

SAN BENITO COUNTY PLANNING COMMISSION

Minutes of April 20, 2005

Following the Pledge of Allegiance, Chair Bettencourt called the meeting to order at 7:02 PM. Commissioners DeVries, and Araujo and Tognazzini were present; Commissioner Machado was absent. Staff in attendance was: Director of Planning (DOP) Rob Mendiola, Assistant Planner of Planning (ADOP) Fred Goodrich, Associate Planner (AP) Byron Turner, Assistant Planner (AP) Steve Valdez, and Deputy Director of Public Works (DDPW) Arman Nazemi; Deputy County Counsel (DCC) Shirley Murphy and Clerk Janet Somavia.

Chair Bettencourt reiterated 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:

- Roll noted
- Certificate of Posting
- Minutes of April 6, 2005

COMMISSIONERS DeVRIES/TOGNAZZINI MOTIONED TO APPROVE THE CONSENT CALENDAR AND THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; MACHADO WAS ABSENT.

REGULAR BUSINESS

Minor Subdivision No. 1138-03. REQUEST: To subdivide one 10-acre parcel into two 5-acre parcels. APPLICANT: Wes Ellison. LOCATION: 485 Ricardo Drive, Aromas. ZONING: Rural (R). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

AP Turner presented the staff report by providing the background information regarding the project. He told the Commissioners that a request for the project was originally heard in June, 2004 at which time the recommendation had been for denial due to inconsistency with the General Plan. At that meeting, staff was directed to prepare an environmental evaluation. AP Turner noted there are some environmental constraints on the site, e.g., sloping property issues (4% - 30% in some places); a drainage swale; a portion of a drainage reservoir; high fire hazard area; grade 4 soils.

AP Turner noted, too, that the area surrounding the property is broken into 5 – 25 acre parcels and is largely residential. He went on to explain the R designation of zoning: those which are rural in nature but not primarily suited for agriculture uses and lack services availability for high density development. AP Turner stressed that the proposed subdivision is consistent with the intent and purpose of R zoning. If approved with the conditions noted, AP Turner said, the subdivision will be consistent with the surrounding area. Mitigation measures were integrated into the environmental documents to reduce the potential impact of the project to a less than significant level, including the impacts/concerns listed in the staff report as cause for denial in the earlier hearing. Conditions 1 and 5 need to be amended for the resolution, AP Turner advised.

Commissioner Tognazzini asked about the conditions that were not in compliance with the General Plan and were subsequently mitigated. AP Turner responded that the base question was whether the site was suitable for development at all, and reiterated the issues he had spoken to previously. AP Turner noted, too, that there had at one time been an access matter. He explained the findings and conditions that had been put into place as mitigation measures.

Chair Bettencourt noticed that there had been some question as to the easement for the road. AP Turner agreed, but said the easement had been granted.

Chair Bettencourt opened the public hearing.

Roger Grimsley told the Commissioners he is the project engineer for Mr. Ellison. He stated that this is the last 10-acre parcels that borders and is adjacent to Monterey County. On the Monterey County side, Mr. Grimsley said, the parcels are all 10-acres. He said that with the process of working on the minor subdivision, the issues of concern had been mitigated measures which had been developed as the concerns were raised. When this property was originally split off, it had been anticipated that Ricardo Drive would go to the west and connect to Monterey County, but since the development occurred there first, there is only a small 25-foot right of way that butts into the 60-foot right of way, leaving little chance for a road to go through. However, he said, the driveways are designed so flow into that then if the road ever does get an extension; the driveway for the building envelope could come directly off that road. Mr. Grimsley requested that the Commission agree to the findings and conditions (to which the applicant has no objections) and grant the request.

Chair Bettencourt asked questions regarding the water source. Mr. Grimsley explained the location of the well on a neighboring property. There are mitigation measures in place, as well, Mr. Grimsley said, for that well which must be listed on the final map.

Commissioner Araujo asked for details of the fire hazard protection. Mr. Grimsley said that the Fire Department has adopted a fire sprinkler requirement as well as a minimum gallon tank for all new development.

Commissioner DeVries requested clarification regarding potential circulation matters, and the fill areas on the slopes and driveways.

Chair Bettencourt closed the public hearing, having ascertained there were no others present to speak to the matter.

Chair Bettencourt, having perused the conditions, asked about the archeological concerns; staff responded this is a 'standard condition'.

COMMISSIONERS TOGNAZZINI/ARAUJO MOTIONED TO APPROVE MINOR SUBDIVISION NO. 1138-03 WITH THE ATTACHED FINDINGS AND CONDITIONS, AND THE ADOPTION OF THE MITIGATED NEGATIVE DECLARATION. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: MACHADO.

