

SAN BENITO COUNTY PLANNING COMMISSION

Minutes of May 18, 2005

Following the Pledge of Allegiance, Chair Bettencourt called the meeting to order at 7:05 PM. Commissioners Araujo, Tognazzini and Machado were present; Commissioner DeVries was absent. Staff in attendance was: Interim Director of Planning (IDoP) Michael Bethke, Senior Planner (SP) Mary Paxton, 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 Judi Johnson.

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.

Grant Brians, 6580 Fairview Road, addressed the Commissioners, saying that in the recent past, on a number of occasions he has noticed an amount of excess light overhead as a result of residents installing bright lights outside their residences or in various locations on their properties. Mr. Brian reminded this appears to be a violation of the Dark Skies Ordinance. Mr. Brians questioned whether that Ordinance is being enforced on new installations of lighting. Mr. Brians requested the Commissioners to "Please ask staff to address this matter." Mr. Brians said he was sorry to report that the skies here are becoming like that as he – and he believed others, as well - rather liked a country feel to the sky instead of having a 'city bright' appearance. Mr. Brians reminded that the staff has an obligation enforcement of the Dark Skies Ordinance – and suggested that the applicants for permits need to be reminded of the matter.

Noting that there were no others in attendance indicating a wish to speak to items not on the agenda, Chair Bettencourt closed the public comment period.

Chair Bettencourt took the opportunity to introduce the new Interim Director of Planning, Michael Bethke. IDoP Bethke declined to offer a statement, saying, "Let's get to work!"

CONSENT AGENDA:

NOTING THAT ITEM 4 WAS PULLED FOR CONSIDERATION OF CONTINUATION, AS REQUESTED, COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO APPROVE THE CONSENT AGENDA, INCLUSIVE OF THE MODIFICATION TO THE MINUTES:

- 1. Acknowledge Public Hearing Notice**
- 2. Acknowledge Certificate of Posting**
- 3. Minutes May 4, 2005** [Commissioner Machado noted an amendment on page 4:
over under

THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: DEVRIES.

- 4. Certificate of Compliance No. 05-52:** REQUEST: Certificate of Compliance for three parcels. APPICANT: Sunnyslope County Water District. OWNERS: Sunnyslope County Water District and Guerra Nut Shelling. ZONING: Rural (R). ENVIRONMENTAL REVIEW: Categorical Exemption. *(MP) (To be continued to 6/1/05)*

COMMISSIONERS MACHADO/ TOGNAZZINI MOTIONED TO CONTINUE THE MATTER OF CERTIFICATE OF COMPLIANCE NO. 05-52, SUNNYSLOPE COUNTY WATER DISTRICT AND GUERRA NUT SHELLING, TO THE JUNE 1, 2005 PLANNING COMMISSION MEETING. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: DEVRIES.

CONTINUED BUSINESS

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 sixty events to unlimited without changing the allowed maximum persons, which is 350. LOCATION: 10034 Cienega Road. ZONING. Agricultural Rangeland (AR). ENVIRONMENTAL EVALUATION. Previous Mitigated Negative Declaration.

Noting this item had been continued from the Planning Commission meeting of April 20, 2005, AP Valdez gave the staff report, explaining the differences in the current use permit and what is being proposed. Because of the change requested (from 60 approved to unlimited – both allowing up to 350 persons at each event) a second initial study is required by CEQA regulations. AP Valdez advised that staff has determined the change in the number of events will not alter the daily trips for traffic per peak day. AP Valdez continued that the potential traffic trips annually will necessitate an ‘adjusted fair-share contribution’ payment of \$47,097 which is reflected by condition 15 (impact fees required) which the applicant has agreed to pay in three installments. AP Valdez called attention to a revision in Finding #1 (page 4) ~~while~~ *whole*

Commissioners discussed the matter with staff, clarifying the following:

- ⊙ it would be difficult to estimate the total number of events annually until some time has passed
- ⊙ the use permit still limits each event to 350 attendees
- ⊙ it is possible that there would be 365 events per year

Chair Bettencourt opened the public hearing.

Jim Weaver told the Commissioners he was appearing as a representative of the winery. Mr. Weaver said the applicant was requesting to be allowed an unlimited number of events, with most occurring in the spring and fall and a few during the holiday time. Mr. Weaver indicated agreement with the Mitigated Negative Declaration, which will allow flexibility throughout the year. Regarding condition of approval #13, Mr. Weaver said the applicant is asking for a variation to have a year to upgrade the waste water system as it is very expensive and will take some time to complete. He stressed the system (for restroom and manufacture of the wine) is in place and the applicant wants to coordinate the request with Environmental Health.

