

# **SAN BENITO COUNTY PLANNING COMMISSION**

**Minutes of January 19, 2005**

## **\*\*adopted as corrected (page 8)**

Following the Pledge of Allegiance, Chair Bettencourt called the meeting to order at 7:00 PM. Commissioners Machado, Tognazzini, DeVries, and Araujo were present. Staff in attendance was Director of Planning (DOP) Rob Mendiola, Assistant Director (ADOP) of Planning Fred Goodrich, Assistant Planner (AP) Steven Valdez, Deputy Director of Public Works (DDPW) Arman Nazemi; Deputy County Counsel (DCC) Shirley Murphy and Clerk Trish Maderis.

Chair Bettencourt 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 Bettencourt read the Public Comment format stating the 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 Bettencourt opened the Public Comment.

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

## **CONSENT AGENDA**

Chair Bettencourt called for the Consent Agenda:

1. Roll
2. Public Hearing Notice
3. Certificate of Posting
4. Minutes of 12/1/04
5. Minutes of 12/15/04
6. Minutes of 1/5/05

On the advise of DCC Murphy, items 4 and 5 were pulled from the consent calendar as there are three new members of the Commission, with two returning members, so that in order to have the minutes approved for December, with a review of the agendas and listen to the tapes. DCC Murphy noted that Commissioner Tognazzini had been in attendance at the December 1, 2004 and consequently would not be required to listen to the entire tape. As to the December 15, 2004 meeting, one of the newly seated Commissioners would have to review the tapes of that meeting.

**COMMISSIONERS MACHADO/DEVRIES MOTIONED TO ACCEPT ITEMS 1, 2, 3, AND 6 OF THE CONSENT AGENDA. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF THE COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**COMMISSIONERS MACHADO/DEVRIES MOTIONED TO CONTINUE CONSENT AGENDA ITEMS 4 AND 5 (MINUTES OF 12/1/04 AND 12/15/04 TO THE FEBRUARY 2, 2005 PLANNING COMMISSION MEETING. THE MOTION PASSED UNANIMOUSLY WITH THE AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

## **REGULAR AGENDA**

- 7. Request for Extension – TSM 03-68 and ZC 03-134 – Benevento, Frank**  
Fairview Road, Hollister (expiration date: Feb 2005)

ADoP Goodrich presented the staff report in the absence of AP Byron Turner. This is a major subdivision on Fairview Road. The request, ADoP Goodrich said, is being made under the provisions of the Growth Management Ordinance that allows an extension of 12 months. He reminded that the original permit is for two years following award of the allocations; during this time the applicant can obtain a map. The applicant obtained the original allotment in February, 2003. The request is for one-year because of the recent submittal of map corrections and the termination would be February, 2006.

Chair Bettencourt asked if the process could be completed within the year. ADoP Goodrich informed that AP Turner has recommended the extension and appears to believe the project can be accomplished.

Chair Bettencourt opened the public hearing.

Dan Weatherly (no card provided) was present to represent Mr. Benevento, the applicant, and told Commissioners that within the past week revised documents have been submitted and he has met with AP Turner on a continuum basis. Mr. Weatherly said he believes that within a ‘couple of months’ the matter should be returned to the Commissioners for positive action.

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

**COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO GRANT THE EXTENSION FOR TSM 03-68 AND ZC 03-134 AS REQUESTED. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

- 8. Request for Extension – MS1148-04 – Gonzales, Gary, Los Viboras Road, Hollister**  
(expiration date: Feb 2005)

ADoP Goodrich gave the staff report, telling Commissioners this is for a minor subdivision on Los Viboras Road. He mentioned that this matter is similar to that just heard. The applicant and his Engineer are working with the Planning Department to finish some studies required for the map completion and return to the Commission. ADoP Goodrich said Staff is recommending the extension and believes this will facilitate the applicant in having the work done.

Chair Bettencourt opened the public hearing.

With no one present to address the issue, the public hearing was closed.