Conditions of Approval:

1. Recordation:

A Parcel Map shall be submitted for review by the Planning and Public Works Departments before action by the Board of Supervisors and filing for recordation. The tentative map shall expire two (2) years after Planning Commission approval, unless extension(s) are granted pursuant to local regulation and the Subdivision Map Act. [PLANNING, PUBLIC WORKS, RECORDER]

2. Hold Harmless:

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 the County or its agents, officers, or employees to attack, set aside, void, or annul the approval of the 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 said section. [PUBLIC WORKS]

3. Assessment:

Prior to recordation of the Parcel Map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492 through 66494 inclusive of the Subdivision Map Act. [ASSESSOR, PUBLIC WORKS]

4. Easements:

The Parcel Map shall show all easements for access, utilities, and drainage. [PLANNING, PUBLIC WORKS]

5. Compliance Documentation:

Prior to action by the Board of Supervisors on the Parcel Map, the subdivider shall submit a summary response to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. The subdivider shall also submit a response as to how this project complies with all applicable impact fees. [PLANNING, BUILDING, PUBLIC WORKS]

6. Encroachment Permits:

Prior to any construction within the County right-of-way, the applicant shall obtain the appropriate encroachment permit from the Public Works Department. [PUBLIC WORKS]

7. Conformity with Plan:

The development and use of the site shall conform substantially with the proposed site plan and the Conditions of Approval as declared by the Planning Commission. Any further development of additional units shall be subject to further Planning Commission review and approval. [PLANNING]

8. Lighting:

A note shall be placed on an additional sheet to the Parcel Map that states: "All exterior lighting for new development on Parcels 1 and 2 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. All fixtures shall comply with County Ordinance 748. Prior to the issuance of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan which shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture." [Mitigation Measure 1]

9. Exterior Colors:

A note shall be placed on an additional sheet to the Parcel Map that states: "Future building shall be finished in earth tones that blend with the existing vegetation in the area and minimize the visibility of the home from public views. Prior to the issuance of the building permit, the applicant shall provide color samples for roof materials and all exterior wall finishes to the Planning Director for review and approval. The Building Inspector shall verify that the house has been finished in the approved materials and colors prior to the final occupancy of the home." [Mitigation Measure 2]

10. Air Quality:

A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states: "All grading and building permits for new development shall be conditioned to require that disturbed soils be watered during site grading and construction activities to minimize dust." [Mitigation Measure 3]

11. Habitat Conservation:

Grading and construction activities shall take place during the dry season, from April 15 to October 15, in order to minimize impacts to California red-legged frog habitat. [Mitigation Measure 4]

12. Delineation of Boundaries:

Prior to the start of any grading, the boundaries of the work area (i.e., vehicle access routes, and areas planned for the placement of soils and staging equipment and materials) should be clearly delineated in the field with construction fencing. [Mitigation Measure 5]

13. Archaeological Resources:

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. A note to this effect shall be placed on all construction, grading, or other improvement plans. [Mitigation Measure 6]

14. Soils Report:

A note shall be placed on the an additional sheet to the Parcel Map stating: "A Preliminary Soil Engineering report, dated May 31, 2000, was prepared for this property by Earth Systems Pacific Consultants (File No. HO 07522-01) 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 7]

15. Septic Expansion Areas:

Prior to recordation of the Parcel Map, deed notifications shall be recorded for each property prohibiting construction within the identified septic expansion areas. [Mitigation Measure 8]

16. Fire Standards:

A note shall be placed on an additional sheet to the Parcel Map that states: "Prior to the issuance of any permits for new development on Parcel 1 or 2, the applicant shall comply with all requirements of the California Department of Fire, including the provision of an adequate water supply and flow for fire suppression. This may require the installation of one or more above ground water storage tanks and fire hydrants." [Mitigation Measure 9]

17. Drainage:

A note shall be placed on an additional sheet to the Parcel Map that states: "Prior to the issuance of any permits for new development on Parcel 1 or 2, the applicant shall provide sufficient information to demonstrate that drainage facilities which meet County standards will be provided for the site. Such information shall include flood information as well as the location, design, and supporting calculations for proposed drainage facilities." [Mitigation Measure 10]

18. Construction Hours:

A note shall be placed on an additional sheet to the Parcel Map that states: "As required by County Ordinance, construction on the parcels 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. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans." [Mitigation Measure 11]

