

SAN BENITO COUNTY PLANNING COMMISSION
Minutes of March 2, 2005

Following the Pledge of Allegiance, Chair Bettencourt called the meeting to order at 7:03 PM. Commissioners Machado, Araujo, DeVries and Tognazzini were present. Staff in attendance were Director of Planning (DOP) Rob Mendiola, Assistant Director of Planning (ADOP) Fred Goodrich, Associate Planner (AP) Byron Turner, 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 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. Chair Bettencourt opened the floor to the public for comment.

Noting there were no persons were present to address matters not appearing on the agenda, Chair Bettencourt closed the public comment period.

CONSENT AGENDA

Chair Bettencourt called for the Consent Agenda:

- 1) Roll – Commissioners Machado, Araujo, DeVries, Tognazzini & Bettencourt present;
- 2) Acknowledge Public Hearing Notice
- 2) Acknowledge Certificate of Posting
- 3) Minutes of February 16, 2005

COMMISSIONERS MACHADO/ TOGNAZZINI MOTIONED TO APPROVE THE CONSENT CALENDAR. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

REGULAR BUSINESS

Use Permit 858-02(A). Request: To amend an existing use permit to increase quarry rock production from 20,000 tons per year to 100,000 tons per year, and increase truck traffic on Cienega Road to up to 20 trucks per day. Applicant: Robert Enz Location: 1781 Limekiln Road Zoning: AR (Agricultural Rangeland) Environmental Review: Mitigated Negative Declaration

AP Turner presented the staff report, explaining the request and giving background information of the project. AP Turner said the original proposal submitted had been to remove no more than 20,000 tons of rock per year, for up to twenty years, from a 14-acre quarry site near the opening of the canyon near Lime Kiln Road. “The request before you would increase the excavated material by 80,000 tons of rock per year to 100,000 tons of rock per year,” AP Turner noted. He further informed that Reclamation Plan 2002-14 was approved to commence reclamation of the site within 5 years of the beginning of operations, with the goal of eventual reclamation as open space including return of the mined area to grassy terraces. AP Turner noted the retention pond will remain at the bottom of the terraces.

“There are no changes to the reclamation plan proposed at this time,” he informed. Continuing, AP Turner told the Commissioners the project is in a remote area of the County, and the cuts for the gravel removal would be steeper than those completed previously to facilitate material removal. An initial study and mitigated negative declaration were completed by Planning Staff, he said.

A key point, AP Turner said, was that there would not be a change in the amount of material that is to be mined; only the amount of material that is to be transported off site. “The Public Works Department has indicated a belief that the truck traffic resulting from the proposed change, if directed toward the Highway 25/Airline Highway to avoid increased truck traffic on Cienega between Lime Kiln and Union Roads, will avoid additional impacts. If the applicant prefers to use the original route, the price per ton of mined materials should be reevaluated to pay any additional cost for roadway impact due to increased truck traffic,” AP Turner announced. Generally, AP Turner noted, Planning Staff deems the proposed project to be roughly the same as the project approved by the Commission in 2003, with the chief change being the amount of tonnage increased by transport off-site.

AP Turner pointed out that Condition #24 should be amended to reflect 100,000 *not* 20,000 tons.

Chair Bettencourt opened the public hearing.

Robert Enz, 1781 Lime Kiln Road owner, told the Commissioners he is the owner of Enz Quarry. He informed that there were no changes asked in the mining plan, but only for a change in the truck transport of the additional 80,000 tons. The trucking of the added materials should be quite insignificant, Mr. Enz said, and indicated that the Public Works Department appears to agree with that. "That department is imposing a 6.8¢ per ton 'fee' for road reconstruction/maintenance so that the road can be kept up quite well," Mr. Enz said. Mr. Enz told Commissioners that there is a winery at the end of the road with wine tastings on the weekends; therefore the road upkeep is very important to the operation. He indicated a willingness to pay the fees, and asked that a 30/mph on the last half-mile of Lime Kiln Road where the houses are for improved mitigation of noise. Mr. Enz said that he would install a sign 'No Jake Brakes' inside the quarry and asked that the County install one as well. Mr. Enz distributed letters in support of the application from neighboring property owners. Mr. Enz also said that the current operation has passed all inspections and spoke on MSHAW, which he likened to the 'OSHA' of mining operations.

Commissioner Tognazzini asked about the houses along the road. Mr. Enz responded as to the various dwelling locations. Commissioner Tognazzini inquired if any of the residents on Cienega had been contacted regarding possible increased truck traffic [No].

Joseph A. Zanger, 7356 Pacheco Pass Road told the Commissioners he is a co-owner, Casa De Fruta and spoke in favor of the project, urging approval.

Jim Ryan, 1426 Lime Kiln Road, addressed the Commissioners in opposition to the application. Mr. Ryan spoke of concerns of safety, as there are 'blind turns', the roads are torn up, and the bridge is damaged, and increased truck traffic will intensify the situation. Mr. Ryan informed of the number of youth living on the road, citing the families in the 14 houses on the roadway. Mr. Ryan expressed concern that the proposed operation will interrupt the quality of life, and fears that the property values will go down. He continued by addressing the maintenance and how it would be initiated. Mr. Ryan said he was told when the current operation was approved that it would not be permitted to expand, and that the amount of materials in the operation were very limited. He distributed pictures for the Commissioners to view.

