

SAN BENITO COUNTY PLANNING COMMISSION

Minutes of March 16, 2005

Following the Pledge of Allegiance, Chair Bettencourt called the meeting to order at 7:00 PM. Commissioners Machado, DeVries, and Araujo were present; and Tognazzini, arrived at 7:10 PM. Staff in attendance was Director of Planning (DOP) Rob Mendiola, Assistant Planner of Planning (ADOP) Fred Goodrich, Associate Planner (AP) Byron Turner, Associate Planner (AP) Mary Paxton, Deputy Director of Public Works (DDPW) Arman Nazemi; Deputy County Counsel (DCC) Shirley Murphy and Clerk Trish Maderis.

Chair Bettencourt presented 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 opportunity of public comment. Having ascertained there were no persons present to speak to items not on the agenda, Chair Bettencourt closed the public comment period.

CONSENT AGENDA

Chair Bettencourt turned attention to the Consent Agenda:

- 1) Roll noted
- 2) Certificate of Posting
- 3) Minutes of March 2, 2005 [correction offered by Commissioner DeVries: Item 3, page 5, line 12:
.... wish to have a traffic study completed first, with perhaps resultant signage on the County road),
- 4) **ZONE CHANGE NO. 93-95, C District Review No. 95-93 Scenic Highway Review No. 93-17.** Request: Minor modification of site plan to move building and fuel pumps approximately 150 ft. to avoid a fiber optic easement. Applicant/owner: Eric Del Piero
Location: Intersection of SR 101 and Highway 129 @ Searle Road. Zoning: C1 - Commercial

COMMISSIONERS MACHADO/ARAUJO MOTIONED TO APPROVE THE CONSENT CALENDAR, INCLUDING THE MINUTES OF MARCH 2, 2005, AS CORRECTED. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; TOGNAZZINI WAS ABSENT.

REGULAR BUSINESS

- 5) **Preliminary Allocation Exemption 2005-03:** A request for a one time, one lot division for a family member, pursuant to Ordinance No. 751, Section 31-4 (Exemptions). The allocation and future subdivision, if approved, will create one (1) five (5) acre parcel, and one (1) 6.48 parcel. Applicant: Jeff Hunter. Zoning Designation: Agricultural Productive (AP). Location: 920 Lone Tree Road, Hollister

AP Turner presented the staff report, told Commissioners the applicant has provided proof that the lot is to be for a family member. AP Turner said this is the first exemption request the applicant has submitted and if granted, there would not be another allowed. He was specific in telling Commissioners that the exemption will not guarantee that a minor subdivision would be approved by the Planning Commission.

Chair Bettencourt opened the public hearing.

Roger Grimsley told Commissioners he is the project engineer. He said he concurred with the findings of the staff report and asked approval of the request.

Commissioner Machado asked about the relationship issue (the applicant has told staff his son will be the recipient of the exemption if it is granted).

COMMISSIONERS MACHADO/ DEVRIES OFFERED RESOLUTION 2005-03, APPROVING AN EXEMPTION FROM THE RESIDENTIAL BUILDING ALLOCATIONS FOR FISCAL YEAR 2004-2005 FOR A FAMILY MEMBER IN ACCORDANCE WITH THE GROWTH MANAGEMENT SYSTEM (ORDINANCE NO. 751), TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN.

Commissioner Tognazzini arrived at 7:10 PM and was seated on the dais.

THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

- 6) **Tentative Tract Map No. 03-69.** Request: Planning staff is requesting discussion and direction from the Planning Commission regarding the configuration of a 6-parcel subdivision. Applicant: Tina Bertuccio. Location: Summerset Drive and Union Road Zoning: AP (Agricultural Productive) Environmental Review: None

AP Turner presented the staff report, noting this matter had first been heard by the Planning Commission, along with a requested zone change in 2004. He reminded that the original proposal for the project included six new single-family residential lots and a new street which incorporated a cul-de-sac. Following that hearing, the matter, AP Turner said, was continued for a redesign to include a dwelling unit on the open space parcel for maintenance of the orchard. When the project was brought before the Commissioners at the meeting of December 1, 2004, the Commissioners at that time directed the project be returned to staff for further reconfiguration and refinement, with the Zone Change/PUD abandoned, and the subdivision to be designed as 5-acre parcels. Now, AP Turner advised, the applicant has submitted a redesigned map, all with 5-acre parcels. Additionally, the applicant has provided several alternative plans. AP Turner presented the three alternatives, explaining each by turn. AP Turner said, "Following the public hearing, staff would like direction from the Planning Commission of the preference for design/ configuration of the subdivision."

Chair Bettencourt opened the public hearing.

Roger Grimsley, project engineer, spoke with the Commissioners, providing an update of the events of the application(s) and the project for the benefit of the new Commissioners. Mr. Grimsley said the purpose of the PUD (which took two years to develop) was to earmark the development in a grade 2 soil area on the upper shelf, and thereby preserving the orchard on the lower slope. He urged the Commissioners to 'look at all the alternatives' with respect of preserving the maximum amount of open space. Mr. Grimsley, too, said he was looking for direction from the Commissioners on how best to proceed. He said he would still advocate the PUD as the best method of preserving ag land. Mr. Grimsley suggested the Commissioners might take a close look at alternatives A, C or D.