19. Road Improvements:

Prior to recordation of the Parcel Map, applicant shall make roadway frontage improvements along the applicant's property frontage for Ricardo Drive (i.e. ½ width 24 feet AC on 34 feet road bed). [Mitigation measure 12]

20. Improvement Plans:

As part of the submission of engineered improvement plans for this project, applicant shall show proper roadway section and profile details for the proposed access driveway for this project. [Mitigation measure 13]

21. Domestic Water Quality:

Prior to recordation of the proposed project, the applicant must prove to the Environmental Health Department that the proposed water source does not exceed the maximum containment level for coli form bacteria as set by the San Benito County Code. Approval of the water source from the Environmental Health Department is required. [Mitigation measure 14]

22. Manganese Concentration:

Prior to recordation of the Parcel Map, the applicant shall record a note on each deed stating that the concentration of manganese in the proposed water source exceeds the maximum contaminant level set by the San Benito County Code. [Mitigation Measure 15]

Use Permit No. 869-02A. REQUEST: To amend an existing use permit for Pietra Santa Winery. REQUEST: To change the number of allowed events from fifty events to unlimited without changing the allow maximum persons, which is 350. APPLICANT: Pietra Santa Winery. LOCATION: 10034 Cienega Road. ZONING: Agricultural Rangeland (AR) ENVIRONMENTAL EVALUATION: Previous Mitigated Negative Declaration.

AP Valdez gave the staff report, providing the demographics of the location and explaining that the applicant is interested in changing the number of events from 20 to an unlimited number. He told the Commissioners that no other changes from the previous approval were asked, and the hours of operation would remain the same. AP Valdez noted that a continuation is being requested because adequate time is needed to process a state required mitigated negative declaration for the project. AP Valdez said that the second Commission meeting in May (May 18, 2005). The initial negative declaration for the project was adopted with the previous approval for this site; however, due to the increased number of events being requested, it has been determined that additional environmental review is necessary. AP Valdez explained the time frames under which staff is working to complete the environmental review which will cause the matter to be returned to the Commissioners at the May 18, 2005 meeting.

Commissioner Tognazzini questioned the timing of having the item on the current agenda. AP Valdez explained that staff had attempted to use the previously adopted environmental review, but because of the change in the number of events, the new environmental review was necessary and that information had not been generated until the staff report had been concluded.

Commissioner DeVries asked if public comment is necessary on continuations or is a motion for continuation sufficient? DCC said that if the public hearing had been noticed, it must be opened, and explained that comment can be limited if the Commissioners wish regarding the continuation.

Commissioner Araujo asked questions regarding the history of traffic impact on the current operations and the disposition of the fees collected. DDPW Nazemi was asked to address the question as the traffic impact fees collected go into the Public Works account. DDPW Nazemi explained the amounts of the fees were based on trip ends and the applicant is required to pay a 'fair share'. Chair Bettencourt confirmed that the fees are listed as a condition and will be seen at the May 18 meeting.

Chair Bettencourt opened the public hearing.

No persons were present to address the matter.

COMMISSIONERS DeVRIES/TOGNAZZINI MOTIONED TO CONTINUE THE MATTER OF USE PERMIT NO. 869-02A TO THE MAY 18, 2005 PLANNING COMMISSION MEETING. THE MOTION WAS CARRIED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, DEVRIES, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: MACHADO.

Minor Subdivision No. 1137-03. REQUEST: To subdivide 20+ acres into four lots of five gross acres each. APPLICANT: Antonio Faria. LOCATION: East side of Jones Road, approximately 1,100 feet north of Spring Grove Road. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

ADoP Goodrich presented the staff report, indicating this request is to subdivide 20+ acres into four lots of five gross acres each. He provided an overview of the site and stated that it is undeveloped except for an ag well and a barn on the site. ADoP Goodrich explained the requirements for a water system on-site and at development individual septic systems will be necessitated. The traffic on Jones road would be alleviated by installation of a cul de sac on the site. Environmental concerns were listed with the conditions and resultant mitigations noted. ADoP Goodrich explained the requirements of the roadway by the Department of Public Works. A project directly across the roadway and has a similar request to the Commissioners would be required to provide road upgrades which would give improvement to the entire length of Jones Road from Spring Grove to the subject properties, ADoP Goodrich advised. He went on to explain that the project had received allocations, and that a negative declaration had been circulated. A right of way issue had been brought up by a neighboring property owner, and the County is encouraging the applicant(s) to work with that neighbor to acquire additional right of way for Jones Road to further the improvement of that traffic area.