Commissioner DeVries asks if the road speed could be set at an acceptable rate to the speaker and the hours of operations controlled, would that appease the speaker? Mr. Ryan said he did not know if those conditions would satisfy his concerns, saying there would be an increase in stress for him.

Commissioner DeVries rephrased his question, asking if an effort by the Commissioners to require road speed limits and signage would address the concerns of the speakers for acceptable outcome?

Chair Bettencourt asked questions regarding road usage of the dirt road behind Mr. Ryan's house. He also discussed with the speaker the conditions of the Use Permit. DoP Mendiola explained the limitations of the Use Permit.

Responding to Commissioner DeVries, AP Turner and Mr. Enz clarified the quantity of material removal.

Commissioner Araujo disclosed he had visited the site with Chair Bettencourt. Commissioner Araujo said he would like to see signage placed in strategic areas, and referenced the pictures provided by Mr. Ryan.

Discussion ensued regarding signage, and the requirements for such. DDPW Nazemi and DCC Murphy addressed the matter, offering explanation (determined by the Streets and Highway Codes). It was indicated that only the Board of Supervisors could approve signage on Limekiln Road after a public hearing was held. Mr. Enz reiterated his intent of placing signage within his property.

Chair Bettencourt commented that the Commissioners cannot require signs to be placed on County roads.

Mr. Ryan told Commissioners his wife sleeps days and indicated a concern that the truck traffic would disturb her rest.

Dave Grimsley, 58 Beverly Dr., owns property on Cienega Road, on which a rock quarry is operated. Mr. Grimsley said that he had recently received a flyer from Granite Construction noting intent to operate a rock quarry on Lime Kiln Road, which he indicated would be on the Enz property. Mr. Grimsley said that in 1984 there had been a prolonged battle over his Use Permit, which had begun with a traffic complaint and had developed into a major issue; however, his business had been affected for over six years. Mr. Grimsley said that his concern was, of course, his business operation which might severely be affected by the increased in material volume removal and transport. Mr. Grimsley said a major concern is that the drivers cannot be controlled if the dispatch is not under the direction of the applicant. Mr. Grimsley spoke on the amount of money paid to the County which he alleged did not go for paying for road maintenance, but to the County general fund. Mr. Grimsley suggested an alternative route for the transport of rock might be acceptable.

Dennis Madigan, 101 Ken Ct., said he was a Certified MSHAW instructor, spoke on the safety issue, urging more emphasis on safety for the proposed operation. Mr. Madigan said that a traffic study should be completed for the project before a Use Permit is considered. Commissioner DeVries asked Mr. Madigan for clarification of targeted areas of the MSHAW program. Mr. Madigan indicated that the MSHAW program only regulated what takes place on the quarry site.

With no others in attendance indicating a desire to speak to the matter, the public hearing was closed.

Commissioners commenced discussion, which included input from Staff, of the following:

- origin of having a fee-based schedule for specific projects which have been thought to increase traffic/be detrimental to roads
- basis for the 6.8¢ (increased traffic on Cienega/impact traffic index)
- how to ensure 6.8¢ is used for road maintenance (mitigation monitoring)
- whether the 6.8¢ would be used for targeted, specified roads [no]
- enforcement of Use Permits
- restriction(s) for drivers of trucks
- signage: if permitted; placement/authorization
- number of truck trips/direction of truck trips
- need to amend condition #35 as well as condition #24
- the basic issue being one of traffic/transportation, not a mining issue
- configuration and current conditions of roadway(s)
- whether there is potential need for traffic study
- consideration of (possible) conditions to the operations [Commissioners make the determination of such conditions]
- signage placement requirements
- hours/days of operation (condition #29)

COMMISSIONER ARAUJO OFFERED THE MOTION APPROVING THE AMENDMENT OF USE PERMIT 858-02(A). REQUEST, AS OUTLINED IN THE STAFF REPORT, TOGETHER WITH THE CONDITIONS AND REQUIRED FINDINGS, AND INCLUDING THE FOLLOWING MODIFICATIONS:

- Signage regarding presence of children in the area
- No 'Jake' brakes permitted
- 30 mph speed limits in designated areas of the operator's property
- Amendment(s) to conditions:
 - #24 (100,000 tons)
 - #29 (days of operation limited to Monday – Friday)
 - #35 (routes specified so that all truck trips resulting from the rock production shall be diverted through the south-bound Cienega Road), as indicated in Commission discussion