Commissioner DeVries asked Mr. Grimsley to address the preferred alternatives he had listed. Mr. Grimsley said those three highlighted the PUD and preserving the maximum amount of open space, as well as viable agriculture production.

Chair Bettencourt asked about the property bordering the east side, inquiring if it is in the County or belonging to the school district? Mr. Grimsley said it is in the County and is under private ownership. Chair Bettencourt clarified the location of the school property.

Chris Parga, 1980 Glarner St., said he was concerned about having a park right next to his house. "Not knowing who will be the owner, or who will be taking care of it, what could be the use (rental, functions of outside groups, etc.) would be the one issue we would have," Mr. Parga stated. "Being that we're land-locked, we have other concerns of what may happen around us, as we obviously will be impacted." Mr. Parga said he was trying to understand what might happen and the benefits of each of the alternatives. He stated the family is concerned about the future maintenance of the apricot orchard. Mr. Parga said he did not have a particular preference for the development alternatives, but wanted to make sure his family's voice was heard. "If there is intent to have ag production retained, how will that be monitored," he wondered. "We're looking for options to improve our position or at least lessen the effects on our property."

Chair Bettencourt asked Mr. Parga if he had reviewed the plans and gotten a packet? Mr. Parga said he had seen the plans with the various maps from the Planning Department staff in January. Discussion ensued regarding:

- location and maintenance of the park
- ownership of the orchard
- park will be of a County Service Area
- a recreation amenity is required if a PUD is established (could be different from a park)

Mary Damm, 3016 Cienega Rd., said she owns property and a home adjacent to the proposed subdivision. Mrs. Damm reminded she had spoken to the Commissioners about this project in the past. Now, tonight, she said, she had come to support the 5-acre lot configuration. Mrs. Damm repeated the events of the December 1, 2004 meeting when the PUD was indicated for abandonment. "The 5-acre lot plan is in accordance with the General Plan," Mrs. Damm said. She went on to tell of meeting with the applicant and her representatives. Mrs. Damm indicated she - and her family - has the same concerns voiced by Mr. Parga. Mrs. Damm reiterated that staff had been given clear direction at the December, 2004 meeting (to abandon the PUD and go with the 5-acre lots) and was 'baffled' by why this is before the Commission for a vote. Mrs. Damm asked if there had been a meeting that she was not aware of regarding the matter, and if so, requested minutes of that meeting. "We don't feel there is a PUD to be voted on tonight as that was previously voted not to do that," she said.

Chair Bettencourt reminded that there are three new members on the Commission. Ms. Damm said she was aware of that, but asked, "Does that mean you just throw out everything the old Commission had done?"

Commissioner Tognazzini discussed with Mrs. Damm her statements of being in favor of the 5-acre lots but opposed to the PUD. Mrs. Damm indicated she thought that with the 5-acre parcels as indicated on the map, there would be no remainder to consider. "It tugs at your heartstrings to have someone say, 'there is an apricot orchard there and it should be preserved'. No one can tell you that the orchard will be preserved if a PUD goes through. A 25-acre orchard is not a money-maker in San Benito County, so anyone who takes over the remainder will probably tear the orchard out," she said, noting that a reason for purchase of a 25-acre lot would be a hope to further divide that land into 5-acre parcels. Mrs. Damm told the Commissioners that her family had bought the property they own because of the zoning (5-acre minimum).

Mrs. Damm then stated into an address about reasons for purchase, and concern that the Commissioners may have changed the mindset of use for the parcel under discussion. Mrs. Damm said that a concern was that the density would be set at a level which would be unacceptable. Mrs. Damm continued that no one could tell her if the 25-acre (formerly known as 'the remainder') would be retained in agriculture - and if so, what might that agriculture indicate? "Why is this Commission even considering a change to the PUD when it was voted against?" Mrs. Damm asked.

Commissioner DeVries suggested DoP Mendiola address the procedural issues which Mrs. Damm alluded to. DoP Mendiola said the action of the Commission was to abandon the PUD and for staff to return with some alternatives. The alternatives included some PUDs, which were presented to staff, who in turn presented them to the Commissioners.

Mrs. Damm disagreed with that, saying, "That's not what the motion says: it says abandon the PUD and the property shall be kept in 5-acre parcels as now exist. That's what it says. That was the motion. It did not say come back with more PUD plans."

DCC said there had been no final action on the plan, and until final action occurred, it is open for redirection.

Mrs. Damm asked, "How can that be when it was voted to abandon the PUD? What's the point of coming here and the Commission says 'No PUD, it must be 5-acre lots.' Isn't that a direction? Are you saying that until a final decision is made it is just thrown up in the air – and it could be ... a lake?"

DCC Murphy said, "Yes. Until they take final action, it is on the table for them to redesign and give different direction to staff and reconsider different alternatives until they are satisfied that there is a project they want to approve."

Mrs. Damm said, "I find that hard to believe. Why do they even vote on – or consider anything – when, within six months it means nothing. You are not giving direction to an applicant at all when you do that. The direction to the applicant was: abandon this idea and go with the five-acres."

DCC Murphy said, "I can tell you that legally speaking, you are free to redesign until you take final action. Whether you should - or want to - is a different question."

Commissioner DeVries asked, if the procedural/legal question is: if this body previously moved to 'abandon the PUD', is this Commission bound by that? DCC Murphy responded, "No."