ADoP Goodrich called attention to page 4, number 8, stressing that the site is not under...as he explained that the word not was inadvertently omitted and the correction should be made.

Chair Bettencourt asked, if approval were given, how the tentative map would be handled? ADoP Goodrich explained the time frames for recording the map. Chair Bettencourt called attention to condition 17 (d), page 7, and asking clarification, which ADoP Goodrich provided. Commissioner DeVries joined the discussion and provided examples of archaeological resources.

Chair Bettencourt opened the public hearing.

Roger Grimsley, project engineer, said staff has outlined the issues well, and spoke briefly on the issues of archaeological condition requirements. He said the requirement is common in development. Mr. Grimsley called attention to the upcoming hearing (Silcox) which runs in 'tandem' to this one. "The projects received allocations in '03," he said, "and we have until September to perfect that allocation into a tentative map. Once you get tentative map, then you are under the umbrella of the Subdivision Map Act." Mr. Grimsley continued by giving an overview of the time line for development and the subsequently received allocations. Mr. Grimsley spoke on the upgrade work being done for Jones Road.

Commissioner Tognazzini asked clarification of the requirement of the archaeological Resources condition. Mr. Grimsley responded that if the area under consideration is not 'sensitive' the requirement is eliminated. DoP Mendiola explained the County Ordinance dealing with the discovery archaeological resources during construction. DoP Mendiola and Mr. Grimsley spoke on the matter providing further clarification.

Commissioner DeVries asked questions of the road maintenance agreements for Jones Road. Mr. Grimsley explained the applicants are responsible for the CSA to provide maintenance. Commissioner DeVries also asked questions regarding the design of the emergency vehicle turnaround.

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

COMMISSIONER DEVRIES MOTIONED APPROVAL OF THE MITIGATED NEGATIVE DECLARATION AND CONSENT FOR MINOR SUBDIVISION NO. 1137-03, INCLUSIVE OF THE FINDINGS AND CONDITIONS. COMMISSIONER TOGNAZZINI SECONDED THE MOTION, CALLING ATTENTION TO THE CORRECTION ON PAGE 4, NUMBER 8. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; MACHADO WAS ABSENT.

Conditions of Approval:

- 1. Hold Harmless:** Pursuant to Section 66474.9 of the California 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 minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]
- 2. Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Department. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]

- 3. Compliance Documentation:** Prior to recordation of the parcel map, 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]
- 4. Assessment:** 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. [Planning, Assessor]
- 5. Recordation:** The applicant shall submit a parcel map to the County and the parcel map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The tentative parcel map shall expire two (2) 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. [Public Works, Planning]
- 6. Fire Protection:** A note shall be placed on the parcel map which states that “when developed, the project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, Uniform Building Code, Chapter 17 of the San Benito County Code, Public Resources Code 4290 and 4291, and other related codes as they apply to a project of this type and size. The property owner shall ensure there is adequate ingress and egress to any and all buildings. Roadways and/or driveways shall be all weather surface conforming to applicable codes and standards. Driveways shall have turnouts and turnarounds as required. Driveway addresses shall be installed so they are visible to responding emergency personnel. If an adequate water source is not available for fire suppression, the applicant shall install an above ground water storage tank to ensure there is adequate fire flow. The Fire Department shall be able to access water supply from one or more private onsite hydrants conforming to County codes and standards. A fire hydrant shall be located at the end of the proposed cul-de-sac. The Planning Department shall be provided with written verification that County Fire Department has approved all fire code requirements.”
[Planning, Fire]
- 7. Road and Drainage Standards/Improvements:**
 - a.** Prior to the recordation of the parcel map, applicant shall make an irrevocable offer of dedication for:
 - i. Half of 60 feet of right-of-way, to San Benito County, along Jones Road;
 - ii. 30 feet full road right-of-way along the proposed court plus 50 feet radius right-of-way for the turnaround facility, to San Benito County, within the proposed subdivision.
 - b.** Prior to the recordation of the parcel map, applicant shall:
 - i. Make roadway improvement for Jones Road, along property lines (i.e., half road, rural standard 24 feet AC on 34 feet road bed);
 - ii. Make roadway improvement for proposed court (full-width 16 feet AC on 18 feet road plus 40 feet radius AC turnaround).
 - c.** Prior to commencement of any improvements associated with this project, applicant shall obtain Public Works Encroachment Permit for any work being performed within the County road right-of-way.