THE SECOND TO THE MOTION WAS MADE BY COMMISSIONER MACHADO. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, MACHADO; NOES: DEVRIES (who indicated his 'no' vote was due to a wish to having signage on the County road), TOGNAZZINI; 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. Compliance Documentation: 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]
3. Conformity to Plan: The development and use of the site shall conform substantially to the application site plan and Conditions of Approval as approved by the Planning Commission and filed with the Planning Department. Any increase in the nature or intensity of land use on the site shall be subject to further Planning Commission review and approval. [Planning]
4. Wind Erosion/Dust Control: Surface mining operations shall be conducted so as to reduce the occurrence of dust to a minimum in compliance with the regulations of the Monterey Bay Unified Air Pollution Control District. Operations shall be conducted in accordance with the following minimum standards: The operator/owner shall water graded areas including roads, cuts and soil stockpiles as needed to control dust. It is also the operator/owner's responsibility to maintain the cleanliness of existing improved roads in the mining area. (Mitigation Measure # 1) [Planning, MBUAPCD]
5. Emissions: To establish whether permits are required, the property owner/operator shall contact the Monterey Bay Unified Air Pollution Control District (MBUAPCD) to quantify emissions rates associated with equipment use and work relative to the quarrying operation as follows: Quantify NOx emission rates from all mobile and stationary equipment including mobile and stationary equipment including internal combustion engines, not to exceed 137 lb/day. PM10 emissions from travel on unpaved roads, blasting and quarrying activities shall be quantified and compared to the District's threshold of significance, 82/lb/day. The property owner/operator shall work with MBUAPCD to establish a monitoring program to insure that PM10 emissions do not exceed 82/lb/day. (Mitigation Measure # 31) [Planning, MBUAPCD]
6. Revegetation Plan: Revegetation Plan: As a condition of the reclamation plan for the project (RP 2002-14), the entire Quarry site shall be re-vegetated within 20 years. Soils that have been stockpiled on the site will be seeded with native grasses and allowed to re-vegetate naturally. Areas associated with construction of the access road shall be re-vegetated immediately upon completion of the road construction. For the mined areas: When a ¼ acre area has been exposed free from the mining operation, concurrent reclamation will begin. Revegetation shall progress with the mining: for example, as mining activity is completed on each terrace, that area shall be re-vegetated. Topsoil will be redistributed to a level of six inches or better. Specific plant materials are outlined in the reclamation plan (RP 2002-14) and were selected due to their consistency with the Biological Assessment performed by Thomas Reid & Associates. Seeding rates for herbaceous plants are to be weed-free at a rate of 10 pounds per acre. Shrubs and trees shall be replanted on 12-foot centers for a density of 144-sq. ft./unit. In summer months the area/s to be reseeded/replanted shall be watered sufficiently to assure growth. During the rainy season, areas to be reseeded/replanted shall be allowed to grow naturally.

- Weeds shall be controlled to a level that they are not more abundant than on similar areas of the site. (Mitigation Measure # 2) [Planning, Mines & Geology]
7. Monitoring and Maintenance of Re-vegetated Areas: Monitoring and Maintenance of Re-vegetated Areas: Revegetation monitoring will be conducted annually in the spring for a minimum of 20 years. Failure to achieve the performance standards in this time period will require replanting and further monitoring until performance levels are achieved. (Mitigation Measure # 3) [Planning, Mines & Geology]
8. Pre-construction Surveys – Biotic Species:
- Bats and Birds: A pre-construction survey shall be conducted as a condition of the use permit for Spotted Bat, Pallid Bat, San Joaquin Myotis, Greater Western Mastiff Bat, Western Yellow-billed Cuckoo, Yellow breasted Chat, and Yellow Warbler within two weeks of the start of project mining. For bats, the pre-construction survey should focus on potential hibernacula habitat.
- Amphibians and Reptiles: A pre-construction survey shall be conducted as a condition of the use permit for amphibians and reptiles including but not limited to California Red-legged Frog, Foothill Yellow-legged Frog, and Western Pond Turtle. The survey shall be performed prior to mining between May 1 and November 1 within the same calendar year as mining is scheduled.
- Raptors: A pre-construction survey shall be conducted as a condition of the use permit for raptor nests and/or raptor nesting activities including but not limited to Golden Eagle, Prairie Falcon, Cooper’s Hawk, and Sharp-shinned Hawk during the breeding season (March/April) before mining commences.
- Mammals: A pre-construction survey shall be conducted as a condition of the use permit for mammals including but not limited to Mountain Lion, Bobcat, Ringtail and Monterey dusky-footed Woodrat during the breeding season (March/April) before mining commences.
- Surveys shall be conducted prior to mining and within the same calendar year as mining is scheduled. Should a species identified as ‘species of concern’ be found within the project site, appropriate actions shall be established to protect the species from project related impacts. Protection activity shall be implemented at the owners’ expense. (Mitigation Measure # 4) [Planning, Mines & Geology, Fish & Game]
9. Archaeological Resources: In the event any archaeological sites or resources are discovered during grading, mining activities, or reclamation all activities will be stopped within 50 meters (150 feet) of the discovery. The applicant shall comply with the County ordinance regarding archaeological finds until a qualified expert can evaluate the site. At that time if the find is determined to be significant, appropriate mitigation measures shall be implemented. (Mitigation Measure # 5) [Planning]

