds. I have the City next door to me and there are houses on the property with no complaints of the ‘refers’ running at 11 or 12 o’clock at night. Because they know that’s what pays the bills and keeps that place in orchard and row crops.”

Mr. Beccio returned to the podium, saying that he wanted to clarify some items mentioned by a previous speaker:

- there is no produce at the facility; ‘we did our best to get it out by the end of the Use Permit although I think we did go over by three days’
- the number of truck trips into and out of the facility is ‘accurate as I stated’
- the complaints from the Freemans have steadily increased

Ms. Burke returned to the podium to speak to the Commissioners again. She said that all the neighbors who have moved into the area none have come to ask about the operations at all. Chair Bettencourt said that last year a Mr. Bautista had lodged concern about the operation, and asked Ms. Burke to identify the location of Mr. Bautista’s dwelling. “He lives off School Road, up the hill from me. So he either hears traffic noise from the freeway or trucks at the quarry,” she said. Ms. Burke continued that these are common noises in the area.

Commissioner Araujo asked, in view of the length of time of the business operation – which was clarified as being during the season – you were there first, and until recently there were no complaints at all, if Ms. Burke could confirm that fact? Ms. Burke said, “Yes, perhaps if anyone had complaints, they could speak to me and maybe we could work it out.” Ms. Burke said the operations have never been a ‘12 month thing’.

With no others indicating a desire to speak to the matter, Chair Bettencourt closed the public hearing.

Commissioner DeVries asked clarification regarding the notice requirements for items such as this. DoP Mendiola responded with explanation of the 300-foot rule (property owners who are within 300 feet of the subject site. He explained that there is a list of those property owners which must be provided by the applicant and that there is often an extension of that distance to ensure that proper notification is given.

Chair Bettencourt asked how many complaints had been filed (with the Department) against this applicant? DoP Mendiola clarified that a few concerns had been received, and most of these had been received early on with Staff going out and resolving any actual issues. Chair Bettencourt asked questions regarding the process of complaint receipt and investigation. DoP Mendiola explained the process.

Commissioner Machado recalled that the conditions placed on the Use Permit on issuance last year had been for purposes of mitigation of possible concerns from the neighbors.

Chair Bettencourt asked DoP Mendiola if the Use Permit could be granted for an unlimited time period which would remain in effect unless changes in the operation were requested? DoP Mendiola said that a change request triggers a review, and yes, the permit could be issued. He explained that a Use Permit goes with the property and is not generally for a set period of time. Chair Bettencourt continued by asking how the use Permit might be reviewed by the Commissioners, DoP Mendiola responded by telling of the provisions of the Ordinance.

COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED APPROVAL OF USE PERMIT 885-04 AS PRESENTED, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Conditions of Approval:

1. **Hold Harmless:** The permittee 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 Use Permit and applicable proceedings. [Planning]
2. **Conformity with Plan:** The Development and use of the site conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Commission and filed with the Planning Department. Any change in the location and/or dimensions of the structure or any increase in the nature of intensity of land use on the site shall be subject to further planning commission review and approval.
3. **Compliance Documentation:** Prior to the issuance of any other permits on the property, the property owner 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. **Improvement Plan:** Prior to the issuance of a building permit, the applicant shall submit building and improvement plans to the County Building for their approval. [Planning, Public Works]
5. **Exterior Color:** Any color applied to the exterior of the cold storage building shall be non-reflective. [Building, Planning]