- d. Prior to recordation of the parcel map, applicant shall make fair share contributions for the Spring Grove Benefit Area (\$12,994.02).
 - e. Prior to recordation of the parcel map, a street name shall be selected for the unnamed access to the subdivision and proposed common driveway and said street name shall be reviewed and approved by the County Communications Department.
 - f. Prior to recordation of the parcel map, applicant shall make full roadway improvements for Jones Road (24 feet AC on 34 feet AB) for the entirety of Jones Road.
 - g. As part of the submission of engineered improvement plans for this project, applicant shall comply with County Drainage Standards and provide erosion and drainage control details for the project sheet.
8. **Easements:** The parcel map shall show all easements for access, utilities, and drainage. All future development shall maintain a ten (10) foot setback from the noted easements. [Public Works, Planning]
 9. **Notice of Determination (Fish & Game Fees):** The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval of the tentative map. Department of Fish and Game fee (\$1,250.00 – 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 is paid (Public Resources Code section 21089(b)). [Planning]
 10. **Conditions of Approval, Easements, and Restrictions:** All unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the parcel map. [Planning]
 11. **County Service Area:** Prior to recordation of the final map, the applicant shall make application to LAFCO to join a County Service Area (CSA #43) for fire and sheriff protection. All related processing fees, including State Equalization fees, must be submitted prior to recordation of the final map. [LAFCO, Planning]
 12. **Environmental Health:** The proposed subdivision will create a small water system and the applicant shall obtain a water system permit from the County Division of Environmental Health. In addition, the applicant shall place a note on the parcel map advising that the concentrations of manganese exceeds legal thresholds for drinking water.
 13. **San Felipe Water:** If the applicant intends to utilize the San Felipe Distribution System for a fire suppression water supply, the applicant (property owner) shall complete an “Agreement for Supplemental Fire Protection” with the San Benito County Water District for each parcel and provide evidence of such agreement to the County prior to recordation of the parcel map. Utilization of San Felipe Water for domestic use is not permitted with the approval of the San Benito County Water District. Unauthorized connection to San Felipe Water for domestic consumption will result in discontinuation of service.
 14. **Inclusionary Housing Fee (Ordinance #677):** Prior to recordation of the parcel map, the applicant shall pay the required in-lieu inclusionary housing fee to the County in the amount of \$43,231.36 [Planning]

- 15. Water/Sewer:** A note shall be placed on the parcel map which states that “when developed the applicant shall comply with the County and Regional Water Quality Control Board criteria for issuance of individual sewage disposal system and the separation requirements between sewage disposal systems, retention ponds, and domestic water systems. All onsite domestic water and septic systems shall be reviewed and approved by County Environmental Health Department prior to issuance of any building permit for the construction of a habitable structure on any of the four parcels.” [Building, Planning, Health]
- 16. Geology:** The applicant shall comply with the recommendations for site grading and construction contained in the “Preliminary Soils Engineering Report Faria 4-Parcel Subdivision” dated October 29, 2002 and prepared by Earth Systems Consultants Northern California.
- 17. Environmental Mitigation Measures:** The mitigation measures set forth in the initial environmental assessment are incorporated herein as follows:
- a. The applicant shall comply with the requirements of County Ordinance #541 and shall pay the required habitat mitigation fee (\$300 per lot) to the County prior to recordation of the parcel map.
 - b. Prior to recordation of the parcel map, applicant shall comply with County Drainage Standards and provide erosion and drainage control details for the project.
 - c. Any construction or building activity shall be limited to between the hours of 7:00 a.m. and 7:00 p.m., except Sundays and federal holidays when no work shall take place.
 - d. Prior to excavation to a depth greater than two and one-half (2 ½) feet, an archaeologist shall be hired by the applicant to determine whether significant archaeological resources could be located on the site. The recommendations of the archaeologist shall be submitted to the Planning Director and the applicant shall comply with said recommendations. If significant resources are found, an alternative design avoiding the significant find shall be submitted for approval by the Planning Department.
 - e. Dust from grading activities shall be controlled by the regular application of water to maintain soil moisture. Water trucks shall operate in conjunction with grading equipment and repeated applications of water shall be made as frequently as is necessary to control dust. If dust is not adequately controlled through the application of water, grading activities shall be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed.

Minor Subdivision No. 1152-04. REQUEST: To subdivide 20+ acres into four lots of five gross acres each. **APPLICANT:** Donald & Felicia Silcox. **LOCATION:** East side of Jones Road, approximately 1,100 feet north of Spring Grove Road. **ZONING:** Agricultural Productive (AP). **ENVIRONMENTAL EVALUATION:** Mitigated Negative Declaration.