Commissioner Machado asked about the capability of the system at present. Mr. Weaver said the winery frequently has up to 200 – 250 people per day and there has been no sign of system deficiency. Commissioner Machado continued, asking, “Can the system hold up four or five days in a row?” Mr. Weaver indicated that there have been no problems with the system and added, “If the system fails it would be in the best interest of the owners to fix it as soon possible as he wouldn’t want to contaminate the grapes.”

Commissioner Machado asks about the total capacity of winery for the events. Mr. Weaver said most of the events would be on weekends, with some at other times.

Chair Bettencourt noted that during crushing season, the owner has said there will not be event, or maybe just some small ones.

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

Commissioner Machado asked if staff has comments regarding request for an extension of time to upgrade the waste water system? He specifically asked if Environmental Health been made aware of the request? Commissioner Tognazzini indicated that it appears that, according to Planning Staff, Environmental Health is ‘o.k.’ with the year extension. Discussion ensued with AP Valdez informing that Planning staff had not been informed of the request.

DCC Murphy reported that the request would affect the mitigation measures (condition #13). DCC Murphy spoke to the Mitigated Negative Declaration which had been circulated with the applicant’s agreement and telling Commissioners the applicant’s request could not be granted without specific findings under the CEQA requirements.

The Applicant was present and spoke from the audience saying he would withdraw the request and was ‘happy’.

Mr. Weaver returned to the podium and stated he was withdrawing the request officially as the applicant was now happy with Condition # 13.

COMMISSIONER TOGNAZZINI OFFERED APPROVAL OF USE PERMIT NO. 869-02A INCLUDING APPROVAL OF THE MITIGATED NEGATIVE DECLARATION, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN.

Commissioner Machado said he would second the motion but wanted a question answered first: Are there any problems with the 350 possible attendees having an effect on additional traffic coming onto Cienega?

DDPW Nazemi responded he was not aware of that causing a problem.

Consequently, COMMISSIONER MACHADO OFFERED THE SECOND TO THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; DeVRIES WAS ABSENT.

Minor Subdivision No. 1166-05 - REQUEST: A request to subdivide a two-acre parcel into two, 1-acre lots. APPLICANT: Kraig Klauer. LOCATION: Edgewood Drive; ENVIRONMENTAL REVIEW: Mitigated Negative Declaration

AP Valdez gives staff report, reminding this item had been continued from May 4, 2005 to this meeting for review and evaluation of traffic impact fees. AP Valdez explained that the requested map had been given to staff and that during the analysis a representative of the City of Hollister had comments because the area is proposed for annexation to the City. Since that action is proposed, the City's General Plan requires a specific plan and has indicated concern with circulation patterns and has requested a meeting with the County Engineer to discuss preferred routes for connectivity within the area. AP Valdez said that all the agencies involved with the circulation plan (Planning, Public Works, and the City of Hollister) have agreed that there are two issues:

- o traffic circulation
- o traffic benefit plan impact fees (emphasis on pro rata share)

AP Valdez advised that all the agencies maintained there must be two planned routes for the area.

AP Valdez then explained the traffic impact fee is a schedule based on the potential number of lots in the Rural Residential zoning area being discussed. As to the actual fee, AP Valdez stated, the figure is adjusted for inflation and now the total cost is projected to be: \$99,000 to be split between about 68 people so Mr. Klauer is being billed \$1,500 for the new lot. This fee will be placed into a fund which will eventually provide a secondary access to the area. AP Valdez explained that Planning, Public Works, and the City accepted the fee for all newly created parcels, which has been made a condition of approval.

AP Valdez called attention to two changes to the Conditions of Approval:

- Attachment A, page 5 Condition 7e: Clarified the pro rata share required to be paid for the traffic impact fee
- Attachment A, page 4 (LCA funding issue) ~~not~~

Commissioner Araujo clarified that basically from last meeting the impact fee which previously had not been identified with a dollar figure, was now narrowed to \$1,500 per newly created lot.

Chair Bettencourt opened the public hearing.

Roger Grimsley (no card provided) told Commissioners he is the engineer for the project and that he had met with AP Valdez, submitted the circulation plan, accepted the \$1,500 fee, and was present to ask for a review of the Mitigated Negative Declaration, then have approval for all on-site and of-site improvements.