Mrs. Damm said, "Then motions don't mean anything." Mrs. Damm presented a variety of scenarios which she indicated presented a lack of integrity of Commission action.

Chair Bettencourt pointed out that the minutes indicate the matter would be considered at a later date. Mrs. Damm disputed that notion. Commissioner Machado said it had been explained.

DCC Murphy addressed the issue of further development of the larger (25 acre) parcel. She said that one of the concepts of a PUD is to concentrate density in a certain area, and thereby preserve the zoning. She further explained that zoning could be changed in the future dependent on the decision of a currently seated Commission and Board of Supervisors.

Mrs. Damm referenced the minutes (page 4) of December 1, 2004: Mr. Mendiola was to provide an overview of other PUDs in the County and how any changes requested the initial PUD were handled. "I haven't seen an overview. Have you gotten an overview of other PUDs so that you can make a wise decision? Where are the directions on what a PUD is, and what the remainder is supposed to be used for? Who is control of it? Is it just thrown to the wind?" she asked. "Are there laws on what the remainder is supposed to be?"

Chair Bettencourt said that one of the things that was done at the previous meeting was to make the 25-acres one of the six units, with a caretakers unit on that property.

Mrs. Damm indicated dissatisfaction with the discussion. She spoke on the General Plan and said that any changes are made to that; a lot of thought should be given to that action. Mrs. Damm argued at length about the matter before the Commissioners.

Bill Damm, 3016 Cienega Rd., told the Commissioners the original motion of December 1, 2004 was to abandon the PUD, not come back with some other plan, but would be limited to a plan with 5-acre parcels. He chastised the Commissioners about 'changing their minds and presented different plans which are not in the best interest of the neighborhood'. He said this was going directly against what the Commission had said.

Roger Grimsley told the Commissioners that the 25-acre parcel would have one residence, and the rest would be open space/ag preserve. The parcel would be in private ownership, he said, as he noted that if this Commission differs from the previous with their thinking, they can act on one of the alternatives, or make other suggestions.

Art Bliss, 1375 Quail Ridge Way, said he was concerned with the staff review wherein he understood that PUDs are not allowed on soil 1 classification, since the entire project is now dependent on a PUD being utilized. He said it appeared contradictory.

Mary Damm approached the podium again, reading from information regarding AP zoning and land use. She said the parcel under discussion is currently zoned 5-acres, not PUD.

Bill Damm again spoke to the Commissioners, saying, "You can revote on this thing, but I would think that before you revote on that motion that was passed by this Commission, not that it may be illegal, but if you think about what you would be doing. Now if you can demonstrate that one of the Commissioners was incapable of making a decision, you might want to reconsider the application. Unless, you can do that, it is pretty suspect that you would revote on something already passed."

With no others in attendance who indicated a wish to speak to the matter, the public hearing was closed.

Commissioner Machado clarified for Mr. Bliss the location of PUDs, then shared his beliefs of zoning and the General Plan contents. "It appears that the Community has accepted that 5-acre parcels are not viable for agriculture production." Commissioner Machado further spoke on the procedures under which the Commissioners operate, "Until a project is finalized, it is still open to discussion and changes or the wishes of the Commission."

Commissioners Tognazzini and DeVries asked DCC Murphy about the language and binding legalities of the Ordinance for PUDs. DCC Murphy explained the restrictions.

Mr. Grimsley spoke, at the request of DCC Murphy, on the procedures of deed restrictions and the recordation process and the involvement of County personnel with that process.

Discussion ensued regarding PUD/zoning ordinances/density and how flexibility can occur with PUDs. DoP Mendiola explained the base zoning and transfer of density, and how 'hurdles' must be overcome to remove restrictions placed on a property. Mr. Grimsley said that would require comprehensive change by the Board of Supervisors. DCC Murphy spoke on General Plan consistency.

DoP Mendiola clarified that the Commission clearly asked to review a 5-acre subdivision on this property. He said that was absolutely clear. Alternative B was shown as what that represents on the drawings by Mr. Grimsley. DoP Mendiola said he had asked Mr. Grimsley if he could bring in other alternatives; Mr. Grimsley said he preferred not to do so. "It's not staff's place to deny an applicant the opportunity to speak to the Commissioners," DoP Mendiola explained. "We gave you all the plans he submitted. We did ask for another 5-acre configuration that was different, and we were not given that. So that is how we got to where we are today. The direction is clear: bring in 5-acre lots. Plan B shows the 5-acre lots and therefore it is before you for consideration."

Considerable discussion ensued regarding the soils within the project, and the current zoning being ag productive. DCC Murphy again spoke on consistency with the General Plan.

Commissioner Araujo asked if 5-acres is feasible for productive agriculture? Commissioner Tognazzini responded it is not.

Discussion continued regarding

- the options (alternatives) presented
- emphasis on the 25-acre open space area
- the zoning designation
- potential uses for the property.
- zoning and soils classification(s) inconsistencies

AP Turner explained the location of the grade 1 soils on the property.

COMMISSIONER ARAUJO OFFERED A MOTION TO GIVE STAFF DIRECTION TO BRING PLAN 'B' BROUGHT BACK TO THE COMMISSION FOR FURTHER CONSIDERATION. THE MOTION DIED FOR LACK OF A SECOND.

COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO HAVE PLAN 'A' BROUGHT BACK TO THE COMMISSION FOR FURTHER CONSIDERATION. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, MACHADO, TOGNAZZINI; NOES: ARAUJO, DEVRIES; ABSTAIN: NONE; ABSENT: NONE.

- 7) **MINOR SUBDIVISION NO. 1159-04.** Request: A request to subdivide a 4.805 acre parcel into two parcels of 2.977 acres and 1.828 acres. The proposed subdivision will allow the two parcels to adhere to an approved Zone Change, M-District review and C-District review for a ten screen theater and mini storage facility. Applicant: Premier Cinemas. Location: McCray Street. Zoning: CM (Controlled Manufacturing) & C-1 (Commercial Thoroughfare). Environmental Review: Mitigated Negative Declaration for an approved Zone Change, M-District Review and C-District Review.

AP Turner presented the staff report, providing a brief overview of the history of the property. He explained that the property is anticipated to be in the City following action by LAFCO and has undergone City review. The project has been designed to be uniform with the requirements of both the City and the County. Responding to a question from Chair Bettencourt, AP Turner said the property has been approved for the Use Permit.

Commissioner Machado clarified that the project has been reviewed by the City.

Chair Bettencourt opened the public hearing.

Having determined that there were no persons present to speak to the matter, Chair Bettencourt closed the public hearing.

COMMISSIONERS MACHADO/DeVRIES MOTIONED TO APPROVE MINOR SUBDIVISION NO. 1159-04, INCLUSIVE OF THE REQUIRED CEQA FINDINGS, AND THE FINDINGS OF THE PARCEL MAP, AS WELL AS THE CONDITIONS OF APPROVAL. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

Conditions of Approval:

- 1. Recordation – Section 17-10 Ordinance 617** – A parcel map that conforms substantially to the approved tentative map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The tentative subdivision will expire two years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a Parcel Map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Planning, Public Works, Recorder]
- 2. Hold Harmless – Section 17-32 (k) Ordinance 617** – Pursuant to Section 66474.9 of the Government Code, upon written notice by the County, the subdivider shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against San Benito County or its agents, officers, or employees to attack, set aside, void, or annul the approval of this subdivision and applicable proceedings. San Benito County shall be subject to Section 66474.9(b)(2) of the Government Code. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning, Public Works]
- 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. [Building, Planning]
- 4. Compliance Documentation** – Prior to recordation of the parcel map or Planning Department approval of the improvement plans, whichever comes first, 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. The applicant shall also submit a response as to how this project complies with impact fees applicable to County ordinances including, but not limited to the following; Kit Fox, Drainage Areas, etc. [Planning, Public Works]
- 5. Mitigation Monitoring.** Prior to recordation of the Parcel Map or Planning Department approval of the improvement plans, which ever comes first, the applicant shall enter into a mitigation monitoring agreement with San Benito County. [Planning]
- 6. Assessment – Section 17-32 (d) of Ordinance 617** - Prior to recordation of the Parcel Map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act. [Assessor, Public Works]
- 7. Fish and Game Fees.** Department of Fish and Game fees (Fish and Game Code Section 711.4 (d)) must be submitted to the County Planning Department within five days of the decision on the Negative Declaration. Should the fees not be paid within five days, the application is subject to actions described in Section 21167 of CEQA and the project is not operative, vested, or final until the fee is paid (21089 (b) of CEQA). [Planning]

- 8. Zone Change and LAFCo Approvals:** No rights shall vest under CDR 54-04 or MDR 78-04 and no building permits shall be issued for development in compliance with these approvals until after the effective date of Zone Change 04-138 and approval by LAFCo of the “outside jurisdiction” water and drainage approvals for the project to the City of Hollister.
- 9. Equipment** – All the equipment must be reviewed and approved by the County Environmental Health Department. [Health, Planning]
- 10. Improvement Plans** – Prior to issuance of a building permit, the applicant shall submit building and improvement plans to the County Building Department for their approval and issuance of applicable permits. A note shall be placed on the grading and improvement plans for the project stating that the soils shall be watered during site grading and construction activities to minimize dust. MM2 [Public Works, Planning]
- 11. Exterior Lighting – County Ordinance 748:** A note shall be included on the parcel map that states “All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Prior to the issuance of building permits, the applicant shall submit to the Building and Planning Department an exterior lighting plan that shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the Director of Planning and Building and follow the San Benito County Dark Sky Ordinance.” (Mitigation Measure # 1) [Building, Planning]
- 12. Archaeological Protection** - The following statements shall be included on the improvement plans and either an additional map sheet of the Parcel Map or by separate instrument that shall indicate its relationship to the Parcel Map: “In the event that archaeological traces are encountered, all construction within a 50-meter radius shall be stopped, the Planning Director notified, and a certified archaeologist retained to examine the findings and recommend mitigation measures. The property owner shall comply with all mitigation measures.” (Mitigation Measure # 3) [Planning]
- 13. Storage of Waste and Materials** –Section 18 (c) (3) of the Zoning Ordinance - The property shall be continually maintained and kept free of trash and clutter. Outdoor storage of any and all materials and equipment shall be located behind a structure, vegetation, or a solid wood fence that provides screening from public view. Solid waste shall be stored in closed containers, which will be screened from public view, and transported to an approved dumpsite on a regular basis. [Planning]
- 14. Geotechnical Report** – A note shall be placed on the grading and building plans stating: “A soils engineer Report, dated June 27, 2002 was prepared for this property by Earth Systems Consultants (File No. Ho-075779-02) and is on file at the San Benito County Planning Department. The recommendations contained in said reports shall be followed in all development of the property.” [Mitigation Measure # 4]