ADoP Goodrich offered the staff report, providing information similar to the previous request, with the change of the site under discussion contains a single family residence and an orchard, with the soils on the site are both non/prime. He stated that when the allocations were granted, it was stated that the application could move forward because the entire site was not prime soil, but contained a higher percentage of non-prime soils. The findings and conditions are identical, ADoP Goodrich noted, calling attention again to page 4, #8, with the correction.

ADoP Goodrich explained the water system as he responded to questions from the Chair. Chair Bettencourt also asked questions regarding a schedule for paying the required fees, which must be paid before recordation of the map.

Chair Bettencourt opened the public hearing.

Roger Grimsley spoke in support of the request, for which he is the project engineer. Mr. Grimsley spoke briefly on the provision of water to the site(s).

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

COMMISSIONER ARAUJO MOTIONED APPROVAL FOR MINOR SUBDIVISION NO. 1152-04, TOGETHER WITH THE MITIGATED NEGATIVE DECLARATION, AND INCLUDING THE FINDINGS AND CONDITIONS. COMMISSIONER TOGNAZZINI SECONDED THE MOTION, CALLING ATTENTION TO THE CORRECTION ON PAGE 4, NUMBER 8. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; MACHADO WAS ABSENT.

Conditions of Approval:

- 1. Hold Harmless:** Pursuant to Section 66474.9 of the California 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 minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]
- 2. Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Department. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]

3. **Compliance Documentation:** Prior to recordation of the parcel map, 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]
4. **Assessment:** 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. [Planning, Assessor]
5. **Recordation:** The applicant shall submit a parcel map to the County and the parcel map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The tentative parcel map shall expire two (2) 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. [Public Works, Planning]
6. **Fire Protection:** A note shall be placed on the parcel map which states that “when developed, the project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, Uniform Building Code, Chapter 17 of the San Benito County Code, Public Resources Code 4290 and 4291, and other related codes as they apply to a project of this type and size. The property owner shall ensure there is adequate ingress and egress to any and all buildings. Roadways and/or driveways shall be all weather surface conforming to applicable codes and standards. Driveways shall have turnouts and turnarounds as required. Driveway addresses shall be installed so they are visible to responding emergency personnel. If an adequate water source is not available for fire suppression, the applicant shall install an above ground water storage tank to ensure there is adequate fire flow. The Fire Department shall be able to access water supply from one or more private onsite hydrants conforming to County codes and standards. A fire hydrant shall be located at the end of the proposed cul-de-sac. The Planning Department shall be provided with written verification that County Fire Department has approved all fire code requirements.” [Planning, Fire]
7. **Road and Drainage Standards/Improvements:**
 - h. Prior to the recordation of the parcel map, applicant shall make an irrevocable offer of dedication for:
 - i. Half of 60 feet of right-of-way, to San Benito County, along Jones Road;
 - ii. 30 feet full road right-of-way along the proposed court plus 50 feet radius right-of-way for the turnaround facility, to San Benito County, within the proposed subdivision.
 - i. Prior to the recordation of the parcel map, applicant shall:
 - i. Make roadway improvement for Jones Road, along property lines (i.e., half road, rural standard 24 feet AC on 34 feet road bed);
 - ii. Make roadway improvement for proposed court (full-width 16 feet AC on 18 feet road plus 40 feet radius AC turnaround).
 - j. Prior to commencement of any improvements associated with this project, applicant shall obtain Public Works Encroachment Permit for any work being performed within the County road right-of-way.

- k. Prior to recordation of the parcel map, applicant shall make fair share contributions for the Spring Grove Benefit Area (\$12,994.02).
- l. Prior to recordation of the parcel map, a street name shall be selected for the unnamed access to the subdivision and proposed common driveway and said street name shall be reviewed and approved by the County Communications Department.
- m. Prior to recordation of the parcel map, applicant shall make full roadway improvements for Jones Road (24 feet AC on 34 feet AB) for the entirety of Jones Road.
- n. As part of the submission of engineered improvement plans for this project, applicant shall comply with County Drainage Standards and provide erosion and drainage control details for the project sheet.
- 8. **Easements:** The parcel map shall show all easements for access, utilities, and drainage. All future development shall maintain a ten (10) foot setback from the noted easements. [Public Works, Planning]
- 9. **Notice of Determination (Fish & Game Fees):** The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval of the tentative map. Department of Fish and Game fee (\$1,250.00 – 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 is paid (Public Resources Code section 21089(b)). [Planning]
- 10. **Conditions of Approval, Easements, and Restrictions:** All unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the parcel map. [Planning]
- 11. **County Service Area:** Prior to recordation of the final map, the applicant shall make application to LAFCO to join a County Service Area (CSA #43) for fire and sheriff protection. All related processing fees, including State Equalization fees, must be submitted prior to recordation of the final map. [LAFCO, Planning]
- 12. **Environmental Health:** The applicant shall place a note on the parcel map advising that secondary standards for specific conductance and TDS exceed the maximum containment level. In addition, prior to issuance of a grading permit the standby well shall be destroyed in accordance with County Environmental Health Department standards.
- 13. **San Felipe Water:** If the applicant intends to utilize the San Felipe Distribution System for a fire suppression water supply, the applicant (property owner) shall complete an “Agreement for Supplemental Fire Protection” with the San Benito County Water District for each parcel and provide evidence of such agreement to the County prior to recordation of the parcel map. Utilization of San Felipe Water for domestic use is not permitted with the approval of the San Benito County Water District. Unauthorized connection to San Felipe Water for domestic consumption will result in discontinuation of service.
- 14. **Inclusionary Housing Fee (Ordinance #677):** Prior to recordation of the parcel map, the applicant shall pay the required in-lieu inclusionary housing fee to the County in the amount of \$43,231.36 [Planning]

