

SAN BENITO COUNTY PLANNING COMMISSION

Minutes of April 6, 2005

Following the Pledge of Allegiance, Chair Bettencourt called the meeting to order at 7:01 PM. Commissioners Machado, DeVries, and Araujo and Tognazzini were present. Staff in attendance was Director of Planning (DOP) Rob Mendiola, Assistant Planner of Planning (ADOP) Fred Goodrich, Assistant Planner (AP) Steve Valdez, 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 that this open forum period is provided to allow members of the public an opportunity to address the Planning Commission on general issues of land use planning and community development. It is not intended for comments on items on the current agenda, any pending items, or items that have been continued to a future public hearing date.

Chair Bettencourt opened the floor to opportunity of public comment. Noting that there were no persons in attendance indicating a wish 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 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.

CONTINUED BUSINESS:

Use Permit 905-04. Request: Convert a senior accessory second unit to an accessory affordable residence. Applicant/ Owner: Felipe Luis Diaz. Location: 1541 Union Road. Zoning: Agricultural Productive (AP). Environmental Review: Categorical Exemption

AP Valdez presented the staff report, reminding that in February, 2004, the Planning Commission granted a continuation of this project to this current meeting to allow sufficient time to determine the location for a leach field and further to provide sufficient time for the soil to dry for evacuation of soil for the purpose of septic tank placement. However, AP Valdez noted, the weather has not been conducive to ‘drying out’ nor work on the site. He also said that the applicant has been diligent in attempting to complete the work, and therefore the Staff is recommending further continuation until the work can be undertaken.

Chair Bettencourt opened the public hearing.

There were no persons in attendance to speak to the matter.

COMMISSIONERS DEVRIES/TOGNAZZINI MOTIONED TO CONTINUE THE REQUEST OF USE PERMIT 905-04 TO THE JUNE 1, 2005 MEETING OF THE SAN BENITO COUNTY PLANNING COMMISSION. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

REGULAR BUSINESS:

Special Plan Review No. 05-24. Request: A request to construct a ten thousand four hundred and fifteen (10,415) square foot private covered barn, in the rear of an existing 60.91 acre parcel. Applicant: Pat Montgomery. Location: 270 Browns Valley Rd., Paicines Zoning: Agricultural Rangeland (AR). Environmental Review: Mitigated Negative Declaration.

AP Valdez gave the staff report, indicating by overview the site, environmental evaluation (a mitigated negative declaration had been prepared) and other pertinent data and background material. AP Valdez informed that the proposed covered barn complies with all policies of the San Benito County General Plan and Zoning Ordinance. AP Valdez noted that the barn is also consistent with the types of allowable uses in the Agricultural Rangeland zoning district and will not create impacts which would concern; some mitigation is required – and the applicant has agreed to those measures of mitigation. AP Valdez advised that staff has reviewed the project thoroughly and prepared the required findings and conditions for potential approval. He also told the Commissioners that the reason this matter has been brought to the Commissioners is the size of the structure which ‘triggers’ certain review and therefore Administrative (Staff) approval is not possible.

Chair Bettencourt opened the public hearing.

Determining that there were no persons from the public to address the matter, Chair Bettencourt closed the public hearing.

Commissioner Machado asked if there was a riding arena included in the request? [It is a covered barn] inquired as to the adequate water source for the structure. Pat Montgomery (the applicant) was present and spoke from the audience indicating that a 5,000 water tank is required for fire suppression and there is one on site. DDPW Nazemi spoke from the audience, calling attention to condition # 10, which deals with fire. AP Valdez noted that CDF has indicated the necessity of a fire hydrant.

Chair Bettencourt asked about Fish and Game fees: how much is in the ‘kitty’ and how is it used? DoP Mendiola and AP Valdez responded by saying these are state mandated fees and therefore the monies go directly to the State and is not kept nor used locally, except for a minimal processing fee.