- 15. Geotechnical Compliance** – Prior to completion of site improvements associated with this project, the applicant shall submit a letter of compliance, from a licensed geotechnical engineer, to the County Public Works and Building Department. The
- 16. Certificate of Compliance** shall be required to prove compliance with the grading and fill recommendations made, in soils engineering report # HO-07579-02 by Earth Systems Consultants. Specifically, the applicant’s obligations shall include but not limited to, ensuring that all fill is compacted as appropriate, all keyways are constructed as recommended, and erosion control measure are implemented as recommended. [Mitigation Measure # 5]
- 17. Fire Protection-** Prior to issuance of building permits the applicant shall submit written documentation to the Planning and Building department from the County Fire Department that all County and City of Hollister requirements can be met, that a detailed plan for providing water for fire protection has been reviewed and approved by them, and that the City of Hollister Fire Department has approved the proposed size and location of fire hydrants. Final approval by both County and City Fire Departments will be required prior to occupancy of any buildings. [Mitigation Measure # 6]
- 18. Easements** - Prior to recordation of the Parcel Map, the applicant shall make all necessary grants of easements for access, utilities and drainage, in favor of the persons or entities designed to benefit there from. All private roads shall be shown as Public Utility Easements. A six-foot wide Public Utility Easement shall be shown contiguous to the ultimate boundary lines of all roads, public and private, including radials and cul-de-sacs. The Parcel Map shall show all easements for access, utilities, and drainage. [Planning, Public Works]
- 19. Parking-** The applicant shall provide a shared parking agreement with the owner of parcel 2, prior to final building permit.
- 20. Kit Fox Habitat Impact Fees** - Prior to recordation of the Parcel Map, the applicant shall pay all applicable mitigation fees toward the financing of a Habitat Conservation Plan pursuant to Chapter 7A.1 of the County Code. (Mitigation Measure #) [Planning]
- 21. Fire Protection** - Prior to recordation of the Parcel Map, the applicant shall cause the recording of a deed restriction that will state: “Prior to issuance of a building permit, written proof shall be submitted to the Building Department that CDF and County fire protection standards have been met”. The statement will also be noted on a separate sheet of the Parcel Map, or by separate instrument that shall indicate its relationship to the Parcel Map in compliance with Section 66434.2 of the Subdivision Map Act. (Mitigation Measure #) [Planning, Building, CDF]
- 22. Regulation of Work Hours** - As required by County Ordinance, construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. Applicants for building permits for development within the subdivision shall be required to place a note to this effect on all construction plans. [Planning, Building]

- 23. Common Driveway Easement.** Prior to the recordation of the Parcel Map, the applicant shall submit an improvement plan for the common driveway serving Parcels and . Said common driveway shall be designed to comply with County access road standards and shall be reviewed by the Public Works Department. Any improvements required to bring the common drive up to County standards shall be completed prior to the recordation of the Parcel Map or shall be bonded for. [Planning, Public Works]
- 24. Septic Requirements:** The septic system shall be engineered and shall comply with the standards of the Regional Water Quality Control Board Central Coast Basin Plan. Prior to the issuance of the building permit for the project, the applicant shall submit copies of the approved septic system permit to the County Building Department. (Environmental Health, Planning)
- 25. Septic Abandonment:** A condition shall be placed on C-District Review 54-04 and M-District Review 78-04 requiring abandonment of the septic system and connection to the City of Hollister wastewater treatment plant when the Regional Water Quality Control Board lifts the moratorium and services available to the project site. The applicant shall be required to prepare a plan for extension and connection of sewer transmission service to the site for review and approval by the City of Hollister. The infrastructure for this connection shall be installed as part of the improvement plans for this project. [Environmental Health, Planning, Mitigation Measure # 9]
- 26. Drainage:** All flow from paved and roof areas shall be designed to flow only to the approved storm water facility. The drainage plans shall include an oil/grease separator at the entrance to the facility in order to remove oil and grease from runoff draining from paved areas. The applicant shall work with the City of Hollister to establish an annual maintenance program for the system, which shall be implemented by the applicant. (Mitigation Measure #9, Public Works, Building, City of Hollister)
- 27. Will Serve Letters:** A condition shall be placed on C-District Review 54-04 and M-District Review 78-04 to require that prior to issuance of the building permit the applicant shall submit a "Can and Will Serve" letter from the City of Hollister, and written documentation from the State Department of Health Services Office of Drinking Water, stating that the public water system has sufficient capacity to handle the additional domestic water demand generated by the project. If such documentation cannot be obtained, the applicant shall work with the City of Hollister and submit a plan for meeting the water demand for this project. This requirement can be met through water savings, by retrofitting existing fixtures with new water conserving fixtures within the City of Hollister water service area, or other acceptable proven method of water savings. The approved water plan shall be implemented prior to occupancy of the building. (Mitigation Measure # 10, Environmental Health, LAFCo, Planning)
- 28. Septic Leachfield and Reserve Area:** Prior to the issuance of the grading permit, the septic leachfield and reserve area shall be approved by the Environmental Health Department. These areas shall be mapped on the final grading plan, delineated on the site prior to start of construction, and shall not be disturbed without Environmental Health approval. (Environmental Health, Building, Planning)