- 15. Water/Sewer:** A note shall be placed on the parcel map which states that “when developed the applicant shall comply with the County and Regional Water Quality Control Board criteria for issuance of individual sewage disposal system and the separation requirements between sewage disposal systems, retention ponds, and domestic water systems. All onsite domestic water and septic systems shall be reviewed and approved by County Environmental Health Department prior to issuance of any building permit for the construction of a habitable structure on any of the four parcels.” [Building, Planning, Health]
- 16. Geology:** The applicant shall comply with the recommendations for site grading and construction contained in the “Soil Engineering Investigation and Percolation Testing for Lands of Silcox – Project LSS-0296-01” dated May 2004 and prepared by Landset Engineers, Inc.
- 17. Environmental Mitigation Measures:** The mitigation measures set forth in the initial environmental assessment are incorporated herein as follows:
- f. The applicant shall comply with the requirements of County Ordinance #541 and shall pay the required habitat mitigation fee (\$300 per lot) to the County prior to recordation of the parcel map.
 - g. Prior to recordation of the parcel map, applicant shall comply with County Drainage Standards and provide erosion and drainage control details for the project.
 - h. Any construction or building activity shall be limited to between the hours of 7:00 a.m. and 7:00 p.m., except Sundays and federal holidays when no work shall take place.
 - i. Prior to excavation to a depth greater than two and one-half (2 ½) feet, an archaeologist shall be hired by the applicant to determine whether significant archaeological resources could be located on the site. The recommendations of the archaeologist shall be submitted to the Planning Director and the applicant shall comply with said recommendations. If significant resources are found, an alternative design avoiding the significant find shall be submitted for approval by the Planning Department.
 - j. Dust from grading activities shall be controlled by the regular application of water to maintain soil moisture. Water trucks shall operate in conjunction with grading equipment and repeated applications of water shall be made as frequently as is necessary to control dust. If dust is not adequately controlled through the application of water, grading activities shall be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed.

Chair Bettencourt asked questions regarding a *mitigated negative declaration*, which DoP Mendiola clarified for those present. On most items heard by the Commissioners, he explained, there is typically some type of environmental action.

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 advised this is the third and final in a series scheduled hearings on the matter. He said that no additional comments have been received by Staff regarding the matter. ADoP Goodrich advised that it would be necessary for the Commissioners to set a date to determine future action on the Ordinance. ADoP Goodrich stated at all the comments received, including any provided at this meeting, would be presented at that time. Chair Bettencourt announced that comments could be received until May 4, 2005, and would be inclusive of those received since the Board of Supervisors returned the Ordinance to the Commissioners.

Chair Bettencourt opened the public hearing.

Dennis Madigan (no card provided) recommended consideration of requesting that all information, e.g., comments, notes, etc. given at all of the previous workshops be provided because there some good ideas provided and may not have been covered in the window suggested. Additionally he said, the previous Commission had received the discussion and debated the matter and voted to advise the (then) Board of Supervisors *not* to pass the Ordinance. He strongly supported having the Commissioners make the same recommendation and in fact to recommend the Ordinance be done away with. Mr. Madigan said there was in place control for the hillsides.