**COMMISSIONERS MACHADO/ ARAUJO MOTIONED TO GRANT THE EXTENSION FOR MS1148-04 AS STIPULATED. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

9. **Use Permit No. 891-04: Request:** To operate a paintball facility including paintball games in ten netted field, sale of paintball related equipment and clothes, and the sale of pre-packaged foods. The facility would be open from 8:30 am to 6 pm on weekends and by appointment only on weekdays and would be closed January through March. **Applicant:** Mike & Leticia Montuy. **Location:** 1533 Shore Road **Zoning:** Agricultural Productive (AP). **Environmental Review:** Mitigated Negative Declaration.

ADoP Goodrich presented the staff report. The paint ball facility would include:

- paintball games in ten netted fields
- sale of safety equipment
- sale of pre-packaged snack foods
- proposed hours of are: 8:30 a.m. – 6:00 p.m. weekends and by appointment during the week
- no operational hours during the wet season (January – March)
- a maximum of 24 employees a maximum of 120 customers during peak operating hours. bottled water will be available
- portable toilets will be brought to the site
- no new permanent structures are planned for the site
- all the netting and equipment will be removed during the off-season

ADoP Goodrich advised the site location is on Shore Road with agriculture uses in the surrounding area. Access to the site, he said, is by way of a gravel drive from Shore Road. ADoP Goodrich said the location is within the flood plain and gave an overview of the surrounding topography. ADoP Goodrich told the Commissioners that an environmental evaluation of the project had been completed and circulated. The mitigation measures recommended have been agreed to by the applicant. A biological impact report is being requested to ensure no danger to wildlife near the site. Proper sanitation is a condition of the permit, ADoP Goodrich said. Cleaning of spent paintballs

is to be required daily, ADoP Goodrich said, describing the methods of cleaning. Because of the possibility of skin and/or eye irritations, all employees and customers are required to wear protective gear. A traffic study was prepared as Staff had concerns of the traffic impacts on Shore Road.; there was no indication of increased traffic on Shore Road during peak operating hours. The conditions and findings were included in the Staff report and CEQA findings were distributed at the meeting.

Commissioner Tognazzini asked for a review of the traffic report, calling attention to the 120 cars per day and the fact that Perry Court has a turn pocket, asking for explanation of the criteria for the turn pocket. DDPW Nazemi responded, saying that the study indicates the need for a turn pocket because the peak hour traffic on Perry Court coincides with the peak hour traffic on Shore Road, and the need for the turn pocket was triggered by that simultaneous traffic bump. However, he said, there was not a need for widening the road at the point of entrance to the business.

Commissioner Tognazzini asked about the number of cars on Perry Court? DDPW Nazemi explained the current traffic levels and the anticipated traffic levels with the installation of the facility. He also spoke on the speed of traffic flow and the issues with the turn into Perry Court. Commissioner Tognazzini said it is difficult to understand the different traffic numbers projected as a result of the facility installation.

Commissioner Tognazzini inquired about road impact fees, such as residences pay, asking if such fees would be applicable to this facility? DCC Murphy said there is not traffic impact for commercial installations. DoP Mendiola explained that this installation is not under the Commercial that would pay the fees under the current Ordinance. He went on to shed light on the process of obtaining fees as a mitigation measure. The impact fees for commerce and industry are very low and the County Supervisors has set light fees in an effort to attract industry to the area.

Commissioners asked questions regarding:

- criteria for commercial impact fees [square footage of the to be built facility]
- description of the netting [height (applicant to address) color (neutral colored/non glare), size , distance from road (quite a few hundred feet set back from road)]
- total space covered [about 1 acre]
- public safety issue [ADoP Goodrich said Condition #7 covers that issue – from Codes with specific fire code guidelines]
- maximum capacity [ADoP Goodrich said County fire did not specifically put guidelines on the project except the Uniform Fire Codes must be met]
- the fact that the Use Permit could be called back to the Commission for review – and if an expansion is requested, the review is automatically triggered

Chair Bettencourt asked how the number toilets is determined? ADoP Goodrich explained the Environmental Health Department is responsible for permitting these.

Chair Bettencourt asked about enforcement of the conditions of the Use Permit. ADoP Goodrich explained how County personnel confirms compliance, and told

Commissioners the Use Permit could be conditioned to have it returned for review by the Commissioners.