6. **Lighting:** Any exterior equipment lighting shall be installed with a manual on/off switch and shall only be lighted while maintenance personnel are working at the site. At all other times any exterior lights shall be switched off. Exterior lights shall also be shielded to direct light downward and shall not trespass onto Public Street or adjacent private property. All exterior lighting shall comply with the provisions of the Dark Sky Ordinance (Ordinance #748)
7. **Delivery Trucks:** No tractors/trailers shall park overnight on the site.
8. **Portable Toilets:** The property owner and/or operator shall maintain a contract with the portable toilet company to ensure that it is pumped on a regular basis. A copy of the contract shall be provided to the Environmental Health and Planning Departments. Should the Environmental Health Department receive complaints of improper maintenance of the portable toilet, the use of chemical toilet shall immediately cease. The owner/operator would then be required to install permanent toilet facilities or cease using the cold storage building. The portable toilets shall be located at the front of the facility. Any cleaning or maintenance of the portable toilet shall not result in dumping of waste, wastewater, or cleaning agents on the ground. The portable toilets shall be installed at within fifteen (15) days after approval of this Use Permit.
9. **Fire:** The project shall the standards set forth in the latest adopted editions of the Uniform Building Code, the Public Resources Code sections 4290 and 4291, and other related codes as they apply to a projects of this type and size. The applicant shall ensure there is adequate ingress and egress to any and all buildings. Roadways and/or driveways shall be all weather surface conforming to applicable codes and standard. Adequate water source for fire suppression shall be available and shall be inspected and approved by the County Fire Department. The Planning Department shall be provided with written verification that the County Fire Department has approved all fire code requirements. [Planning, Fire]
10. **Modification/Revocation:** The terms and conditions of this Use Permit may be revoked or modified as a whole. This Use Permit may be modified or revoked if the permittee fails to comply with the reasonable terms or conditions expressed in the Use Permit granted or if there is compelling public necessity.
11. **Term of Permit:** The Use Permit shall expire one (1) year from the date of granting said permit unless construction and activities authorized by the permit for use of the subject property in conformance with the permit has commenced, in good faith, within one (1) year of the approval date. The Use Permit shall become invalid and a new Use Permit must be obtained prior to continuing said use.
12. **Hours of Operation:** The cold storage facility shall operate from May 1st through November 30st of each calendar year. The remainder of the year (Dec 1st thru April 30th), the facility would be used for dry storage. The hours of operation throughout the year shall begin no earlier than 6:30 a.m., Monday through Friday and shall conclude at 7 p.m.. On Saturday and Sunday, no work shall commence earlier than 8.a.m. No work or deliveries shall be permitted before or after the specified hours of operation.
13. **Signage:** A sign reading, “no horn blowing onsite and no jake brakes onsite” shall be placed on site to alleviate noise on the property. No other signage of any type is approved as part of this use permit.
14. **Agricultural Waste/ Debris:** Any agriculture mater, debris, and /or waste that is dropped, scattered, stored, or place on the ground and/or outside the facility as a result of the activities associated with the operation of the cold storage facility shall be collected and disposed of on a weekly basis by an approved waste hauler.

15. **Storage Container/Materials:** Containers and/or boxes used to store produce shall not be stacked or placed within ten (10) feet of any property line. Containers/boxes shall be removed from the site or stored inside the cold storage facility from December through April.
16. **Trash/ Debris:** The applicant/owner shall ensure that all trash/debris generated by the facility shall be collected and removed from the site. Trash/debris shall be prevented from blowing off the subject site onto the public street or adjoining private property.
17. **Washing/Maintenance of Trucks/Vehicles:** No washing or maintenance or any delivery trucks or employee vehicles shall be permitted on site.
18. **Drainage:** No water, liquids, or chemicals of any kind shall be allowed to drain to the public right-of-way or any adjoining private property.
19. **Noise:** Trucks that deliver and pick up produce from the facility shall not leave their engines or refrigeration units running while loading or unloading. No radio or amplified sound system shall be used in conjunction with the operation of the cold storage facility. Vehicles/truck horns shall not be used to attract the attention of the facility operator/owner or to indicate arrival and departure of delivery trucks or employee/owner vehicles.
20. **Hazardous Materials:** No hazardous materials or chemicals shall be used or stored in or about the cold storage facility.
21. **Code Enforcement:** In the event that any conditions of approval contained herein are violated by the applicant while operating the cold storage facility, the applicant/property owner shall reimburse the County Planning Department for the actual cost of remedial action by County code enforcement personnel to correct said violation(s).

Attachments:

- A. Vicinity Map
- B. Assessors Parcel Map
- C. Site Plan
- D. Notice of Violation

DoP Mendiola announced that any decision by the Commissioners is appealable to the Board of Supervisors within 10-days of the action by the Commissioners. Chair Bettencourt thanked DoP Mendiola and said he would plan to make such announcement in the future.