- 29. Notice of Intent:** Prior to issuance of the grading permit, the developer shall submit evidence that a notice of intent for grading over 1 acre has been filed with the California Regional Water Quality Control Board, Central Coast Region. (Mitigation Measure #13, Planning, Public Works)
- 30. Noise Buffer:** The building plans for this site shall show the construction of a six-foot high sound wall to provide noise attenuation and block headlights to the neighboring residential properties on the north-east side of the project site. The sound wall should be constructed of materials of at least four pounds per square foot density to offer 20 decibel (dB) attenuation for noise transmission through the wall. This wall shall be constructed prior to occupancy of the building. [Mitigation Measure #13, City of Hollister, Planning, Building)
- 31. Traffic Study:** Prior to the issuance of any building permits, the applicant provide a focused traffic study to address projected traffic load, increased vehicle trips, volume capacity on the road, and the potential congestion at the intersections, and receive final approval from the City of Hollister Traffic Engineer in the Engineering Division and the County Public Works Department." [Mitigation Measure # 14]
- 32. Building Permit -** The applicant shall obtain a building permit prior to the start of construction. [Building, Planning]
- 33. Exterior Design and Color-** The design and finish of the buildings shall comply with the recommendations of the City of Hollister architectural committee and the approved plan. The exterior appearance of all onsite structures shall be maintained at all times. [Building, Planning]
- 34. Landscaping-** Prior to the issuance of a building permit, the applicant shall prepare or have prepared a landscape plan for the subject site that shall comply with County Ordinance No. 594 (Landscape/ Water Conservation). Said plan shall be consistent with the plan approved by the City of Hollister and shall be reviewed and approved by the Planning Department and all landscaping shall be installed prior to building occupancy. Any landscaping used on the site shall be native plant material. Any landscaping that dies shall be immediately replaced with the same species, size, and number. Perimeter landscaping shall utilize native plant materials.
- 35. Parking:** Site parking shall comply with the approved parking and loading plan. The cinema parking plan shall be revised to show a dedicated drop- off and pick up lane in front of the theater. One covered parking space for the caretaker dwelling shall be designated on the building plans. A shared parking agreement shall also be obtained and presented to the Planning Department, prior to final building permit.
- 36. Signage-** No signs are approved as a part of the C or M District Reviews. A separate common signage plan must be submitted for review and approval by the Planning Commission and the City of Hollister.
- 37. Term of C-District and M-District Review-** The C-District and M-District Review shall expire two (2) years from the date of granting said permit unless construction and activities authorized by the permit for use of the subject property have commenced.

38. Modification /Revocation- The terms and conditions of the C-District and M-District Reviews granted by the Planning Commission may be modified or the permit as a whole may be revoked. The permit may be modified or revoked if the permittee fails to comply with the reasonable terms or conditions expressed in the permit granted or if there is a compelling public necessity. Any requires by the permittee for modification of the existing permit shall first be reviewed and approved by the Planning Commission.

39. Periodic Review- Sections 18 (e) and 56 of the Zoning Ordinance – A periodic review of the permit will be made administratively by the Planning Department at which time the applicant will furnish the Planning Department with a written report on the current status of the use. In the event of a compelling public necessity, non-compliance, problems, concerns, or complaints, this permit will be subject to further review and conditioning or, if necessary revocation by the Planning Commission. Violations of the permit, creation of a nuisance or a compelling public necessity could cause the revocation of this permit. Any expansion of this use beyond what is currently proposed must first be reviewed by the Planning Director, and if necessary, shall require further review by the Planning Commission. [Planning]

8) ZONE CHANGE NO. 05-143: Workshop to initiate re-zoning approximately 50 acres of R1/RM land with environmental constraints to Rural and 50 acres of Agricultural Productive (AP) land located in the General Plan Rural Urban Designation near Enterprise Road and/or Airline Highway to Single Family Residential and Residential Multiple. APPLICANT: San Benito County. LOCATION: Enterprise Road and Airline Highway. ZONING: AP (Agricultural Productive) R1 (Single Family Residential) RM (Residential Multiple).

AP Paxton presented the staff report, providing the background and indicating that staff is asking for directions on which acreage to rezone.

Commissioners asked:

- location of the property in relation to the flood zone
- water and sewer provisions/limitations
- process of selection for the targeted area [by General Plan designation: Rural/Urban]
- necessity of Sunnyslope Water District and the City working together
- issues and opportunities for residential development which would assist in meeting the Housing Elements
- specific Housing Element issues
- potential need for transitional zoning
- drainage issues
- potential for pedestrian pathways in the area
- minimum parcel sizes in the area
- this area provides for the greatest mix of housing types required by the State for the Housing Element review

Chair Bettencourt opened the public hearing.

Roger Grimsley indicated a parcel under consideration for rezone, telling the Commissioners he represents the owners who fully support the rezone. He said that extensive infrastructure improvements would be required in the area for housing to be built. He urged having the County, City, and Sunnyslope Water District work collaboratively.

