

# SAN BENITO COUNTY PLANNING COMMISSION

Minutes of July 20, 2005

Following the Pledge of Allegiance, Chair Bettencourt called the meeting to order at 7:00 PM. Commissioners DeVries, Machado, Smith, and Tognazzini were present. Staff in attendance was: Interim Director of Planning (IDoP) Michael Bethke, Senior Planner (SP) Mary Paxton, Associate Planner (AP) Byron Turner, Staff Planning Interns Chris Herrera and Erin Engman, Deputy Director of Public Works (DDPW) Arman Nazemi; Deputy County Counsel (DCC) Shirley Murphy; SBC Fire Captain Jim Dellamonica; and Clerk Trish Maderis.

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.

Chair Bettencourt welcomed Mike Smith, Planning Commissioner appointed to represent District 5.

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

## **CONTINUED ITEMS:**

Chair Bettencourt announced that items 7 – 8 – 9 were being pulled from the agenda as those items were recommended for continuation to the August 15, 2005 Commission meeting.

### **(7) 2005-2006 Fiscal Year Preliminary Allocations Process ~ Report**

Pulled for discussion at the request of the Chair.

DCC Murphy suggested dealing with item 7 following discussion in the event continuation was still desired following the discussion.

Commissioner Machado recommended discussion of item 7 at this juncture of the meeting rather than during the regular order of business. **BY CONSENSUS, THE OTHER COMMISSIONERS AGREED.**

**COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO CONTINUE THE FOLLOWING ITEMS (8 and 9) TO THE AUGUST 15, 2005 COMMISSION MEETING ON RECOMMENDATION OF STAFF. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**(8) Planning Commission Procedures – Discussion of Amendments**

**(9) Recreation requirements for Planned Unit Developments (PUD)**

**Item 7:** Commissioner Machado said it was his thought that this matter [2005-2006 Fiscal Year Preliminary Allocations Process] needed to have high priority – not necessarily to ensure action by the end of the year, but to ‘get the procedure’ down as soon as possible. He said that there may be some issues which needed to be cleared in order to satisfy the Commissioners.

Chair Bettencourt asked if there was interest in a special meeting or have a final analysis presented at the August 3, 2005 meeting rather than the August 17, 2005 meeting.

Commissioner Machado pointed out that he and Chair Bettencourt were the only Commissioners present during the allocations process in December, 2004 – and said that in his opinion the allocations were a fiasco for many reasons and that the mitigation for those reasons should be resolved early on for this cycle. “I’m really asking staff to set a higher priority and do ‘whatever is necessary – whether it is a special meeting or a study session’ whatever is deemed necessary by staff to expedite the process. It needs to be done right – and I don’t think it was done right the first time,” Commissioner Machado stated.

Commissioner DeVries agreed, and asked staff if the recommendations for implementation could be completed by the August 3 meeting. He alluded to an understanding of a ‘nightmare of the whole process’ which really needed some work.

IDoP Bethke said there is still considerable work to be completed with the County Counsel’s office and would feel more comfortable if staff had until the 17<sup>th</sup> to complete the report and recommendations. “Obviously there is the wreckage from the past – and there may be some legal implications which need to be squared away. We would definitely minimize exposure the County might have,” IDoP Bethke said. He urged the Commissioners to consider continuation of the matter to the August 17 meeting.

Commissioner DeVries indicated thinking that the data presented by IDoP Bethke had merit, and asked about the possibility of having special meetings if they were warranted. IDoP Bethke said that ‘certainly special meetings are possible’ as this is a ‘front-burner item.’”

Chair Bettencourt opened the public hearing for items 7 – 8 - 9.

Dan Weatherly of San Benito Engineering, spoke to the Commissioners on item 7, asking that if the matter is continued to August 17, whether that would mean the filing date for allocations this year would be extended or would it affect the deadline for allocations submitted this year? Chair Bettencourt reminded that September 1 is anticipated to be the final filing date for the preliminary allocations. DCC Murphy advised that the Board of Supervisors could extend the filing period by way of a Resolution. IDoP Bethke suggested the Commissioners could direct staff to prepare a resolution for extension for Board action at their August 2, 2005 meeting.

**COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO DIRECT STAFF TO PREPARE A RESOLUTION TO BE FORWARDED TO THE BOARD OF SUPERVISORS FOR ACTION AT THE AUGUST 2, 2005 MEETING: EXTENDING THE APPLICATION DEADLINE FOR THE PRELIMINARY APPLICATIONS (BUILDING ALLOCATIONS) FILING PERIOD TO OCTOBER 3, 2005; AND CONTINUING COMMISSION DISCUSSION OF THE MATTER TO AUGUST 17, 2005, PENDING REPORT AND RECOMMENDATION FROM PLANNING STAFF.**

Commissioner Tognazzini asked why there was a need to extend the application period if nothing is anticipated to change?

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

Chair Bettencourt announced that item **10**. [Use Permit 915-05 – REQUEST: To authorize the continuation of an existing labor camp. APPLICANT/OWNER: Felicitas Valenzuela. LOCATION: 1500 Nash Road. ZONING: Agricultural Productive. ENVIRONMENTAL REVIEW: Categorical Exemption] had been pulled from the agenda and would be continued to September 7, 2005.

**CONSENT AGENDA:**

**Acknowledge Public Hearing Notice published 7-9-05 (Free Lance)  
Acknowledge Certificate of Posting  
Minutes June 15, 2005**

**Certificate of Compliance 05-52 - REQUEST: Certificate of Compliance for three parcels. APPLICANT: Sunnyslope County Water District. OWNER: Guerra Nut Shelling Inc and Sunnyslope County Water District. LOCATION: John Smith Road. ZONING: Rural. ENVIRONMENTAL REVIEW: Categorical Exemption.**

**Conditions of Approval:**

**1. Recordation:** Conditional Certificates of Compliance shall be recorded with the County Recorder for parcels 1, 2 and 3.

**2. Requirement for Parcel Map:**

The applicant shall file a parcel map concurrent with the Certificate of Compliance that merges and resubdivides the parcels without reverting to acreage pursuant to §66499.201/2 of the Subdivision Map Act. The reconfigured parcels shall merge parcel 2 with parcel 1 and establish a parcel that includes the tank site and habitat conservation easement. The recorded Parcel Map shall include an additional map sheet that includes the requirements of conditions 3 and 4. The additional map sheet shall also include a note stating that the parcel including the habitat and water tank site shall not be considered a legal lot for purposes of a future lot line adjustment unless expansion is warranted for water infrastructure and/or habitat.

**3. Conservation Easement on Parcel 2:**

The applicant shall prepare a biological conservation easement in perpetuity to be recorded concurrently with the required parcel map for COC 05-52. The easement shall explain that the property is to be used as an upland habitat mitigation site for the spade foot toad, California Tiger Salamander and San Joaquin kit fox in perpetuity and that the property shall be identified as a non-development area pursuant to San Benito County Subdivision Ordinance section 17-4 (3) on an additional map sheet of the recorded parcel map. A note shall be placed on the additional map sheet that states that “A lot-line adjustment, parcel merger or land division of the easement area is prohibited without the consent of both the California Department of Fish and Game and the U. S. Fish and Wildlife Service. The applicant shall provide evidence that the maintenance of the site as a habitat mitigation area has been reviewed and approved by the California Department of Fish and Game and the U. S. Fish and Wildlife Services”.

**4. Water Tank site:**

The applicant shall clearly label the boundaries of the water tank site on an additional map sheet of the recorded Parcel Map. The additional map sheet shall include the following note: “Use of the area designated as a water tank site is restricted to water infrastructure and the area is considered to be a “Non-development area” pursuant to section 17-4 (3) of the San Benito County Subdivision Ordinance 617 and the construction of a residence or accessory structure is prohibited.”

**Certificate of Compliance 05-54 – REQUEST:** To determine the number of legal parcels that comprise 119.53 acres. **APPLICANT/OWNER:** Greg/Carol Renz. **LOCATION:** 9356 Airline Highway, Tres Pinos. **ZONING:** Agricultural Rangeland. **ENVIRONMENTAL REVIEW:** Categorical Exemption.

**COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO APPROVE THE CONSENT AGENDA AS PRESENTED. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH TOGNAZZINI; NOES: NONE; ABSTAIN: SMITH (on Minutes of June 15, 2005 as he had not been present for the meeting); ABSENT: NONE.**

**RENZ Conditions of Approval:**

- 1. Recordation:** The Certificates of Compliance shall be recorded with the County Recorder.[PUBLIC WORKS, PLANNING]

**CONTINUED ITEMS:**

**General Plan Amendment 05-152, Zone Change 05-27.** Request: A proposal to change the Zoning and General Plan Designation from Agricultural Rangeland to Agricultural Productive on three contiguous parcels. Applicant: Jack Tyler. Location: North side of Santa Ana Valley Road. Zone: Agricultural Rangeland. Environmental Review: Mitigated Negative Declaration.