COMMISSIONERS MACHADO/ARAUJO MOTIONED TO APPROVE SPECIAL PLAN NO. 05-24, INCLUSIVE OF THE FINDINGS AND CONDITIONS AS OUTLINED IN THE STAFF REPORT. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

Conditions of Approval:

- 1. 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 Special Plan Review 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]
- 2. Mitigation Monitoring** – Prior to construction of the covered barn, the applicant shall enter into a mitigation monitoring agreement with San Benito County. [Planning]
- 3. Compliance Documentation** – Prior to construction of the covered barn, 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 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]
- 4. 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]

5. **Kit Fox Fees-** Prior to the recordation of the final map, the applicant shall be required to pay the Kit Fox mitigation fees as required by Ordinance 541, and any amendments.
6. **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]
7. **Archeological Discovery-** Prior to Building Permit submittal, the applicant shall place a note on the site plan that states, "If, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact or other evidence of an archaeological site is discovered, all further excavations and disturbances within 200 feet of the discovery shall cease and desist. If human and/or questionable remains have been discovered, the sheriff-coroner shall be notified immediately pursuant to County Ordinance 610."
8. **Fire Hydrants:** The applicant will be required to connect to a recognized water system or provide adequate water storage to ensure there is an adequate fire flow for fire protection. The Fire Department shall be able to access water from Steamer Type Hydrants conforming to San Benito County Codes and standards. The hydrant shall be visible and readily accessible to emergency equipment and in compliance with 2000 UFC.
9. **Ingress/ Egress:** Prior to building permit approval, the applicant shall ensure to the satisfaction of the Planning Department that there is adequate ingress and egress to any and all buildings.
10. **Address Recognition:** Prior to building permit approval, the address shall be posted at the entrance to the driveway(s), and shall be visible to responding emergency personnel.
11. **Driveway/ Roadways:** Prior to building permit approval all roadways/driveways shall be an all weather surface conforming to applicable codes and standards and all driveway(s)/roadway (s) shall include turnouts and turnarounds as required.
12. **Deed Restriction:** Prior to issuance of a building permit, the applicant shall record a deed restriction, stating the following, "The covered barn shall not be used as a dwelling or as a business without approval of the County of San Benito."
13. **Fish and Game Fees:** The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five days of approval of the tentative map. Department of Fish and Game (\$1,250- Fish & Game Code section 711.4 (d) must be submitted with the filing. A copy of the filed notice shall be submitted to the County Planning Department. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the project is not operative, vested, or final until the Notice is filed and the fee paid (Public Resources Code Section 21089 (b)). [Planning]

Zone Change No. 04-139 & Tentative Subdivision Map No. 04-70. Request: A request for a change of zone on a 54.57 acre parcel from Agricultural Productive (AP) to Rural Residential (RR) and a tentative subdivision map to subdivide the subject site into 14, one-acre lots, a five-acre lot with an existing house, and a 37+ acre remainder parcel. Applicant: Lico & Greco Partnership. Location: In the area southwest of Enterprise Road, east of Southside Road, and west of the Quail Hollow Subdivision. Zoning: Agricultural Productive (AP). Environmental Review: Mitigated Negative Declaration (with the conditions therein having been agreed to by the Applicant).

ADoP Goodrich offered the Staff report, giving an indication of the various components of the project, including the zone change and the vesting tentative subdivision map (with the explanation that the item being considered tonight is only the *zone change*). ADoP Goodrich advised that should the Board of Supervisors approve the Zoning change request, the Planning Commission could approve or conditionally approve a vesting tentative map provided that the Commission finds that the proposed subdivision, together with the provisions for title design and improvement, is consistent with the County General Plan. If, however, ADoP Goodrich said, the zone change is not approved by the Board of Supervisors; the applicant would have the option of re-designing the subdivision layout to comply with the lot size requirements of the AP zone district.

ADoP Goodrich explained the details of the proposed subdivision, including several issues dealing with the environmental evaluation were detailed including water availability [currently through a private water system] wastewater, and the potential of (area) groundwater contamination. Issues surround the Sunnyslope County Water District lack of ability to provide service at this time were explained. Regarding drainage, ADoP Goodrich clarified the plan to have an infrastructure in place. The project is conditioned by the County's Growth Management Ordinance and has received allocations. ADoP Goodrich explained the geological studies/fault study which had been required for the project, as well as the required traffic study.