Request for Extension – PA 03-06 – Jarvis, Ernest, 3000 Cienega Road, Hollister (expiration date: February, 2005)

AP Jensen presented the staff report, indicating this is a request for a 12-month extension of the preliminary allocation granted by the Planning Commission on February 5, 2003. The applicant, AP Jensen said, had filed the letter of request within the proper time frame. The original request is for three parcels to be carved from two existing parcels, she reported. The reason for the request is to allow time for the completion of a soils survey. A lot line adjustment application is under way, as well, AP Jensen said. A map of the project request had been distributed to the Commissioners.

Chair Bettencourt opened the public hearing.

Dan Weatherly of San Benito Engineering, spoke to the Commissioners as the representative of the applicant. He said the applicant is now working to get all the required documents submitted.

Chair Bettencourt asked if the applicant could get everything in within the 12-months being requested? Mr. Weatherly said the 12-month extension was all that could be allowed.

Commissioner Tognazzini asked for clarification on the time allotments. DoP Mendiola explained that the initial grant is for two years with a possible one-year extension. This is a provision of the ordinance, he said, which gives the applicant a total of three years.

Grant Brians also addressed the Commissioners. He said he was somewhat dismayed as this is the second round of preliminary allocation extension hearing that have been had. "It seems to me that, having listened to, and watched, what occurred in the previous round in all the subdivisions. The applicants are coming and saying 'We need yet another year to go ahead and get our activities done'. This reminds me of why all of a sudden we had dozens of homes going up in areas of north County when the Planning Commission said 'Wait a minute we never approved that' and discovered it had been some years previous that the approval had been given'. We've been through this three or times already. You would think that in current economic climate where anybody who goes through one of these subdivisions is making a killing off that subdivision as the prices are so grossly inflated at this point that they would have some incentive to actually get their activities done in the lengthy time period that is put forward in the Ordinance. I'd to encourage you to take a look at things and say 'You know what: enough is enough. We don't need to have these long times being held on subdivisions and making it so that we lose track of what is actually is going on and the information then becomes out of date.'"

Commissioner Tognazzini asked if a one-year extension had already been given to this project? "No," said Mr. Brians as he referenced a November hearing for other subdivisions where they were asking for extensions for preliminary allocations. Commissioner Tognazzini said perhaps they were for a different set of allocations. DoP Mendiola said, "Yes, we give preliminary allocations at a given meeting. It hasn't been the exact same time annually nor will it be." He explained the appeal process which may lengthen the time, and the language of the Ordinance. DoP Mendiola said this series of extension request appear to be bundled together as there is an expiration date coming. DoP Mendiola went on to clarify the extension requests which Mr. Brians had referenced.

AP Jensen explained that the requests being presented this evening were related to the expiration dates and were the only ones which had been received in this series.

DoP Mendiola clarified that the requests are dependent on the expiration dates of the initial preliminary allocations. "The first couple of years," he told Commissioners, "which is what we are dealing with, were 'really oddball' because of the sequence of the events." He went on to explain the process now in place in the Planning Department, and how the time of appeal makes the progression different at different times.

Chair Bettencourt asked Mr. Brians if he had read Ordinance 751, 'the Growth Initiative'? Mr. Brians responded, "Absolutely." Mr. Brians continued by explaining his views on the Ordinance.

With no others present to speak to the matter, Chair Bettencourt closed the Public Hearing.

COMMISSIONERS MACHADO/ARAUJO MOVED APPROVAL OF A ONE-YEAR EXTENSION FOR PA 03-06, JARVIS WITH THE PROPERTY BEING LOCATED AT 3000 CIENEGA ROAD.

A question was asked by Commissioner DeVries regarding the criteria for granting an extension of a preliminary allocation. DoP Mendiola explained that criteria had not been established as of yet, and the request was at the Commissioners' discretion. "To my knowledge, they've been granted so far," he stated. "It is possible that such request could be denied. If that were the case, a factual reason probably should be stated." DoP Mendiola cited possible reasons for denial.

THE MOTION WAS PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Request for Extension – PA 03-11 (MS 1137-03) – Faria, Spring Grove Rd, Hollister (expiration date: February, 2005)

AP Jensen offered the staff report, indicating this is a request for a 12-month extension of the preliminary allocation granted by the Planning Commission on February 5, 2003. The applicant's Engineer, AP Jensen said, had filed the letter of request, stating the reason for the request is to coincide with a Tentative Map application by a neighboring parcel owner.

Chair Bettencourt opened the public hearing.