Commissioner DeVries noted the staff report indicated the paintball material is biodegradable and asked how the rating is determined? ADoP Goodrich responded the manufacturer of the paint ball(s) provided documentation, including printed levels of toxicity.

Chair Bettencourt asked if there are other paint ball facilities in the County? ADoP Goodrich said there is another Use Permit wending through the permit process and said there appears to be an operation at the High School.

Chair Bettencourt opened the public hearing.

Mike Montuy, 1533 Shore Road, explained the planned operations emphasizing:

- safety standards compliance [National standards]
- play of the game(s)
- age limits [minors must have an adult present on the site]
- liquor availability [none]
- length of game play [fee constitutes all day 9:00 a.m. – 4:30 p.m.]
- traffic [carpooling common]
- number of fields [start with 6 – 7 – 8, hope to add others later]
- open space [leased to dairy farmer across the street]
- applicant's hope to provide employment for youth in the area
- applicant's wish to offer safe, fun environment for youth in the area

Michael A. Montuy, 1399 Crailford Ct. addressed the Commissioners telling the emphasis on safety, and how anxious the family (applicants) is to have the business. Responding to a question from Commissioner Araujo, Mr. Montuy said personal equipment could be brought in for play, but must be checked for safety. He also said there would be referees at all times.

Grant Brians, 6580 Fairview Road, told Commissioners he is concerned with the amount of area to be covered (he said in the application, there is not an indication as to the actual amount of space to be used other than the layout of where things will go). Mr. Brians inquired as to water run-off, expressing concern about the ability of the soils to percolate and the potential for surface flow. Mr. Brians asked when the traffic study was completed. Mr. Brians stated deep concern about the conversion of farmland to a commercial operation.

Chair Bettencourt asked the applicant about grass on the field. Mr. Montuy responded that they will try having a natural grass surface, with no gravel, and not increasing runoff.

With no others present to address the matter, the public hearing was closed.

Commissioner DeVries commented on the traffic issues, asking if a traffic officer to direct traffic would be beneficial? Chair Bettencourt said it might be well to have the Use Permit be conditional for a one-year review. Commissioner Tognazzini agreed that the one-year review would be good. Commissioner Machado said the one-year review would be beneficial and if everything is 'status quo' the permit could be extended with that condition removed. Commissioner Machado also broached the subject of ag land, saying that because there is no construction of buildings, reversal to ag use would always possible.

**COMMISSIONER ARAUJO OFFERED A MOTION APPROVING USE PERMIT NO. 891-04 WITH THE CONDITIONS AND FINDINGS, TOGETHER WITH THE ENVIRONMENTAL FINDINGS, AND SCHEDULING THE REVIEW FOR THE SECOND MEETING OF THE COMMISSIONERS IN JANUARY, 2006. COMMISSIONER MACHADO SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

*Commissioner Tognazzini announced he would abstain from voting on the next agenda item due to a non-monetary conflict.*

- 10. Special Plan Review No. 2004-16: Request:** A Special Plan review to permit the construction of a ten thousand eighty (10,080) square foot covered arena with retention basin. The retention basin for the project is proposed to be located on the northeast portion of the property. **Applicant:** Lori McClelland. **Location:** 3211 San Juan Road. **Zoning:** Agricultural Productive (AP). **Environmental Review:** Mitigated Negative Declaration.

AP Valdez presented the staff report, explaining the location and current use of the site. AP Valdez said the Special Plan Review (SPR) is before the Commissioners as the application did not categorical exemption from CEQA. An initial study had been completed and circulated for comments. The zoning requirements are met and the use of a private riding arena is within the General Plan policy. There is a mitigated negative declaration, he said.

Commissioners asked questions regarding:  
what is the reason for a SPR [size of the building – maximum limit of 3,000 square feet for ag accessory structures]  
services to the site [water from the City of Hollister – because of prior water issues in the area in the past, the State forced the area residents into the City's system]

Chair Bettencourt opened the public hearing.

Rich Marcus, Marcus Building Systems, PO Box 314, addressed the Commissioners regarding the application, and indicating what the building will look like.

Chair Bettencourt asked how many sides will be closed? Mr. Marcus said that there would be 2 closed sides: the north and west walls will be closed.