Commissioner Machado requested clarification of the location of well # 7, with ADoP Goodrich responding it was on Enterprise Road. Commissioner Machado also asked the traffic report and whether the study had considered this project could eventually be one-half acre lots (total 280 lots) instead of the one acre lots at present. Responding to further questioning by Commissioner Machado, ADoP Goodrich addressed the issue of the requirement of affordable housing. He also clarified the allotments given the applicant under the County's Growth Management Ordinance.

Chair Bettencourt disclosed that he had spoken with the Manager of the Sunnyslope County Water District regarding the District's well number 6, which is off-line and is not used nor tested for nitrates.

Commissioner Araujo questioned the traffic study regarding the potential for additional signage in the area. ADoP Goodrich advised there had been no recommendation either in the prepared report or from the Public Works Department. He further stated that the matter of signage could be further addressed at a later date.

Commissioner Tognazzini asked the 'in-lieu' money authorized by County rules for the applicant to put the funds into an account rather than build affordable housing as part of the project. ADoP Goodrich replied that the money did not go into the County's general fund, and the Board of Supervisors made the determination for the expenditures for housing programs.

Chair Bettencourt explained the funds in the 'in-lieu' account could be tied to obtaining grant funding when the County made application. Further probing by the Chair brought answers regarding the time frame for the applicant to place the 'in-lieu' monies with the County.

Commissioner Tognazzini asked why the access road had been stubbed out?

DDPW Nazemi explained that an internal circulation plan had been required with earlier development in the area, and the infrastructure system proposal was required for the future. Discussion ensued regarding the traffic study and the limitations of that study. ADoP Goodrich clarified the traffic study content.

Commissioner DeVries asked if the road access could be designed to have ingress/egress from Enterprise instead of going through the existing subdivision. ADoP Goodrich informed that clarification would have to be ascertained from the applicant.

Chair Bettencourt asked questions regarding the zone change, and various classes of the soil in the area. Chair Bettencourt also asked questions regarding the FEMA designation of flood zone in the area. ADoP Goodrich said there was some work done for flood control on Enterprise Road in the past, and indicated his recollection was that a letter of map revision had been submitted for elimination of site specific flood elevations. Chair Bettencourt continued by speaking about the impacts of nitrates and the distances of septic systems from individual wells.

Chair Bettencourt opened the public hearing.

Brian Curtis, 1851 Airway Drive, told the Commissioners he is a Civil Engineer and represented the applicant. Mr. Curtis said he was in agreement with the staff report and spoke on the General Plan designation of the area, which encourages growth in the area. Commissioner Araujo asked about roads and emergency access to the development. Mr. Curtis explained the circulation plan.

Commissioner DeVries asked if consideration had been given to having access from Enterprise Road? Mr. Curtis responded that it would be a much longer road to build for that versus the location of the current proposal. "From a development point of view, this (plan) provides better access," Mr. Curtis explained. He went on to clarify why the applicant had chosen this route: additional length of the street, and other disadvantages.

Bill McClintock with MH Engineering, PO Box 1029, Morgan Hill, spoke on the access road which is included in the circulation plan. Mr. McClintock said he understood the emotions of the surrounding neighbors with the dissolution of the current dead-end street, but reminded that the access being proposed was only for the 14 lots under discussion. He acknowledged that there was potential for more development in the future and reminded that this was a provision of the County General Plan. Mr. McClintock stressed this is a limited development.

Commissioner DeVries asked about the remainder parcel which would be the result of future development, and whether there was potential for stubbing the cul de sac similar to the placement on Quail Ridge Road. Mr. McClintock explained the placement of the emergency turnaround needed at this time and provided some scenario for circulation in the future. Responding to further questions, Mr. McClintock addressed the issue of an emergency road at lot 7 and the remainder. Mr. McClintock responded to additional questions regarding the area circulation plan based on the potential for future development – or the development beyond the immediate proposal – saying that the road design discouraged people from taking shortcuts through the area. Mr. McClintock asked that the rezone be approved with recommendation to the Board of Supervisors.