Roger Grimsley representing the applicant, spoke to the Commissioners, saying the request due to having gathering of the data for the Tentative Map and subsequent information generated in relation to the preliminary allocation. Mr. Grimsley told of the sequence of events the applicant has undergone in the effort for having the two neighboring parcels data overlap.

Mr. Grimsley discussed with the Commissioners the thought that perhaps the initial preliminary allocation should be 36 instead of 24 months. Mr. Grimsley said that some of the applications are more complex than others and may require more time for processing, including data or study gathering.

DoP Mendiola said that some maps are ready to go upon submission; others seem to put it off. "It goes the entire gamut," he said, and indicated that because of the history of the system, the Staff could provide information to the Commissioners regarding the percentage of applicants requesting extension.

Chair Bettencourt asked if workshops were planned regarding matters such as this.

Commissioner Machado said that the one-year extensions have not presented a problem to this point in time. He said it may not be necessary to consider changes in view of that.

Dan Weatherly spoke again, addressing the original time period for allocations and the potential for extension. He noted that the Commissioners may be tending to think of going to a three-year initial time for the preliminary allocations by changing the Ordinance. "I think we're better off where we are. We have clients who don't understand the urgency of getting going on these things immediately. I just want to say the 24-months plus the allowable extension is much better than extending the original time period." He also reminded that this is still within the one-percent growth rate.

As no others were present to speak to the issues, Chair Bettencourt closed the public hearing.

COMMISSIONERS MACHADO/ DEVRIES MOTIONED APPROVAL OF THE REQUEST FOR EXTENSION – PA 03-11 (MS 1137-03) – FARIA, SPRING GROVE RD. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Request for Extension – PA 03-12 (MS 1141-03) – Casa de Fruta Orchards
(expiration date: February, 2005)

AP Jensen gave the staff report, indicating this is a request for a 12-month extension of the preliminary allocation granted by the Planning Commission on February 5, 2003. The applicant, AP Jensen said, had filed the letter of request within the proper time frame, citing the need to complete and submit the soils survey which is required in order to receive the tentative map.

Chair Bettencourt opened the public hearing.

With no persons present indicating a wish to speak to the matter, Chair Bettencourt closed the public hearing.

Commissioner Tognazzini clarified the sequence of application for the request and this was the first time the extension request had been received and discussed by the Commissioners.

COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED APPROVAL OF THE REQUEST FOR A TWELVE-MONTH EXTENSION - PA 03-12 (MS 1141-03) – CASA DE FRUTA ORCHARDS. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Request for Extension – PA 03-13 (MS 1157-04) Kamboj, School Rd.
(expiration date: February, 2005)

AP Paxton presented the staff report, saying this is a three-lot minor subdivision on School Road. The application for subdivision was submitted in October, 2004. The subject area is in a high landslide area and the applicant has submitted a comprehensive geotechnical geologic soils report. However, not all the issues have been clarified and so the extension is requested for the applicant to obtain all the needed data, AP Paxton informed.

Chair Bettencourt opened the public hearing.

Roger Grimsley said he is the Engineer for the project. He agreed with AP Paxton that the geologic soils report is very comprehensive, calling for different type of percolation and distribution of the septic system. Consequently, further testing is needed in a different zone for the conventional system. Mr. Grimsley indicated it would take ‘a couple of extra months to get that done’.

Noting there were no others speakers on the matter, Chair Bettencourt closed the public hearing.

COMMISSIONERS DEVRIES/TOGNAZZINI MOTIONED APPROVAL OF THE REQUEST FOR A TWELVE-MONTH EXTENSION – PA 03-13 (MS 1157-04) KAMBOJ, SCHOOL RD. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Request for Extension – PA 03-14 (TSM 03-69) Bertuccio, Union Road
(expiration date: February, 2005)

AP Turner presented the staff report, telling Commissions the reason for the request is the need for re-design of the Tentative Map. AP Turner said this matter had been heard by the Commissioners at the December 1, 2004 meeting whereupon Staff was directed to work with the applicant to work for revision of the map. The map, he said, has been submitted and is being circulated.

Chair Bettencourt opened the public hearing.