10. Erosion Control Measures: Erosion Control Measures: As outlined in the reclamation plan for the project, topsoil will be removed and stockpiled reseeded, and watered sufficiently to assure growth. When a quarter-acre area is exposed clear of the mining area, a 6+ inch deep topsoil layer will be replaced on the excavation floors (horizontal surfaces of quarry terraces) to provide a reclamation base. Interim erosion control measures such as hay bales; temporary drainage swales and/or earthen berms will be used when necessary. Settlement basins will be installed upon initiation of ground disturbance. Erosion of any rills greater in cross section than 5 square inches exceeding 5 feet in length will be arrested by placement of graded rock interceptors or straw bales to slow concentrated runoff within 1 week following any rainfall event. (Mitigation Measure # 6) [Planning]
11. Erosion Control Inspections: Following each rainfall event, inspections for silting of sediment basins, erosion of sediment basins, and erosion of ditches, drains and outlets shall be conducted within 24 hours after each rain event. In the event of any breach of erosion control devices, or of an erosive incident, the erosion control measures outlined in mitigation measure 8 must be implemented immediately. (Mitigation Measure # 7) [Planning, Building]
12. Emergency Erosion Control: Adequate erosion and sediment control measures must be in place prior to and during any land disturbance. Berms, diversion catch basins, etc. shall be installed prior to seeding or mulching. Erosion control plantings and mulching shall be closely monitored throughout the winter and runoff problems shall be corrected promptly. Mulching shall be anchored by the use of jute netting. A minimum of 1000 lbs. of straw, or equivalent, per each 10,000 square feet of slope surface will be required and shall be anchored. The Planning Department may require an additional amount or type of erosion control material. All erosion and/or slippage of banks shall be repaired by the permittee at his expense. In the event of any breach of erosion control devices, or of an erosive incident, the erosion control measures outlined herein or as required by the Planning Department must be implemented immediately. (Mitigation Measure # 8) [Planning]
13. Advent of Rain: Sufficient erosion control materials of hay bales, straw, plastic, jute netting, etc., shall be kept on the site at all times to be installed immediately by the permittee upon advent of any rainfall or wind that may be expected to cause accelerated erosion. When rainfall or wind is predicted or occurring, temporary erosion control measures must be applied to all soils bared at the end of each day. (Mitigation Measure # 9) [Planning, SBCWD]
14. Irrigation: During the dry season and within 10 working days after seeding, fertilizing and/or mulching, the permittee will commence watering of the seeded areas or slopes. Watering is required to maintain soil moisture for seed germination and growth, and shall continue, as required, until the rains come and/or the ground cover is fully developed and/or self-sufficient. (Mitigation Measure # 10) [Planning]
15. Explosives Handling: The use of explosives shall meet all Federal, State and County Codes that relate to the use and discharging of explosives. Explosives handling and use shall be done on a demand basis under a subcontract with and by a licensed explosives handler. No other use or handling of explosives is allowed under this use permit or reclamation plan authority. (Mitigation Measure # 11) [Planning]

16. Hazardous Materials: A Hazardous Materials Business Plan and Inventory shall be completed and submitted to the County Environmental Health Department for review and oversight. Petroleum products associated with the use of heavy equipment shall be handled according to BMP standards at all times. Repairs to equipment shall be made at the main ranch agricultural maintenance facility or at an off-site licensed maintenance facility. Compliance with these requirements shall be verified during mine inspections. (Mitigation Measure # 12) [Planning, Environmental Health]
17. Safety Precautions: Heavy equipment and/or tools shall be used in accordance with the safety guidelines established by OSHA. The permittee shall take all appropriate and necessary precautions to protect adjacent public and private property from damage that may result from the mining operations. (Mitigation Measure # 13) [Planning]
18. Stormwater Management: To confirm that the Quarry is not impacting the adjacent creek, monitoring for turbidity during or within 12 hours of all significant storm events is required. The sedimentation basin shall maintain at least 2 feet of freeboard at all times to ensure that there will not be a surface water discharge. Should a storm water discharge occur, or if two feet of freeboard cannot be maintained, the project operator/property owner must contact the Regional Water Quality Control Board for remediation. The project operator / property owner shall bear the burden of cost and responsibility for remediation actions required to rectify the discharge incident. (Mitigation Measure # 14) [Planning, RWQCB]
19. Water Quality Monitoring: The owner/contractor shall coordinate with the San Benito County Water District and Regional Water Quality Control Board to monitor water quality within the creek and sedimentation basin. Samples shall be collected from the on-site seasonal creek at locations upstream and downstream from the mine site and the sedimentation basin at the quarry site each year and characterized. Sample analysis shall include general minerals, metals, nutrients and other constituents of concern assuming the water is used for irrigation and/or groundwater recharge. (Mitigation Measure # 15) [Planning, CRWQB, SBCWD]
20. Water Quality Inspections: The project site shall undergo inspection by San Benito County staff on a regular basis. Additionally, SBCWD shall monitor streamflow during active flow periods. If water quality concerns are observed, the Regional Board shall be notified promptly. Should water quality be jeopardized, the project operator/property owner shall follow the recommendations and/or requirements established by the Regional Board or other applicable agency. (Mitigation Measure # 16) [Planning, SBCWD]
21. Riparian Protection: No mining or grading activity shall take place within 50 feet (measured horizontally) from the top of the bank of a stream, creek, river or within 50 feet of a wetland or body of water. Use of stream crossings by mining vehicles and equipment is prohibited unless a determination by the Department of Fish and Game is obtained. (Mitigation Measure # 17) [Planning, SBCWD, CDFG]
22. Streambed Alteration Agreement: No grading activity within or across a stream channel shall take place without a determination from the Department of Fish and Game (CDFG) as to the need for an annual Section 1603 Streambed Alteration Agreement. If required, the permittee shall comply with all conditions of such agreement. The permittee shall provide to the Planning Department either evidence from CDFG that the project is exempt from regulation or that the requisite permit has been obtained. (Mitigation Measure # 18) [Planning, CDFG]