Art Bliss, 1375 Quail Ridge Way, spoke on the area circulation plan which had been referenced several times during the discussion at this meeting. Mr. Bliss claimed that based on the numbers presented there is the current potential for over 300 housing units, and indicated that did not include perspective development for the other 37 acres which is being considered for rezone at this time. Mr. Bliss spoke on the benefit of ingress/egress from Enterprise Road, and the emergency access road placement.

Grant Brians, 6580 Fairview Road, gave his views on the ‘history’ of the development in the area under discussion; he also spoke on the circulation plan/road network in the Enterprise Road area.

Douglas Marshal, 957 Oak Creek Court, representing Coldwell Banker, spoke on the opportunity for development in the area. Mr. Marshal said he agreed with the staff report and urged the Commissioners to consider the ‘best use’ of light, air, and space for maximizing the potential for homeowners.

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

COMMISSIONER ARAUJO OFFERED A MOTION TO MOVE FORWARD ON ZONE CHANGE NO. 02-132.

Chair Bettencourt asked Commissioner Araujo to hold the motion in abeyance until Commission discussion had been completed.

Commissioner DeVries suggested discussion was in order regarding traffic circulation and the interconnectiveness of neighborhoods. DDPW Nazemi said the original plan for the area neighborhoods: Oak Creek and Quail Hollow showed the interrelation of the neighborhoods and the connection for traffic circulation between the two. He explained this eliminated the need for multiple accesses onto Enterprise Road which is a connector road. Discussion ensued regarding specific detail of the circulation in the area. Other Commissioners asked questions of the circulation plan. ADoP Goodrich joined the discussion and clarified the route of the access road and emphasized that a cul de sac does not provide a street ending.

Commissioner Machado expressed concern about discussion at the previous Commission meeting which appears to be in conflict with the current request before the Commissioners. ADoP Goodrich acknowledged there is the potential for 20 units to the acre in the area under discussion. He continued by speaking to the lack of service in the area. Commissioner Machado expressed further concern about the cul de sac design/emergency turn around. DDPW Nazemi emphasized the cul de sac could be changed to a through street. DoP Mendiola reminded of the General Plan designation in the area.

Commissioner DeVries asked for clarification of action by the Board of Supervisors regarding Housing Element and the General Plan Amendment which had been sent forward by the Commissioners. DoP Mendiola provided the information of the text changes to the Zoning Ordinance.

Commissioners engaged in lengthy discussion regarding

- circulation
- traffic patterns
- density
- view

COMMISSIONER ARAUJO REITERATED THE MOTION TO APPROVE AND MOVE FORWARD ON ZONE CHANGE NO. 02-132.

Commissioner DeVries offered an amendment to the motion to include a condition of approval the cul de sac be reconfigured to a stubbed out design. ADoP Goodrich suggested that direction to staff to include such language to the tentative map when that matter is returned to the Commission. Commissioner DeVries agreed his concern could be dealt with in the manner suggested.

COMMISSIONER ARAUJO OFFERED RESOLUTION 2005-04, WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN, TOGETHER WITH THE MITIGATED NEGATIVE DECLARATION, AND FORWARD THE MATTER TO THE BOARD OF SUPERVISORS. COMMISSIONER TOGNAZZINI SECONDED THE MOTION WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Commissioner Machado clarified the sequential order through which the application will subsequently proceed:

- Zoning to the Board of Supervisors for action
- Tentative Vesting Map to the Commission for action, with potential conditions to the Map

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 advised that some e-mail comments have been received from the public, but he was unaware of any phone calls. There is a third scheduled hearing on the matter and Staff anticipates compiling a report of the comments received and recommendations for that meeting. The Clerk advised of the public outreach from the Planning Department regarding the matter, and told the Commissioners the response has been less than anticipated. DoP Mendiola referenced the letter from Brian Curtis which had been distributed during the meeting (attached to the minutes.)