Chris Parga, 1980 Glarner St., told Commissioners he owns property at 255 Union Road. Mr. Parga said he was here to say that he had not been notified during the process and consequently had had no voice in the matter. Mr. Parga said he was interested in the ‘300-foot rule’ of notification and that his name was not on the list and as a result had never received a notice. “We would like to know how this is going to affect us and how our property will be affected since we own a quarter-acre lot,” Mr. Parga said. Mr. Parga said he wanted to make a formal statement there was a voice that was not heard as he expressed concerns with an onsite well, and the potential size of the lots available to be ‘split down’.

DoP Mendiola determined that Mr. Parga had not been properly noticed.

Staff was directed to ensure Mr. Parga's name was added to the mailing/notice list.

Ascertaining there were no further speakers to the matter, Chair Bettencourt closed the public hearing

COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED APPROVAL OF THE REQUEST FOR A TWELVE-MONTH EXTENSION – PA 03-14 (TSM 03-69) BERTUCCIO, UNION ROAD. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Request for Extension – PA 03-15 – Kha, Linda, Bolsa Road, Hollister
(expiration date: February, 2005)

AP Jensen offered the staff report, indicating this is a request for a 12-month extension of the preliminary allocation granted by the Planning Commission on February 5, 2003. The applicant's Architect, AP Jensen said, had filed the letter of request, stating the reason for the request is to gather and submit the required materials. AP Jensen said she had spoken with the applicant, Ms. Kha, who expresses the wish to continue with the extension request and plans to complete the project within the 12-month time frame.

Chair Bettencourt opened the public hearing.

Upon learning there were no persons present to speak to the matter; Chair Bettencourt closed the public hearing.

COMMISSIONERS MACHADO/ DEVRIES MOTIONED APPROVAL OF THE REQUEST FOR A TWELVE-MONTH EXTENSION – PA 03-15 – KHA ON BOLSA ROAD. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

DISCUSSION ITEM:

Housing Element

AP Paxton gave the staff report giving the background of the work being done on the Housing Element. She called attention to the Zoning Ordinance revisions and proposed amendments to the Land Use and Housing Elements of the San Benito General Plan. The zone changes and the proposed General Plan amendments are the result of an update to the Housing Element of San Benito County's General Plan that was completed last July (2004), AP Paxton told Commissioners.

AP Paxton told of the process for review of the Housing Element and the findings that must be made. The California Department of Housing and Community Development reviewed the County's Housing Element and determined there must be additional revisions. "This is particularly important to this County," AP Paxton stated, "because if the Housing Element deemed to be adequate or certified by the State, it is very difficult for the County to become eligible or 'draw down' on grants for housing programs. A lot of the housing programs that are of benefit to the County are administered by the San Benito County Community and Workforce Development Department. There is one grant today that they are not able to draw down on because the Housing Element is not considered to be adequate." The program of concern, AP Paxton said, is the opening of the Emergency Shelter at Labor Camp.

The zoning ordinance revisions that were reviewed by the Commissioners in September and November, whereupon Staff was directed to prepare the environmental review for those zone changes. Because of the comments from the State review, we also are trying to move forward at a faster pace some of the revisions to the General Plan Land Use Map, Land Use Element, and Housing Element, which are referenced in the staff report, AP Paxton reported.

AP Paxton then highlighted the revisions to the General Plan

- increase density in rural urban land use designation (12 to 20 units/acre)
- changing the designation of the unincorporated territory that is in the planning area of the Cities of Hollister and San Juan Bautista (maps distributed and explained)
- allow some special needs housing or apartments in the City of Hollister's planning area during the Housing Element program period
- establishing new sites for housing
- eliminate the lack of infrastructure for waste water disposal and water supply
- increase urban density

Commissioner Machado asked about batch plants within the City of Hollister's sphere of influence and whether there were any other municipalities with similar experience with which to compare proposals? Commissioner Machado commented it seemed more logical to hook up to an existing sewer system than to consider batch plants. AP Paxton said what the Land use contemplates is the ultimate connection to the City's system. She told Commissioners the problems of lack of services had been discussed at a workshop with the Department of Housing and Community Development representatives, who said, "Too bad, figure it out." Commissioner Machado clarified that the matter as presented is viewed as more of an interim solution to the City's waste water problems. AP Paxton agreed, saying that previously there was a Growth Management Task Force almost ten years ago. "At that time, the representative from Hollister said 'Take your hands off; don't develop our Sphere of Influence'. There were joint meetings with the Board of Supervisors and the City and it was determined that was an area of pretty much 'arms length' - the County shouldn't allow development in the unincorporated area of a sphere. There have been few exceptions," she said.