Chair Bettencourt asked if a CSA was planned? Mr. Grimsley said a benefit area would be better in this case so that all participants could pay their pro rata share.

Mr. Briens commented that Mr. Grimsley is correct: this area is part of a subdivided project of about 15 years ago. Mr. Briens said when this parcel was divided into two lots this increased the density and he informed the Commissioners: When he was recently walking the neighborhood, residents complained about the increased numbers of people to the area, with no secondary access. Mr. Briens said that Daffodil was not adequate by today's standards and did not meet County standards at the time of construction, either. Mr. Briens says the streets and roads in the area, particularly Jonquil, are not safe for any amount of traffic as they are too narrow unless the Commissioners intend to restrict parking. Mr. Briens continued that he had an issue with the impact fee/ pro rata: I've been coming to Commission meetings over 20 years and encourage managed growth. When you have the division of a fee structure based on maximum build out, you never get enough money to cover what you want to build. You don't have a maximum build out in orderly fashion. Based on the number of lots projected by the map, you will be taking part of class 1 soil land and converting it to rural residential. Mr. Briens said it was not possible to do the impact fee calculations until applicable.

Mr. Grimsley admitted Mr. Briens was correct if he was talking about a 'pure build out'. However, he pointed out that the annexation to the City would be 'within the next 20 years' and the money being accrued through the pro rata share would be required for mitigation.

DDPW Nazemi indicated that basically this is part of planning process and the County would be doing a 'good faith effort' to collect the money necessary to work with and prevent one owner from being 'stuck' with all the charges.

Dialogue ensued regarding the amount of land in the area under discussion which would be classified as 'prime ag land'. AP Valdez said the two lots which had been under scrutiny in the initial study are not prime ag. Mr. Grimsley spoke on the soils and quality of soil (grades 1 and 2); assuring that there are no grade 1 soils in the request before the Commissioners at this time.

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

COMMISSIONER ARAUJO OFFERED RESOLUTION NO. 1166-05 WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN, INCLUSIVE OF THE MODIFICATIONS DESCRIBED BY STAFF, AND GIVING APPROVAL TO THE MITIGATED NEGATIVE DECLARATION. COMMISSIONER MACHADO SECONDED THE MOTION, WHICH WAS PASSED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: DEVRIES.

Zone Change 03-135, Tract Map 03-135: Request: A 6-lot residential subdivision including a small community park and new cul-de-sac style street. The six residential lots are proposed to be 1-acre in size, with approximately 25 acres of agricultural open space. Applicant: Tina Bertuccio Location: Union Road and Summerset Drive Zoning: Agricultural Productive Environmental Review: Mitigated Negative Declaration

AP Turner presented the staff report, noting this request is for a zone change *only*. Should that be approved by the Commissioners, the matter would be moved to the Board of Supervisors. If the Board of Supervisors gives approval, then the application is returned to the Commission for map approval. AP Turner explained that a number of changes had been made: the location of the community park was moved and a 25-foot green belt planned to minimize the impacts on adjacent property. AP Turner further explained that the request would cause the zoning to be changed from Agriculture to AP/PUD, which necessitates the Commission declare findings and those PUD findings must be included in resolution. Concerns about emergency access to the site resulted in a proposal of a ‘break-away’ gate at the property border, which would also discourage drive-through traffic, AP Turner explained. He continued by telling Commissioners of a left turn lane proposed at the intersection of Union road and Summerset Drive. AP Turner pointed out that he had received one letter of opposition during the public review period.

Chair Bettencourt asked if the one-acre park would be open to the public or for the residents of the 5 – 6 units only? AP Turner responded there would be nothing to keep the public from using the park, but the park had been moved to discourage outside people as he reminded that recreational amenities are a requirement of a PUD. Chair Bettencourt asked about the responsibility of upkeep for the park. DDPW Nazemi advised the maintenance could be by a HOA or CSA, and if the matter is returned to the Commission for approval, it must be decided whose responsibility it is. AP Turner noticed that more discussion with the applicant will take place, followed by a recommendation regarding maintenance.

Commissioner Araujo requested explanation of the 25-foot greenbelt, which AP Turner noted to be a non-buildable area to be filled with landscaping in order to block adjacent areas. “It is, in effect, a buffer,” he told the Commissioners.