23. Clean Water Act Permits: Should the project be found to have an effect on a waterway or watershed, the operator/property owner shall coordinate with the U. S. Army Corp of Engineers (Army Corps) as required for permits that may be applicable to a project of this type, scope, and relative location. Should the project be found to have an effect on waterways in the vicinity of the project site, the permittee shall comply with all conditions of such regulations. The permittee shall provide to the Planning Department either evidence from the Army Corps that the project is exempt from regulation or that the requisite permit has been obtained. (Mitigation Measure # 19)
24. Project Expansion: Any expansion of the mine site, alternative mine site/s, or substantial change in the nature or description of the project is subject to further use permit review and approval. Should the operator/property owner propose to expand the project in the future, there must be consultation with both the Regional Water Quality Control Board and Division of Mines and Geology staff at least six months before expansion of the Quarry. The Use Permit is limited to the 14-acre site, for removal of no more than 100,000 tons of rock annually and limited to twenty (20) years. Reclamation shall be performed upon each quarter-acre area as available and shall be commenced within five years. (Mitigation Measure # 20)
25. Engineered Plans: The maps and cross sections supplied for review are the minimum for review of this scaled down project. To provide a basis for evaluation of the ongoing project, 'Engineered Plans', prepared and signed by a licensed professional engineer shall be submitted prior to road construction and/or mining operations. Plans shall include the site plan, grading plan, drainage plan and land reclamation plan. Plans shall be prepared consistent with the recommendations of the Regional Water Quality Control Board and the Division of Mines and Geology. Recommendations can be found in County files UP858-02 and RecPlan2002-14. Plans shall be reviewed and approved by California Division of Mines & Geology and the San Benito County Planning and Public Works Departments prior to operation. (Mitigation Measure # 21)
26. Site Survey and Slope Stability Analysis: To insure stability of the site, a licensed engineering geologist shall inspect the initial mining cut slopes and provide recommendations. A representative from San Benito County Planning and Public Works Departments shall accompany the geologist during the inspection. Recommendations shall be subject to peer review and incorporated into the use permit and as mining inspection criteria. A survey of the site and slope stability analysis shall be completed after the first 15-foot bench has been cut. In particular, analysis of possible wedge failures shall be examined. If unstable wedges are identified, removal of the blocks should be accomplished. (Mitigation Measure # 22)
27. Pre-mining Markers: Prior to the start of mining operations and/or roadway mining the mining area shall be flagged or staked, photographed and checked in the field to verify compliance with the map boundaries. The proposed road access shall be flagged prior to mining to provide reference points during road construction. Iron stakes shall be placed as markers along the perimeter of the mining site measured from reference mark BMX 1200 shown on Exhibit 15 of the reclamation plan. Iron stake markers shall be placed at the open pit quarry site along the outside perimeter of the pit at the elevation contours shown on 'Exhibit 16' of the reclamation plan. These markers and flags shall be photographed and shall serve as references for the site and are to remain undisturbed throughout the operation. (Mitigation Measure # 23)

28. Noise Generating Machinery: The operator/property owner shall coordinate with the County for the operation of internal combustion engines or other machinery likely to cause impacts from noise at the quarry site. Should the mining operation change such that an internal combustion engine with 50 horsepower or more is operated on-site, applicable permits are required from the Monterey Bay Unified Air Pollution Control District. (Mitigation Measure # 24)
29. Hours of Operation: Pursuant to County Ordinance 479, Section 44.3.e.2, mining activity including grading, blasting and/or heavy equipment use, shall take place during daylight hours limited to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday only. No mining, grading, blasting or heavy equipment use shall occur on Federal holidays. (Planning Commission)
30. Work Time Limits: The permit holder shall fully perform and complete all access road grading work within the specified time limits. Access road grading does not include access roads within the quarry that will be cut as mining progresses. If no time limit is specified in the grading plan, the permittee shall complete the work within 180 days after the issuance of the use permit except that no grading work may take place between October 15 and April 15 without the issuance of a Winter Grading Permit. (Mitigation Measure # 26)
31. Fire Protection Water Supply: Operator/property owner shall install an above ground water storage tank to ensure there is adequate fire flow. The water supply tank shall be located at a distance from the mine site to conform to County codes and standards. The fire department shall be able to access water supply from a private hydrant conforming to County codes and standards. (Mitigation Measure # 27)
32. Fire Protection Access: The operator/property owner shall insure that there is adequate ingress and egress to the mine site. Roadways shall be an all weather surface conforming to applicable codes and standards. Where roadway width is insufficient to support two-way traffic, a minimum 18 feet wide road shall be provided. Roadways shall include turnarounds at 500 foot intervals where widening is impractical. Road improvements shall be made at the property owners' expense. The mine site address shall be posted at the entrance to the property and shall be visible to emergency personnel. (Mitigation Measure # 28)
33. Road Maintenance Offset Fees: The operator/property owner shall pay a fee of 6.8 cents per ton of material for all material extracted and removed from the site. The purpose of this fee is to offset the cost of additional County road maintenance along Cienega Road and for the Cienega Road and Highway 25 intersection, through use by heavy tractor-trailer traffic. (Mitigation Measure # 29)
34. Portable Toilets: The operator/property owner shall maintain portable toilets used at the mine site for use by quarry employees during periods of active mining. A contract between the operator/property owner shall be maintained with a waste removal company for waste removal from the portable toilets. Evidence of such agreement shall be included in an operations plan submitted to the Planning Department for inclusion in to the Use Permit file UP 858-02 on an annual basis. (Mitigation Measure # 30)