AP Turner presented the staff report, noting that the matter had been continued from the June 15, 2005 meeting when staff was requested to: determine if any other parcels were made non-conforming by the Zone Change and General Plan Amendment [staff was unable to identify other parcels thus affected] and determine the reason why the Zone Change and General Plan Amendment followed Santa Ana Road instead of the Section Line [at the time of the change the Commission and Board of Supervisors expressed a wish to create a buffer between the airport and other industrial uses to the north, in addition no other properties were bisected by the zone change.

Commissioners discussed with staff:

- neighboring properties – speculation as to potential requests for zone change (eastern two parcels); the two are not non-conforming. AP Turner explained that the action before the Commission was a request by the applicant to ‘rectify previous action by the County’ that made parcels non-conforming with the 1984 Zoning map.
- buildings on the parcels – development was underway at the time of the previous zoning
- possibility of ‘squaring off’ eastern parcels [would require recirculation and further environmental review]
- airport buffer – distance from site. It appeared that lands north of Santa Ana Valley Road were zoned Agricultural Rangeland (AR) to avoid land use conflicts with a private airport and airplane manufacturing facility.
- justification for approving this Zone Change is that they were made non-conforming by a County action, and that this action does not open the door for future zone changes.

Chair Bettencourt opened the public hearing.

Noticing that none were present to address the matter, the public hearing was closed.

**COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO APPROVE GENERAL PLAN AMENDMENT 05-152, ZONE CHANGE 05-2, INCLUDING THE MITIGATED NEGATIVE DECLARATION, THE MITIGATION MONITORING PROJECT AND ZONING CHANGE RESOLUTION (ALL OF WHICH HAD BEEN PUBLICLY NOTICED AND DISTRIBUTED). THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: DeVRIES (concerns with decision is that parcel under discussion was non-conforming – could be precedence setting for other parcels in the area); ABSENT: NONE.**

**Findings:**

**CEQA Findings:**

**Finding 1:** That the Environmental Impact Report for General Plan Amendment No. 05-27/Zone Change No. 05-152 has been prepared in compliance with the provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the San Benito County Implementing Procedures for the California Environmental Quality Act.

**Evidence:** All provisions including both State and County environmental guidelines and policies for the preparation of an Initial Study have been followed. The environmental documents used in the preparation of the Mitigated Negative Declaration are filed in the project record located at the San Benito County Planning Department in file number General Plan Amendment No. 05-27/Zone Change No. 05-152.

**Finding 2:** That the Planning Commission has considered the Mitigated Negative Declaration together with all comments received from the public review process.

**Evidence:** The Mitigated Negative Declaration, comments received on the Mitigated Negative Declaration, the staff report as well as verbal testimony was presented to the Planning Commission in preparation for, and during, the June 1, 2004, Planning Commission meeting.

**Finding 3:** The Mitigated Negative Declaration reflects the independent judgment of the Planning Commission.

**Evidence:** The Planning Department prepared the Initial Study and supervised the preparation of the Mitigated Negative Declaration and responses to comments on the Mitigated Negative Declaration. This report and the staff recommendation reflect the Planning Commission's independent evaluation of the project.

**Finding 4:** That the Planning Commission has found that there is substantial evidence that the proposed project will have a significant effect on the environment.

**Evidence:** The Planning Commission considered all the evidence prior to deciding to adopt the Mitigated Negative Declaration and the Mitigation Monitoring Reporting Program. The Planning Commission determined that the Mitigation Measures and the Conditions of Approval included in the staff report would reduce the impacts of the proposed project.

**Zone Change Findings:**

**Finding 1:** That the approval of the zone change petition will serve the public necessity, convenience, general welfare or good zoning practice.

**Evidence:** That the zone change will provide additional housing needed by the county and will provide additional tax revenues in the future. Any future project will be analyzed and will mitigate to the greatest extent feasible any project-related environmental impacts and not create general welfare or health and safety concerns for the County of San Benito through project design, construction of infrastructure, and payment of impact fees.

**Staff Recommendation:** It is recommended that the Planning Commission review the project proposal, conduct a public hearing, approve the project based on the included in the staff report, adopt the Mitigated Negative Declaration and Mitigation Monitoring Reporting Program, and the Zone Change Resolution and forward the project to Board of Supervisors with a recommendation to approve the General Plan Amendment and Zone Change.