Commissioner Machado asked if the earlier reference to a HOA or a CSA for park maintenance basically means funds are from the ‘same pocket’? AP Turner said that will be discussed with the applicant and staff will make a recommendation if the matter is returned to the Commissioners mitigation can be considered at that time.

Commissioner Machado commented that ‘either way the homeowners must pay’. He stated a concern that when the plan for the park is implemented it may not be utilized and it seems a waste of money for no usage.

AP Turner reminded that a condition of the PUD is that there must be some type of recreational amenity; it still must be incorporated. He further informed that the County has talked about developing a common-pool fund for a larger park, perhaps with a regional concept.

Commissioner Machado said it would be important to know exactly what the County and the landowners are getting, as he added, “We may need to change the requirements of the Ordinance. In this instance, we seem to hide the park, and then it is underutilized. I think we should have a discussion on modifying the PUD Ordinance and have regional parks”

Commissioner Araujo referenced the mention of ‘top soil’ and asked for explanation.

AP Turner clarified the classification of prime farm land and how in San Benito County, there is a ‘soil survey’ which tells what grade of soil the area(s) contain.

Chair Bettencourt opened the public hearing.

Roger Grimsley addressed the Commissioners as the project’s engineer. Mr. Grimsley said it is not often an applicant says they want to develop but also wants to preserve park land. Mr. Grimsley told of the soils survey and how it works. Mr. Grimsley reminded the Commissioners that when they were appointed they were given information on the policies and uses of the County’s General Plan. “The goals and objectives of that General Plan include trying to preserve ‘rural’ and this is part of it – the PUD proposed here allows you to do that. We are asking for consideration of the request. This zoning is being done to preserve the maximum amount of land for future generations,” Mr. Grimsley stated. Mr. Grimsley also spoke on setting the conditions when the project is brought back to the Commission. Mr. Grimsley told the Commissioners how it could be set up work park maintenance and related the possibility for aggregate parks.

Chair Bettencourt said one letter of concern regarding the project had been received from the San Benito County Water District. Mr. Grimsley said he had studied letter and to his knowledge none of the facilities described in the letter from John Gregg uses ‘blue valve water’ for domestic purposes - only for agriculture. Mr. Grimsley went on to describe the two wells (one ag well and one domestic well) in the area. Chair Bettencourt reiterated that no blue valve water is used except for orchard production and that the water described in the letter from Mr. Gregg is not potable as it exists today. Discussion ensued regarding water usage in the area.

Grant Brians addressed the Commissioners, saying if indeed the request is approved, he would encourage the PUD zoning rather than the five-acre parcel which he described – for this case – as being the best to save Ag land. Mr. Brians continued by expanding on the explanation of soils classifications given by Mr. Grimsley. Mr. Brians also advised the Commissioners that he had worked on the recreation element of the Ordinance as a member of the Committee. Mr. Brians said that the small parks were stressed within new PUDs as San Benito County has the lowest amount of parks of any coastal county in California and fall below standards nationwide. The wording in the PUD Ordinance, Mr. Brians said, resulted from the Planning Commission and

Planning Staff looking for availability of park land. He stressed that those working on the matter did not want to look at installations like Hollister Hills for planning and therefore purposefully restricted the definition of parks. In writing the Ordinance, Mr. Brians said, the County then, like now, had zero funds for park maintenance, and inclusion into the PUD Ordinance was one way to try to make small contribution to having parkland. Mr. Brians said that County leaders had tried to use a 'regular park approach' it would perhaps have been good but where to get the funding? He expressed doubt that residents would want to tax themselves for the purpose. In addition, Mr. Brians said, the issue was where to buy land as now the land is so expensive purchase would be prohibitive and unless the land would be donated there would not be any parks except for the PUD Ordinance.

Mary Damm, 3016 Cienega Road, requested that since this is such an important issue, discussion on rezoning be continued until the full Commission is present.

DCC Murphy advised that since a public hearing had been noticed, all interested persons must be heard.

Mary Damm, 3016 Cienega Rd., related experiences of seeking property in outside of Hollister prior to 1986 and dealings with the Bertuccios over the next several years. Mrs. Damm said the experiences included loans made to Mr. Bertuccio during the following years. Mrs. Damm referred several times to a letter she had sent to the Planning Department in which she raised the following issues:

When we purchased property on Summerset Drive in 1994, it had been a large parcel that was divided into four approximately 5 acre parcels with a remainder of one 31.7 acre parcel to be kept in agricultural land for perpetuity. According to the "Agricultural Community Disclosure Statement - Addendum A" given to use us by the County Planning Department at the time, the area was zoned 5 acre parcels with a minimum of one single family dwelling per 5 acres with a possible additional dwelling per 5 acres if specific county guidelines were met. Because of this zoning and the county rules, we purchased parcel 3 and parcel 4 along with an adjoining 10 acre parcel, because this was what we were looking for. This formed a 20 acre plus area on which we intended to build four homes for family members, well with in the county rules and leave 16 acres for farming.