35. Routes: All truck trip ends resulting from the increased rock production shall be diverted through southbound Cienega onto Airline Hwy (Hwy 25). The applicant shall work with the Public Works Department to determine the best mechanism (sign, island, etc.) to accomplish the enforcing truck traffic through Hwy 25 via the southerly end of Cienega Road. This mechanism is subject to Public Works approval. (Public Works, Planning Commission)
36. Signage: Signs shall be posted on the applicant's property stating "Caution: Children at Play", "30 MPH", and "No Jake Brakes"

WORKSHOP ~ PUBLIC HEARING:

San Benito County Ordinance No. 781 – Hillside Development. Conduct a public hearing and workshop to discuss and solicit comments on the existing County Hillside Development Ordinance.

ADoP Goodrich presented the Staff report, giving a brief overview of the past events leading up to and including the adoption of the Ordinance, along with the procedure of formulation of the wording of the Ordinance. "This Ordinance was adopted by the previous Board of Supervisors following public workshops, Planning Commission meetings, and open hearings before that Board. Tonight this matter is before this Planning Commission having been referred by the current Board of Supervisors," ADoP Goodrich advised. It was noted that the Ordinance had been sent to the Board of Supervisors on a narrowly approved split vote.

Chair Bettencourt commented that Commissioner DeVries had information to share regarding the issue.

Commissioner DeVries led discussion by saying this is a big issue for the County, and requires a lot of thought and dialogue, as he spoke regarding a probable sequence of events which could assist in dealing with this matter, including a thorough analysis and scope to be considered. ADoP Goodrich, responding to a question from Commissioner DeVries, said the majority of the Board of Supervisors feels the Ordinance is inappropriate and should be repealed, although no specific direction was provided. ADoP Goodrich stressed it would be necessary to report to the Board of Supervisors with recommendation(s) in a timely manner, as he presented several scenarios of possible action(s). Commissioner DeVries spoke at length of the importance of gathering data, and what consensus could be obtained from that information, with identification of themes and interaction of that with current law. Commissioner DeVries urged the Commissioners and others present to review the Ordinance and step up to make decisions.

Note: As part of his recommendations/statements, Commissioner DeVries presented a flow-chart of events which he said could be considered in achieving the goals of the County. (That chart is included in the permanent minutes for this meeting.)

Chair Bettencourt opened the public hearing. Speakers were invited to the podium to speak to the Commissioners.

Grant Brians, 747 Shore Rd. gave his views on the background of the Ordinance. Mr. Brians recommended 'tightening up' the current Ordinance to include minor subdivisions. Responding to a question from Commissioner DeVries, Mr. Brians said he thought the Ordinance is more complex than necessary. "There is a need to look at other communities in California with the same challenges."

Joe Tonascia, 1265 Heather Glen, was identified as a former Planning Commissioner. He acknowledged the value of the ideas presented by Commissioner DeVries. "I voted against the Ordinance when I was a Commissioner," he clarified. "I don't necessarily think houses should be built on hills, but we've got to build somewhere. It's important to keep the farmland on the valley." He told the Commissioners of concerns that the definitions of ridgelines were vague, but basically didn't feel the Ordinance was needed.

Chair Bettencourt called attention to maps presented, and spoke on the amount of slope permitted for building dwellings. ADoP Goodrich added clarification to the statements made by Chair Bettencourt.

Commissioner DeVries said he had a vision for outcome of the meeting this evening: to agree on the approach to the issue and the possible timeline for action. Commissioner DeVries spoke on the importance of making sure the speakers' comments were effectively tabulated.

ADoP Goodrich explained the previous process for ascertaining the reflection of speakers' comments.

DCC Murphy reminded that this meeting had been noticed for public hearing and could be continued if necessary, but it was important to make sure those who came to speak to the matter would be heard.

Commissioner Machado said it is important to have open communication with the public.

Chair Bettencourt said he favored having the public speak.

Commissioner DeVries urged organization and encouraging methodical discussion.

Commissioner Araujo said he wanted to hear the comments of the speakers. "We can take the comments as input," he said.

Commissioner Tognazzini said this had been noticed as a public hearing and must be treated as such. "It (the comments) is going to happen at one time or another and this way it will be on the record," Commissioner Tognazzini said.

Commissioner DeVries urged orderly progression.