Felix Ordinance, 2910 Southside Road, told Commissioners he wished to have the zoning remain at a minimum of 5-acre parcels. He complained of conditions in the area and said that increasing the density would not be beneficial.

Commissioner DeVries clarified with AP Paxton the location of Mr. Ordiniza's residence.

Art Bliss, 1375 Quail Ridge Way, told the Commissioner had not received proper notification of this hearing, and clarified that he did live within the 300-foot notification requirement area.

Marie Mota, 3588 Airline Highway, asked to have her property (10.44 acres) and that of her neighbor, Mr. Dommert (7 acres) included in the proposed rezone area. She said that 35 years ago she had wanted the Ag Productive zoning, but it is no longer viable. Ms. Mota said she had no plans for development, but wanted to have the rezone for her children. Mrs. Mota stated she is surrounded by R1 zoning.

Susan Heiser, City of Hollister Planning Manager, indicated support for the proposal. Ms. Heiser, responding to a question from Chair Bettencourt, spoke on the City's Sphere of Influence, noting that the area under discussion is not within the City's Sphere of Influence or General Plan planning area. She said the City is anxious to assist with planning to meet the housing needs for the Housing Element.

Commissioner DeVries asked for a map of the County showing the various City limits and Spheres of Influence. DoP Mendiola said a map would be provided which could help to clarify the areas. DoP Mendiola also explained the role of LAFCO in establishing the City's Spheres of Influence.

Kathleen Reddick Yager, 216 Enterprise Road, spoke on her family's history in the County. Ms. Yager told the Commissioners that the County is 'hurting from the rush to development'. Ms. Yager urged the Commissioners to turn away from this proposal to rezone the area, and she provided several scenarios of the importance of avoiding this rezone for increased density and having more homes.

Ken Bixby (no card provided) told Commissioners he sits on landlocked area between 'A' and 'B'. Mr. Bixby spoke of concerns of the terrain of the area and water/drainage issues.

Verifying that there were no others present to speak to the issue, Chair Bettencourt closed the public hearing.

AP Paxton responded to Chair Bettencourt's inquiry by saying that the request before the Commissioners is to forward a recommendation to the Board of Supervisors to rezone 50-acres with a targeted date for the zone change in June. She explained that if the Commissioners needed further information, or wished to focus on a different area, staff should be so directed.

Commissioners asked questions regarding:

- what / where other areas would be available for rezone
- the role of the State of California in asking /demanding the rezone
- other options: these would require General Plan amendments
- how / why this particular area was targeted [location of highway; proximity to City of Hollister]
- need to target area where water / sewer could be available
- when comprehensive General Plan update could be anticipated [time/money issues control]

Discussion continued with emphasis on:

- location being considered under the proposal presented
- need to have Tres Pinos area researched/considered for this type of rezone
- if other areas might be able to be considered
- density issues on south side of Southside Road
- 'leap frog' development
- requirements of updating the Housing Element(s): City of Hollister and County of San Benito
- need for the referenced map (Commissioner DeVries' suggestion)
- possible annexation of the targeted area to the City of Hollister
- infrastructure issues

Following the discussion, Chair Bettencourt directed Planning Department Staff to keep researching the matter, with continuation to date uncertain.

9) GENERAL PLAN AMENDMENT NO. 2004-2, ZONE CHANGE NO. 04-141:

Amendments to the General Plan Housing and Land Use Elements and Zoning Ordinance to implement programs in the 2001 – 2008 Housing Element. APPLICANT: San Benito County. LOCATION: San Benito County. ENVIRONMENTAL REVIEW: Negative Declaration

AP Paxton said that the staff reports distributed to the Commissioners and available to the public contained two items: the General Plan amendment and a zone change both dealing with the Housing element, and which had been discussed with the Commissioners at a previous meeting. AP Paxton provided an overview of the documents presented, AP Paxton said there was a myriad of information contained therein, with the documents having been circulated for comment. A negative declaration had been circulated, as well. None of the comments received indicated comprehensive change to the report as prepared, she said.

The following issues were discussed by Commissioners and Staff:

- CA Department of Community and Housing Development's request for change to the Housing Element: Housing Element Program 2-11 (Growth Management Ordinance) and amending it to include greater incentives for construction of affordable housing, along with cross-reference to program 1-1 (annual review of the County's housing programs)
- PUD locations [planned for where public sewer and water are available]
- mix of housing types
- increased density issues
- income statistics for County residents with relation to dwelling purchases
- grant allocation process for the County and the impact therein
- accomplishments of housing program development
- policy provisions for various zoning areas change
- funding for housing development
- lack of services (challenge for policy composition)

Chair Bettencourt opened the public hearing.

Maria Fehl, with the San Benito Community Services and Workforce Development, explained the Agency receives the grants for betterment of the community and the program/grant receipt is contingent on the adoption of the Housing Element and subsequent approval by the State. The funds received by the County from 1994 – 2004 totaled \$5,334,000 for services to the community. These services, Ms. Fehl said, range from purchasing mobile homes to building child care centers to first time home buyers plans. Several other programs provided to low income residents were explained.

The Commissioners, staff, and Ms. Fehl discussed the needs of the County in applying for the grants, and the trends noticed in how the State provides money through these Community based awards. Also discussed was the interdependence of funding for other County programs through the grants.