If the subdivision proposed on the remaining 31.7 acre parcel is approved, it seems to be breaking the perpetuity requirement in the original subdivision agreement. Is ten years perpetuity? The letter from the County Planning Department states that if the subdivision is approved, the remaining 25.2 acres will be preserved as agricultural open space. Our question is "For how long?"

The 12 foot wide gravel driveway proposed to extend from the end of Summerset Drive through our 3 parcels and an adjacent parcel bordering on Cienega Road is of great concern to our family.

The property in the unincorporated areas of the county is located in an agricultural community. The County of San Benito has determined that the use of real property for agricultural operations is an essential high-priority and favored use of real property. Since purchasing these adjoining parcels, we have farmed at least 16 acres. Money generated from farming helps in a limited way to pay our high property taxes. The proposed gravel road would in effect cut off about one fourth of the land we farm because:

- We wouldn't be able to get irrigation water to parcel 4 without placing pipes across the road.
- We need to cross the proposed road with a bulldozer which will tear up the road.
- We will need to cross the road with all kinds of farm equipment which in time will cause degradation.
- Weeds will grow through the base rock, leading to blight.
- This road will attract problems such as unwanted people exploring the area. Once people know that the road is there it will become a shortcut for those coming down Cienega Road heading for Union Road and west and vice versa.
- The use of this gravel road will cause a dust problem.
- The area is then open to people dumping and joy riding.
- This road is proposed to enter Cienega Road at a very unsafe intersection.
- There are many subdivisions on county roads with no secondary access.

We feel it is not fair for one tax payer to absorb a loss so that someone else may profit. If we in the future subdivide our land, then this proposed road should be installed. In this case the land owner has more than one option to solve this access problem without taking away our income generating farm land.

Please reconsider this proposed gravel road requirement as we consider it unnecessary at this time and will create a great hardship on our family. The area is zoned for 5 acres and to change it is just not fair. This is kind of life we wanted and it is not right to change it. These 5 houses will change our life in a negative way.

Chris Parga, 1980 Glarner Street, told the Commissioners he is the owner of the locked parcel in the middle of the project under discussion. Mr. Parga thanked the applicant and staff for changing the park site and indicated support for the concept of regional parks for ease of maintenance and upkeep. Mr. Parga requested that the County require a retaining wall at the road site.

Sally Bettencourt (no card provided) said that recently she had driven in the area and expressed concern about the perceived need for a left turn lane to prohibit potential accidents in an area near the Damm's property where there is a corner and traffic has high speeds. AP Turner advised a turn lane is planned for the project.

Noting that there were no others present to address the matter, Chair Bettencourt closed the public hearing.

Chair Bettencourt observed that a request had been received from Mrs. Damm to have the full Commission present before a vote was taken on the matter. Commissioner Machado indicated he did not see the necessity of such action. Commissioner Tognazzini agreed, saying, "It's time to go."

Chair Bettencourt advised he had talked to Mrs. Damm and the project engineer regarding the matter. "We're not a governing body and we have to send this to the Board of Supervisors. If there are any changes they should make those changes as the Commissioners are not rule makers," Chair Bettencourt said.

COMMISSIONER ARAUJO OFFERED RESOLUTION NO. 2004-24 ADOPTING THE MITIGATED NEGATIVE DECLARATION AND MITIGATED MONITORING PROGRAM, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED WITHIN, AND DIRECTING STAFF TO FORWARD THE MITIGATION MEASURES TO THE BOARD OF SUPERVISORS FOR CONSIDERATION. COMMISSIONER MACHADO SECONDED THE MOTION WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: DEVRIES.

COMMISSIONER ARAUJO OFFERED RESOLUTION NO. 2004-25 RECOMMENDING APPROVAL OF A ZONE CHANGE TO AG/PUD TO THE BOARD OF SUPERVISORS FOR ZC 03-135, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN. MACHADO SECONDED THE MOTION WHICH PASSED BY THE FOLLOWING VOTE: AYES: ARAUJO, BETTENCOURT, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: DEVRIES.