Tom Tobias, Tres Pinos said he is Past President of the Farm Bureau. Mr. Tobias told the Commissioners he – and probably the others – would be willing to come back at another time if they were not comfortable with making a decision at this meeting. Mr. Tobias said it might be valuable to look into templates from other California Counties.

Rich Saxe, Anzar Road, Aromas, urged the Commissioners to make a larger effort to obtain comments and input. He also spoke on residents who could not attend meetings, and referenced the confusion of the Chair in some of the provisions of the Ordinance, which may reflect the lack of knowledge of others, as well. Mr. Saxe said that most people appear to really like the rural atmosphere, and are probably willing to work to protect that ambiance.

Peggy Kingman, 31300 Airline Hwy., Paicines, reminded that we live in a technology ‘savvy’ world as she urged polling by way of the internet. She said a larger sample of opinion could be solicited in this way.

Joseph Zanger, 7356 Pacheco Pass Road co-owner, Casa De Fruta, urged the Commissioners to have the Ordinance ‘go away’ as it is too complicated.

Chris Brigantino (no address given) told the Commissioners he lives in the hills and looks down on the valley floor where, “I see a lot houses and so do a lot of others, who do not complain about looking down on the houses. We have enough Ordinances, you should kill this one.”

Tom Manning (no address given) told Commissioners he is past president of Cattlemen’s and lives in San Juan Bautista. Mr. Manning commented that past comments provided should be having been enough to have avoided having the Ordinance go to the Board of Supervisors. He noted the Cattlemen’s Association and the Farm Bureau had actively spoken against the Ordinance.

Brad Sullivan of the law firm Lombardo & Gilles, said he had been prepared to speak to elements of the Ordinance, but on listening to Commissioner DeVries, had instead decided to ask for ‘a stay pending review’. Mr. Sullivan said he had been at the meeting of the Board of Supervisors when it had been returned to the Planning Commission and thought that there may have been intent to just reject that Ordinance. He urged a through review of the Ordinance, and a companion piece: the Grading Ordinance. Mr. Sullivan expressed a belief that the Grading Ordinance makes development in steep slope areas difficult at best.

Charles McCullough, 26565 Panoche Rd., Paicines identified himself as a local Rancher and urged keeping building in the hills to keep prime agricultural land in valley production.

Paul Wattis Panoche Road, requested that the Ordinance be rescinded as it is very vague, and telling the Commissioners he has spoken in opposition many times.

Bill Hawkins, 1308 Comstock Rd., spoke with the Commissioners, referencing the Constitution and laws in Oregon. Mr. Hawkins said he has spoken in opposition many times.

Dennis Madigan, 101 Ken Ct., said he was a prior Planning Commissioner and had attended many meetings. "I urge you to cut right to the quick of it and go back and suggest or tell the current Board of Supervisors that the Ordinance as written was rushed into place and should be rescinded." He went on to tell the Commissioners it would be possible to gather public input for better planning as he spoke on the preservation of grade one soil.

Richard Place, 89 Knight Ln., spoke to the Commissioners as a former Supervisor. Mr. Place spoke on the importance of being able to understand the wording of the Ordinance. Mr. Place spoke on the architects and engineers who could provide good design.

Dave Brigantino, 2258 Union Rd., said the Ordinance was rushed by the precious Board of Supervisors and was highly restrictive. He said the Ordinance should be used as a guideline, not a limiting Ordinance.

Janet Brians, 747 Shore Rd., told of concerns with fire danger, but noted that she is a co-owner/operator of a farm on prime land and wants to preserve that life. Ms. Brians also spoke on liquefaction slides near where her relatives live.

Seth Capers (no address given) urged the Commissioners to come up with a long term plan in dealing with the issues of the Ordinance.

Roxy Montana, 7350 Pacheco Pass Road, asked Commissioners, "Who owes who a view?" as she referenced the 'very busy Board of Supervisors meetings' where this issue had been thoroughly discussed. Ms. Montanan spoke on personal perspectives and the importance of landscaping. Ms. Montana said it was important to judge each project on its own merit.

Ascertaining that no other present had a wish to speak to the matter; Chair Bettencourt closed the public hearing.

Commissioner DeVries stated he thought there was a need to decide a time-line during which study will occur, what is to be studied, and whether or not to ascertain clear direction from the Board of Supervisors as to the assignment for the Commissioners is.

COMMISSIONER DEVRIES MADE A MOTION THAT THE CHAIR DIRECT A LETTER TO THE CHAIR OF THE BOARD OF SUPERVISORS REQUESTING CLEAR DIRECTION BE PROVIDED TO THE COMMISSIONERS AS TO THE ASSIGNMENT THEY HAVE FOR THE COMMISSIONERS REGARDING THE HILLSIDE ORDINANCE, AND THAT THE DISCUSSION REGARDING THE MATTER BE HELD BY THE BOARD OF SUPERVISORS AT THEIR FIRST OPPORTUNITY. COMMISSIONER TOGNAZZINI SECONDED THE MOTION WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

Chair Bettencourt asked Commissioner DeVries to assist in drafting the letter. Commissioner DeVries graciously agreed to do so.