Ms. Fehl noted that there is an April 5, 2005 deadline for grant application and that the Housing Element must be approved by that time. Commissioners expressed dismay that the deadline was looming so closely. DoP Mendiola explained that the staff is working diligently to achieve the goal of approval. "It may be close, but we believe we can make it. It is dependent on the State. We had submitted the Element and believed the State wanted. They didn't believe it, and have thrown up several obstacles. I believe we are very close with the movement forward we have made," he said.

Susan Heiser, City of Hollister Planning Manager, spoke on the proposed re-designation of the General Plan for lands within the Sphere of Influence from rural/urban to a new designation that would allow for development of special needs housing within those 'pockets' of the County during the time the sewer moratorium is in effect. Ms. Heiser said the City is anxious to work cooperatively with the County as these are the most difficult types of housing to provide within both the City and the County. "It is in the best interest of the community to have those provided, no matter who gets credit for it," Ms. Heiser stated. Noting that the housing would be on an interim septic system, she said the City would request hook-up to the City system once the moratorium is lifted. Also requested was that the County locate special needs housing in zoning areas so designated by the City.

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

COMMISSIONERS MACHADO/ARAUJO MOTIONED TO APPROVE GENERAL PLAN AMENDMENT 2004-26 AS PRESENTED, TOGETHER WITH THE NEGATIVE DECLARATION (joint with the zone change) AND WITH ITEMS 3 – 5 CONTAINED WITHIN THE AMENDMENT THEN FURTHER: TRANSMITTAL OF THE DOCUMENT TO THE BOARD OF SUPERVISORS FOR APPROVAL WITH SUBSEQUENT TRANSMITTAL TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

COMMISSIONERS MACHADO/ARAUJO MOTIONED TO APPROVE RESOLUTION 2005-02, RECOMMENDING APPROVAL OF THE ZONE CHANGE AND DIRECTING STAFF TO FORWARD APPROPRIATELY FOR FINAL APPROVAL. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

CONTINUED BUSINESS:

WORKSHOP ~ PUBLIC HEARING

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

ADoP Goodrich provided the staff report saying that the minutes of all the previous Planning Commission meetings regarding the matter, along with Ordinances/guidelines of other Counties which the Commissioners had requested.

Chair Bettencourt noted that the communication sent by the Chair at the direction of the Commissioners (discussion of March 2, 2005) to the Board of Supervisors was scheduled for discussion by the Board at the March 22 meeting. Consequently, the Commissioners had not received the direction requested from the Board at this time.

Chair Bettencourt asked if any e-mails had been received regarding the matter (discussion of March 2, 2005 and request to the public/developers/interested parties). Staff informed no correspondence had been received, and that the office e-mail address was prominently displayed on the agendas.

Commissioner DeVries said he had received some e-mails which would be forwarded to staff, and suggested the Commissioners check with their individual Supervisors to ascertain if any communication regarding the matter had been received.

Commissioner Machado clarified the process of adoption of County guidelines in those documents received from other Counties. Other Commissioners joined the discussion of process.

Chair Bettencourt opened the public hearing.

Kathleen Yager, 216 Enterprise Road, addressed the Commissioners, saying there was no need to rush development, and indicated she had become frightened regarding the controversy surrounding Measure G. Ms. Yager spoke at length, saying it is important to preserve the County's beauty. She challenged the Commissioners to drive the County, viewing the development, and ask, "Is my County better for permitting this?" Ms. Yager stated she thought the County is being destroyed by hilltop development. Ms. Yager advocated slow growth.

Chair Bettencourt asked Ms. Yager if she had read the Ordinance. She responded she had indeed read the Ordinance, as well as Measure G. Ms. Yager indicated she did not openly discuss the matter as she was 'still afraid'.

Nenette Corotto, 291 Blossom Lane, told the Commissioners that the last time she appeared, Vision San Benito (the group she represents) to make comments on the Ordinance. Ms. Corotto reported that notices had been sent to the membership, with request to forward the areas of interest, and were now receiving e-mails on the matter. These communications would be compiled, she said, and would be forwarded to the Commissioners. Ms. Corotto said the group itself is hesitant to respond because of limited knowledge, but are putting the information out for others to respond to.

With no one else indicating a wish to speak to the matter, the public hearing was closed.

Noting that the matter was scheduled for the two upcoming meetings (April 6 and 20), **CHAIR BETTENCOURT DECLARED THE PUBLIC HEARINGS AND WORKSHOP CONTINUED TO THE APRIL 6 MEETING.**

Commissioner DeVries suggested setting up a compilation of the events/speakers on the Hillside Ordinance for documentation clarification pending voting on the matter. The potential for a web site dealing with the matter was discussed; DoP Mendiola expressed frustration with the technology problems being experienced in the Planning Office. Commissioner Machado suggested lobbying the Supervisors for assistance in setting a web site for providing information to the public.

Chair Bettencourt requested a copy of the Preliminary Allocations and the status of each. ADoP Goodrich said it would be updated and provided.

Adjournment:

Ascertaining there were no additional agenda or discussion items to be considered, Chair Bettencourt adjourned the meeting at 10:30 PM.

Minutes transcribed by:

Judi Johnson

Attest:

Rob Mendiola, Director of Planning