Chair Bettencourt said he had completed lot of background research on this project and was still not clear on the 'prime ag land issue' noting it has been brought up that the five acre minimum zoning is to protect prime ag land. AP Turner advised that to subdivide down to five acres on prime land would not be consistent with the General Plan and that consistently the question in the County has been: what is the best way to safeguard prime ag land? Chair Bettencourt said he also understood that the County is required by State law to have such regulation in the General Plan but that State law is not specific as to the preservation of prime ag land.

IDoP Bethke advised that the Commissioners could direct staff to come back with specific information regarding the issue at a future date as there seems to be conflicting information.

Mr. Brians returned to the podium to explain some of the issues of the law.

Hillside Development - Public hearing by the Planning Commission to consider action on Ordinance No. 781: to modify, amend, or rescind the existing Ordinance. SP Paxton provided the staff report, noting the continuation has been requested since Commission DeVries could not attend the meeting of this date, and it had been agreed – by consensus – that a vote on the matter should be taken when all Commissioners are in attendance. Consequently, continuance to the June 1 Planning Commission meeting was being requested.

Chair Bettencourt opened the public hearing.

Grant Brians suggested to the Commissioners that at the June 1, 2005 meeting a public hearing period be opened to gain further input.

Chair Bettencourt thanked Mr. Brians and responded that was the intent.

Bill Hawkins, 1308 Comstock Rd., said he would wait till the June 1, 2005 meeting to present his comments.

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

COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO CONTINUE THE MATTER OF HILLSIDE DEVELOPMENT - ORDINANCE NO. 781, TO THE MEETING OF THE PLANNING COMMISSION OF JUNE 1, 2005. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; DEVRIES WAS ABSENT.

San Benito County Growth Management Allocation System - Discussion

Growth management allocation system SP Paxton presented the staff report and indicated much of her report was distributed to the Commissioners prior to the meeting. The several tables presented data regarding minor and major subdivisions in the County which had received allocations. SP Paxton said that the tables contained considerable information but were helpful when analyzing the growth patterns experienced in the County.

Commissioners asked questions regarding:

- the Lerner ranch application [withdrawn]
- the types of zoning districts and development in each
- fewer applications for major subdivision [by mid 90s not ability for large development because of lack of water and waste water capability]
- the application process and criteria
- whether applications are tied to the Growth Ordinance
- how applications are ranked
- whether there have been fewer applications for major subdivisions since the adoption of the Growth Initiative [SP Paxton not say statistically provable; she pointed to no applications in '94; 1 withdrawn in '95, and scarcity of others; however, minor subdivisions being processed during that time – reference: Table 1]
- inability to provide services demanded by growth; emphasis has been on projects which provided good services

Commissioner Araujo asked about ranking now compared to prior years, asking if there have been fewer applications because of the moratorium in Hollister. Commissioner Machado said there was confusion when approvals (table 3) were indicated.

Discussion followed regarding expiration of maps.

DCC Murphy commented as to why the Ordinance was adopted and referenced the information following the tables: pages 1 - 4 which chronicle the intent, etc. and is presented as attachment 2 wherein the explanation is provided regarding the intent and methods of accomplishment.

Chair Bettencourt asked questions about PUDs and how specifically needed information could be obtained. SP Paxton responded that the Commissioners need to know how projects are designated for ranking the subdivisions. Chair Bettencourt remarked it seems that the work is being done 'backwards in rankings'.

Commissioner Tognazzini disagreed, saying, "We must meet the conditions of approval before going forward."

DCC Murphy interjected that if grade 1 soils are present in entirety, then a project would not meet the mandatory requirements.

Commissioner Machado said that some of the applications do not meet County standards – not even the minimum standards and those should not be brought to the Commission. Lengthy discussion followed regarding the past practice of having an applicant speak to changes desired in the application when addressing the Commissioners.

DCC Murphy said that following the staff presentation one year, applicant had said during the hearings that they could meet the requirements and the Commissioners had permitted the practice.

Commissioner Machado declared that the rankings and issues should be set before the applications are ranked for the Commissioners. He said – and the other Commissioners agreed – that issues should be cleared up and ranked before being presented to the Commission and if ineligibility is determined by staff, those applications are deleted from presentation and discussion.

SP Paxton suggested there is need to communicate firmer data needs to the applications and their representatives.