COMMISSIONER DEVRIES OFFERED A MOTION THAT PUBLIC HEARINGS BE CONDUCTED TO FURTHER OBTAIN INFORMATION AND DATA AND INPUT FROM THE COMMUNITY DURING THE MONTHS OF MARCH AND APRIL, 2005. COMMISSIONER TOGNAZZINI SECONDED THE MOTION.

Following discussion, **COMMISSIONER DEVRIES AMENDED THE MOTION TO INCLUDE A PORTION OF THE COMMISSION MEETING ON MARCH 16, 2005 TO FURTHER PUBLIC INPUT ON THE HILLSIDE ORDINANCE AND THE SAME ACTION BE HAD ON APRIL 6, 2005 AND APRIL 20, 2005 DURING THE REGULARLY SCHEDULED PLANNING COMMISSION MEETINGS. COMMISSIONER TOGNAZZINI SECONDED THE MOTION.**

Commissioner DeVries clarified that he planned to – and have other Commissioners – contact their Supervisors regarding the actions of this evening’s meeting. Commissioner DeVries said he thought it important to communicate with the Supervisors informally to ascertain if the Commissioners are ‘going down the right road’ and further said he would like the assignment ‘in writing’ as a result of the Board discussion on the matter.

Commissioner DeVries restated and clarified the motion: **TO CONTINUE THE PUBLIC HEARING OF THIS AGENDA ITEM TO THE MEETING OF MARCH 16, 2005 AND ALSO HAVE A PORTION OF APRIL 6, 2005 AND APRIL 20, 2005 MEETINGS DEVOTED TOWARD A HEARING OF THE PUBLIC FOR OBTAINING INPUT ON THIS. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

COMMISSIONER DEVRIES MOTIONED THAT ON THE MEETING OF APRIL 20 2005 AN ACTION AGENDA ITEM THAT WILL BE FOR THE PLANNING COMMISSION TO REVIEW THE INFORMATION THAT HAS BEEN COLLECTED AND DISCUSS FUTURE ACTIONS AND FUTURE SCHEDULE.

Commissioner DeVries clarified for Chair Bettencourt that the intent was to have discussion at the three meetings then the entire Commission would synthesize the information received by the final meeting (April 20) to make a decision at that time or continue to May. He explained the April meeting would terminate the gathering of public input.

Commissioner DeVries asked Staff if a method for having the public send information, such as e-mail. Discussion ensued as to best way to disseminate e-mail address information.

Commissioner DeVries amended the motion by the following modification:

THE AVAILABILITY OF THE PLANNING DEPARTMENT'S E-MAIL BE PUBLISHED INVITING PUBLIC RESPONSE TO THAT ADDRESS AND ANY E-MAILS RECEIVED BE FORWARDED TO THE COMMISSIONER'S PERSONAL E-MAIL ACCOUNTS, AS WELL AS RETENTION OF EACH IN AN PLANNING OFFICE FILE; THE FINAL DATE FOR RECEIVING E-MAIL COMMUNICATION WAS SET FOR APRIL 20, 2005. COMMISSIONER ARAUJO SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Commissioner DeVries asked how the Commission wished to consider information from groups, e.g., Cattlemen, Farm Bureau, Vision San Benito, etc., either by a representative from each group providing statements at a public hearing or receiving written statements or a combination of both.

ADoP Goodrich explained the mailing list for community groups in the Planning Office and copies of the Ordinance were sent directly to those groups. He listed several other groups/organizations which have been contacted with some response received. ADoP Goodrich explained that more commonly the representatives of the groups/organizations spoke at public hearings and workshops.

DoP Mendiola suggested not having a priority list for notification. He explained that all who expressed interest were noticed. Chair DeVries said he wanted to make sure that notification would be given to all interested parties.

Chair Bettencourt reopened the public hearing.

Nenette Corotto (no address given) said she represented Vision San Benito and spoke with the Commissioners saying that all members will be notified so they can come forward provide input.

As there were no others present to address the Commissioners on the matter of the Hillside Ordinance, the public hearing was closed.

Chair Bettencourt said he had been actively working during his time on the Commission to get input regarding the Ordinance, and spoke on the difficulty of having a presence at the meetings of the various groups.

Commissioner DeVries asked to what extent the Commissioners were interested in gathering data from other jurisdictions of the existing Ordinances from those bodies. He asked ADoP Goodrich about other information gathered during his work on the matter. ADoP Goodrich advised that such documentation is more common with municipalities, but stated he would make efforts to obtain like policy from other Counties. Responding to a question from Commissioner DeVries, ADoP Goodrich said that in his experience, such regulation meets with 'mixed successes.

DoP Mendiola added that the requirements of CEQA in formulating any new/dramatically changed documents must be met and adhered to, which could add some time to a completed project before such document could be sent to the Board of Supervisors. He explained that communication could be had with the Board, but if CEQA was triggered, no finalization could be had until the environmental documents were circulated. ADoP Goodrich advised that there could be an issue with manpower if substantial changes were recommended by the Commissioners.

Commissioner Machado urged 'some measure of flexibility with the time line' in working on the receipt of information and subsequent decision making. Other Commissioners agreed.

With no further business to come before the Commissioners at this evening, the meeting was adjourned at 10:05 p.m.

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

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