Other issues discussed were:

- water and electricity to the building [none]
- use [riding arena for the owners – no public use]
- safety [no requirement – common sense]

Dan Weatherly, San Benito Engineering, asked the typo(s) in the section about the detention ponds be changed

- in Condition #7 [‘or’] *and*
- change San Benito County Water District to San Benito County Environmental Health Department [septic system]

Mr. Weatherly explained the need for the detention pond and the specifications for this particular pond.

DDPW Nazemi explained the drainage standards and why detention ponds are required on impervious surfaces.

DoP Mendiola indicated the Condition should be changed as Mr. Weatherly had suggested.

Ascertaining that no other persons present wished to speak to the matter, Chair Bettencourt closed the public hearing.

Commissioner Machado asked what would occur in the event of ownership or the use changes, i.e., ag to commercial or on-going entertainment? How is the use permit viewed? DoP Mendiola said this is difficult to address, but there is not currently a regulation to deal with the question. He said zoning does not address ‘party uses’. Continuing, DoP Mendiola said the current applicant for a use permit is rarely a problem.

**COMMISSIONERS DEVRIES/MACHADO MOTIONED TO APPROVE THE APPLICATION FOR SPECIAL PLAN REVIEW NO. 2004-16, INCLUDING THE MITIGATED NEGATIVE DECLARATION AND THE RECOMMENDED FINDINGS AND CONDITIONS, AS AMENDED ON CONDITION #7 CONTAINED THEREIN. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO; NOES: NONE; ABSTAIN: TOGNAZZINI; ABSENT: NONE.**

## **DISCUSSION ITEMS:**

### **11. Preliminary Allocations process**

DoP Mendiola explained the process, calling attention to Ordinance 751, which he then summarized ‘where we started and where we’ve gone’. DoP Mendiola said the Growth

Management System Plan regulates is the creation of lots, not the issuance of building permits. He stated, "There needs to be a lot of clean-up in the Ordinance and the Plan itself." Continuing, he explained the allocation determination and application for allocations process. The allocation granted enables one to make application for a subdivision, but that subdivision approval is not guaranteed by the application process. "If the standards are not met in future cycles, a policy needs to be in place regarding 'criteria cure or project drop'," DoP Mendiola informed.

Commissioners and members of the audience (Weatherly and Grimsley, both engineers) stressed the need for consistency of the applications and the requirements for having all portions of the application(s) completed in detail. When the discussion turned to streamlining the public hearing process, DCC Murphy said that due process concerns could be raised if an applicant is limited in addressing the Commissioners. The process for staff review/rating and appeals was discussed as well.

Further discussion included:

- possibilities of correcting the applications before the Commissioners review
- 2-year map expiration with a 1-year extension
- interaction with Staff regarding the scoring before the application is discussed by the Commissioners
- possibility of having the appeals reduced as a result of extended communication between the applicants, Staff, and applicant's representatives/Engineers
- whether the 1% growth cap is overly restrictive
- ~~having Staff and Engineers review the criteria for allocations with a subsequent Staff report to the Commissioners~~
- having staff and engineers review the criteria by which a one year extension might be granted to an allocation holder; as well as possible revision(s) of defective applications and the opportunity to cure same with messages as to the causes of termination (based upon the defect)

Staff will take the information given in the forum for revisions recommendations to be presented in the future with possible modification of the allocation process at that time.

## **12 . Ralph M. Brown Act**

DoP Mendiola explained the ramifications of the Ralph M. Brown Act, and how it affects meetings of the Commissioners. DoP Mendiola cautioned that it is important that all discussions and decision-making take place before the public (in some areas the Ralph M. Brown Act is known as the Sunshine Law: all decisions must be made in full view of the public). It was explained that the members of the Commission cannot meet privately to discuss matters which may come before them for decision making. DCC Murphy offered advice as well. Lengthy discussion followed with the Commissioners asking specific questions and DoP Mendiola giving the responses. Mr. Weatherly suggested the Planning Commissioners might consider making general comments regarding planning matters at

the end of the agenda. Staff and Commissioners expressed concern that such an action might present discussion too broad and could be difficult to have persons ‘stay on track’.

With no additional agenda items to be considered, Chair Bettencourt adjourned the meeting at 10:10 PM.

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

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