Mr. Grimsley told Commissioners it was necessary to reiterate to the applicants that there are two parts of the application.

Considerable discussion ensued regarding the potential for changing the deadline dates for the applications, then following the initial application, staff should review then meet with the applicant and their representatives for any clarification before proceeding further.

Mr. Grimsley commented, "Once the commitment is made, bartering should cease."

Commissioner Araujo brought up the issue of continuing projects.

SP Paxton said the expectation was that additional allocations would be given to the continuing projects since they were started, but allocations should be given to those with best services. "It probably would be better to award allocations to total subdivisions so they can move through the process," she said.

Chair Bettencourt spoke on the requirement of minor subdivision receiving 25% of the total allotments and noted that San Juan Oaks gets about 25 allocations per year and with a total of 60 per year, that project gets about half of the total. He expressed concern that the minors get allocations and the majors get nothing.

DCC Murphy reminded this matter had been brought forward at the Commissioners request and the Commission as a whole could re-look at the criteria or could recommend changing Ordinance.

Mr. Briens stated that recent decisions for allocations have been based on 'applicant sympathy'. He stressed the need for a cutoff date for all information to be given that is critical. "The problem exists because the Commission has allowed to the applicants to make changes when the process is 'up against the wall'," Mr. Briens said. "This could be corrected by establishing a cut off date when the ratings are given out. You must have time in between when the staff completes the rankings and when the applications with the rankings are given to the Commission."

Mr. Briens continued that the difference between minor and major subdivisions is clear and that the 25% is not necessarily set to give any subdivision allocations but set the ratings. "Does the Commission agree that subdivision on prime ag land is indeed more valuable than subdivision on an orchard not cared for 50 years?" he asked. "There is need to have a technique for rating and then not change that rating during the Commission meeting. There should be thorough evaluation of each project by staff then discussion with the applicant and their engineer. Timeliness between actions essential, and there need to be actual certifications if an applicant suggests a rating change an example of which would be water availability."

Commissioners agreed that establishing specific cutoff dates and times followed by certification checks by staff would be beneficial.

Commissioners brought forth the following points:

- rules have to be stringent
- before coming to the Commission, rankings established
- possible need consideration of projects already started [DCC Murphy nothing in the current Ordinance to allow discretionary measures]
- need for formula for 'plugging into ratings'
- potential of asking for Ordinance change [DCC Murphy cautioned that any changes must be completed before the due dates for applications being submitted]

IDoP Bethke said he was familiar with Ordinance changes and could work with the Commissioners and staff to achieve the best good.

Mr. Grimsley said that when an applicant goes through the allocations process, they should have the right to submit tentative maps and so the Commissioners need to bear in mind whether giving all the allocations is critical. He reminded that some allocations have been given that should not have been and the Commissioners need some way to have discretion to take away allocations.

Brad Sullivan (no card provided) said the County must decide if it wants good projects or continue with those that are unworkable. "At the same time, the Board of Supervisors is talking about TDCs and also the Housing Element - all of these will impact into whatever allocations system we have. The whole idea of the matter needs to be assessed with a 'comprehensive rethink'.

Mr. Brians indicated thinking that the O'Connell Ranch development spurs growth issues to an even higher degree than five years ago and stressed the need for establishing a point system for high quality projects.

SP Paxton referenced the statements of growth management on page 2, item #3, and said a 'leveling out' is needed. She indicated anticipation of some adjustment but stressed the need to look at the original intent of the growth management system.

Commissioners agreed that it would be important to have staff establish some guidelines regarding:

- establish firmer cut off dates
- scoring applications
- once score is set, have applicants and engineers meet with staff
- package better information for the Commission hearings
- possible adjustment to the Ordinance

Staff was directed to return a preliminary timeline to the Commissioners for consideration of the matter.

Planning Procedures for Processing Applications

SP Paxton provided the staff report briefly explaining the process by distributing a flow chart wherein she explained different scenarios may require differing routes for achievement of application readiness and completion. Possible negotiations during the process were highlighted. "However," SP Paxton said, "the law must be complied with and the process sometimes takes a long time."

Having completed the agendaized business for the evening's meeting, Chair Bettencourt thanked staff for doing excellent job during the recent upheavals in the department.

With no further business to come before the Commissioners on this date, Chair Bettencourt adjourned the meeting at 9:35 p.m.

*Minutes recorded and transcribed by:
Judi Johnson*