Chair Bettencourt opened the public hearing.

Sara Steiner 13140 Cienega Road, was present to reiterate salient points from a letter she had submitted regarding the matter (attached to the minutes). Ms. Steiner informed that she had not read the Ordinance on writing the letter. She had received a response from Board Chair Monaco who formulated a series of questions regarding the letter she had sent. [Chair Bettencourt advised that Board Chair Monaco had asked him to call Ms. Steiner, but he had not done so as he could not locate a phone number.] Ms. Steiner said she appreciated the responses(s) and had further questions regarding the communication from the Board Chair:

- He had indicated he was not exactly opposed to an Ordinance, but wanted definitions:
 - ⇒ slope (Ms. Steiner said the definition of slope in the Ordinance is insufficient according to Mr. Monaco.)
 - ⇒ ridgeline

Chair Bettencourt clarified for Ms. Steiner the definition of slope and hillside.

Ms. Steiner said that, having read the Ordinance, her concern remains that it would only cover developments of five houses or more, and the definition of a house is 10,000 sq ft plus a 1,200 sq ft garage. "I may be old-fashioned, but that's the equivalent to five houses," she said. "So I don't see why we don't just cover it for all development." Commissioner Machado asked her to clarify her statement, which she identified as 'one dwelling of 10,000 sq ft is the same as five homes'. "If the Ordinance is saying one house can be 10,000 sq ft and that is the equivalent to five houses in square footage, to me then it follows that the Ordinance should cover all houses," Ms. Steiner emphasized that she was expressing an opinion in the matter. Commissioner Machado said he had not been exposed to that theory before, noting he did not care for 'monster houses' on the hills.

Grant Brians took the podium again to express his beliefs and concerns regarding his research. Mr. Brians spoke on the danger of slopes sliding following development. Mr. Brians said that the geological studies should present data so that there is not a disaster in the making. He suggested trying to include into Ordinances passed by the County the specification of trees utilized for holding hillsides when there are houses and/or other structures being constructed on sloping land. Mr. Brians explained the rationale was that the tree roots could help hold the soil in place and reduce shifting of soil. Mr. Brians reminded that there have been many complaints about the lack of landscaping and the potential for slides in the locations where the dwellings are being constructed and explained that his suggestion would help alleviate those concerns.

Commissioner Araujo said he and the Chair had discussed this matter before and he agreed the trees could be valuable, asking if Staff would provide information about the type of trees which would best serve to solve the problems mentioned.

Commissioner Machado expressed his thought that many of the concerns voiced to the Commissioners centered on esthetics, and suggesting that planting of trees, or planning a higher degree of landscaping could be very valuable.

Commissioner DeVries spoke on the requirements of Monterey County (including roof color) to present pleasing esthetics in the permitting of applications.

Commissioner Machado announced that he would not be present at the April 20 workshop meeting, and wanted to ensure that it would not be a 'decision making' meeting.

Chair Bettencourt broached the subject of having Staff provide advanced planning items in calendar form. Commissioner DeVries suggested that certain items may be well suited for 'periodic updates' with quarterly emphasis on certain topics. DoP Mendiola said there can be some degree of forecasting depending on staff availability and other factors. Other entities have a 'pending matters' section to their agendas. Commissioner Machado expressed concern that some of the matters sent to the Board of Supervisors are not reported on for information. DoP Mendiola suggested the Staff will – in the future – drop a line

Clerk Maderis said she could forward the notice of public hearing is forwarded to the newspaper, she can copy the Commissioners with the information. The Commissioners agreed this would be beneficial. Commissioner Tognazzini asked about timing of public notice to the media. DoP Mendiola and Clerk Maderis explained the process.

Adjournment:

Noting that there were no further agenda or discussion items to be dealt with, Chair Bettencourt adjourned the meeting at 9:05 PM.

Minutes transcribed by: Judi Johnson

Attest:

Rob Mendiola, Director of Planning