Explaining further, AP Paxton said that the intent here with the Land Use designation is to maintain that exception, unless there is special need housing and multi-family apartment housing. Part of the thought, she said, is that if the growth can be fostered, it probably does belong in an urban area where services are the most readily available.

Chair Bettencourt asked who could be expected to put such facilities in place – a private entity or the County or the City. “Either or,” was AP Paxton’s response. She cited example of possible participants. Chair Bettencourt spoke on the high cost of development in this case.

Discussion ensued regarding the solutions for the problems, including the State’s demand for increased density in terms of units per acre.

AP Paxton explained the requirement of the annual review, and how housing types are considered in the review. The Growth Management Program and the Inclusionary Housing Ordinance are considered as well in the mix of the three. The State wants to ensure there are adequate sites provided, making necessary adjustments through the review process.

Responding to Commissioners’ questions, DoP Mendiola said this is a discussion item, and changes are not proposed at this time. He said the Planning Department pushed hard to comply with State law, met with the State, believed that they were given everything they asked for, only to have them refuse to certify the Housing Element, basically saying, “We don’t believe you.” DoP Mendiola noted he did not think there was justification, but the State has been standing firm, so now the County is looking at mechanisms to obtain the certification. DoP Mendiola said the emphasis from the State is toward higher density, which is more applicable to cities and appears to be consistent throughout the State.

Commissioners discussed with Staff:

- the penalty(s) for not having the Housing Element up to date [DCC Murphy enlightened as to the contract/grant requirements, including a certified Housing Element]
- status of the City’s Housing Element
- potential for workshop Ridgemark/Enterprise road corridor – need for remapping lands

Chair Bettencourt opened the public hearing.

Joe Tonascia asked what the grant is for? DCC Murphy said some of it will go for renovation to the Migrant Camp facilities. DoP Mendiola said the current grant in question is for the opening of the Emergency Shelter at Labor Camp. How much is the grant, Mr. Tonascia asked? That information was not readily available. Mr. Tonascia urged the Commissioners to fully study the document, ‘just because it’s a grant doesn’t mean it’s free money, so be very careful.’ Mr. Tonascia urged caution in working with 20 units per acre, “We trying to do something, to get these grants through, and it might not necessarily be the right thing,” Mr. Tonascia said as he expressed concern about the installation of batch plants. “I’m not against affordable housing, but there are problems sometimes relative to that type of development.” Mr. Tonascia continued with discussion of other concerns connected with the Housing Element as proposed, and suggesting that the County might not be the best place for planning high density housing developments.

Brad Sullivan, Attorney for Lombardo and Gilles, said he had addressed a letter to the Planning Commission this past summer. The letter, he said, basically raised some points of problems of growth control and infrastructure. He said, "Relying on Hollister is a fiction," urging Commissioners to do what is being asked and to 'look at it comprehensively'.

As part of the public comment period, Chair Bettencourt said he had talked with Kathy Flores of the San Benito County Community and Workforce Development Department who explained where the monies from the grant are spent. He stated he had received a 'real education in rents'.

With no others indicating a wish to speak to the matter, Chair Bettencourt closed the public hearing.

Commissioners asked specific questions regarding some of the proposed changes within the Housing Element and proposed zoning changes. AP Paxton said it would be important for the Commissioners to make comment for inclusion into the plan. DoP Mendiola clarified that Staff wanted to 'submit as clean a document as possible for approval'. Several of the changes were explained.

AP Paxton reiterated that Commissioners indicated a wish to have the map for the City of San Juan Bautista's Sphere of Influence 'fine tuned'. Also more analysis of how the program and changes proposed could change land use in the Spheres of Influence of the cities was requested for clarification by the Commissioners, ensuring compatibility of that issue.

DoP Mendiola pointed out that a myriad of information had been provided to the Commissioners to assist in their work. He said a workshop is planned in the near future to further facilitate that work.

With no additional agenda items to be considered, Chair Bettencourt adjourned the meeting at 9:06 PM.

***Minutes transcribed by:
Judi Johnson***

***Attest:
Rob Mendiola, Director of Planning***