Tony Ruiz, 6681 Pacheco Pass Road, spoke on his enjoyment of seeing the hills. "It would be nice to preserve the hills," he said. "Two topics that do not belong in discussion of preservation of the hills and valleys," he said, "percentages, etc. The best interest of the community is the best for enacting legislation, and I would rather have the government do it, rather than by imitative." Mr. Ruiz said he had been involved on the 'No on G' measure in the past, and had worked hard on the matter. Mr. Ruiz said that he was not for building on five acres, and that the Hillside Ordinance was highly sensitive in the community. "My feeling is that the entire south County should have some regulation, but it doesn't need much work in addition to what we now have," Mr. Ruiz said. "The only thing to worry about is a scenic route." He urged a lack of restrictiveness to the north part of the County. Mr. Ruiz concluded the presentation by speaking on livable communities, and spoke on the 'tremendous potential' of the community for development. Mr. Ruiz said that the economic future is important, and expressed concern that the 'general public' may not be represented in these meetings.

Tom Tobias, Tres Pinos (no card provided) said he agreed that all the testimony should be included in the final report to the Commissioners. He expressed concern that the published reports have indicated greater support for the Ordinance than he has seen designated.

Paul Wattis, (no card provided) Paicines reminded he has appeared several times before regarding the matter. "I have trouble with the 39 definitions which are open to interpretation," Mr. Wattis stated. He offered his opinion that the Ordinance would give great power to staff and elected officials, and recommended elimination of the Ordinance.

Bill Hawkins, 1308 Comstock Rd., also spoke in objection to the Ordinance as he said the society is over-regulated at present, and it is difficult to adhere to the Constitution in view of that regulation.

Brad Sullivan, 225 Sixth St, of the law firm Lombardo and Gilles, said that the problem as he perceives it is the two-fold thrust of the Ordinance: a mandatory application to major subdivisions and guidelines. Mr. Sullivan said there appeared to be a change in thinking of the manner of application to the guidelines, which he said, could be deleted. Mr. Sullivan suggested as an alternative, deleting the Ordinance and having guidelines. Mr. Sullivan said there is ambiguity and confusion with a sense of items protection that is just not there. He concluded by saying that there appears to be a sense of overregulation with the Ordinance.

Nenette Corotto urged the Commissioners to consider all the information provided at the workshops throughout the hearings. "We are never sure of the rules and where we are," Ms. Corotto stated. "I'd like to see the Ordinance rescinded." She described the Ordinance as another layer of bureaucracy and makes development more confusing and expensive.

Chair Bettencourt asked Ms. Corotto if she was representing Vision San Benito? [No]

Ascertaining there were no others present to speak to the matter, Chair Bettencourt closed the public hearing.

Discussion ensued regarding the information which staff will compile and summarize from identified workshops. ADoP Goodrich clarified the wishes of the Commissioners in preparing the report for the Commissioners.

Commissioner DeVries suggested looking at the sources of information to be considered:

- comments from speakers during workshops
- e-mails/letters

Staff is to summarize comments and hard copy of the written communications, he said, with ADoP Goodrich agreeing and further stating that minutes would be included as well for providing the 'total picture'. Commissioner DeVries continued by asking how information to the previous Commission would be handled. ADoP Goodrich said there would be effort made to provide a total picture of the speakers and the offerings of each.

Commissioner DeVries said that the information previously provided would probably be sufficient for review.

Commissioner Araujo suggested that all the minutes and data received by the current Commission is highlighted, with a brief overview from information to the previous Commission then a notation of any differences made.

DCC Murphy stressed the importance of having a ‘complete body of all presentations’ if the Commissioners want information from the previous Commission. Otherwise, the minutes of those meetings should be provided, she said.

Chair Bettencourt noted that all seven of the workshops had been conducted, with two being held at the Commission meetings. He also noted that when the matter is brought back to the Commission, it could be posted for public hearing or be a discussion item for the Commissioners. Responding to questions about the workshops, ADoP Goodrich stated that the majority of the people in attendance were opposed to the Ordinance, giving an estimate that 80 – 90% of the attendees were in opposition.

Commissioner DeVries suggested that it would be important to identify some key issues which have been reiterated to the Commission, e.g., landscaping and how much can be accomplished with that. He said that once the complied materials are presented a next step might be to identify items brought up major concerns. ADoP Goodrich said he could accentuate the points which appear most prominent.

A hearing date for the discussion by the Commissioners was set for the May 4, 2005 meeting, with a public hearing notice for the meeting of May 18, 2005.

Adjournment:

Having determined that there were no further agenda or discussion items to be considered by the Commissioners at this meeting, Chair Bettencourt adjourned the meeting at 8:25 PM.

Minutes transcribed by:
Judi Johnson

Attest:
Rob Mendiola, Director of Planning