**Mitigation Measures/Conditions of Approval:**

**Mitigation Measure 1:** Prior to the approval of a development proposal, the applicant shall be required to pay the Kit Fox mitigation fees as required by Ordinance 541, and any amendments

**Mitigation Measure 2:** Septic System and Leach Fields: Prior to commencement of the proposed use or during subdivision review, the applicant/owner shall coordinate with the County Environmental Health Department to insure that all existing and new septic systems and leach fields conforms to County standards.

**Mitigation Measure 3:** Prior to final of any new single family unit or subdivision, the project applicant shall pay a pro rata share to help finance additional personnel and equipment and shall provide sprinklers to any new residential unit onsite in order to reduce the arrival time for fire services.

**PUBLIC HEARING ITEMS:**

[Item 10] **Use Permit 915-05 – REQUEST:** To authorize the continuation of an existing labor camp. **APPLICANT/OWNER:** Felicitas Valenzuela. **LOCATION:** 1500 Nash Road. **ZONING:** Agricultural Productive. **ENVIRONMENTAL REVIEW:** Categorical Exemption.

IDoP Bethke presented the staff report, saying Staff has been working with the applicant and that the applicant has contracted with an engineering firm from the Bay area who has met with staff. The engineers will be working with staff as they continue to finalize plans for the application. Because of the necessary time required for the plans to be submitted and reviewed, a request for continuation to the September 7 meeting was presented.

Chair Bettencourt opened the public hearing.

With no persons present to speak to the issue, the public hearing was closed.

**COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO CONTINUE THE MATTER OF USE PERMIT 915-05 TO THE SEPTEMBER 7, 2005 PLANNING COMMISSION MEETING. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**Preliminary Allocation No. 04-24 – Request for 1 year Extension: LICO & GRECO – Hwy 25 and Union Road.**

AP Turner reported that the 12-month allocation had been granted on January 6, 2004 and according to the applicant's engineer, M H Engineering, this request states the applicant is working with the Sunnyslope Water District in addition to which the lack of a LAFCO Director has slowed the process as originally scheduled. The extension would be to January 3, 2007 for tentative approval of the map.

Chair Bettencourt opened the public hearing.

With no persons present to speak to the issue, the public hearing was closed.

Commissioner DeVries reminded that earlier the Commissioners had asked for a criterion for extension of the preliminary allocations requests could be judged and apparently there is at present no criterion in place. He reminded that staff and the engineers were directed to work together on development of such criteria. "Follow-up is definitely needed," Commissioner DeVries stated. "Until that criterion is developed, why not put these requests for extension/continuation on a consent agenda?" IDoP Bethke said he had noted the requests and will work on it.

Commissioner Machado clarified that one (only) extension for preliminary allocations/map approval can be granted by the Commissioners.

**COMMISSIONERS TOGNAZZINI/DeVRIES MOVED APPROVAL OF THE REQUEST FOR A 1-YEAR EXTENSION FOR PRELIMINARY ALLOCATION NO. 04-24. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**Use Permit 899-04 – REQUEST:** A use permit to convert a temporary mobile home to a senior second unit. **APPLICANT/OWNER:** Ronald King. **LOCATION:** 720 McMahon Road. **ZONING:** Agricultural Productive. **ENVIRONMENTAL REVIEW:** Categorical Exemption.

SP Paxton gave the staff report, saying the proposed unit would be 1174-sq ft, which exceeds the standards in the Zoning Ordinance, although there is an exception for handicapped accessible requirements, which this request addresses. SP Paxton said the request is before the Commissioners due to set-back requirements, which will be exceeded as currently planned; however the Ordinance has exceptions to that requirement which this request meets. SP Paxton called attention to the floor-plan lay-out which is designed for handicapped accessibility. The building official has inspected the dwelling and confirmed the entrances to the dwelling and all rooms are accessible as required. She called attention to the required conditions for the unit to be converted: grab bars and other items optimizing handicapped accessibility.

SP Paxton pointed out in Finding 2 there should be the addition that the site is free from environmental hazards and is consistent with County Policies and Ordinances. Condition 4 was noted as having revision to comply with the current Zoning Ordinance requirement that the unit shall not exceed 550 sq ft in area (parking) is not considered as a separate but as part of the overall covered space.

Commissioner Machado asked about project meeting the Ordinance requirements except for one set-back. SP Paxton explained the requirements of the Ordinance which state there shall be a 100-foot setback/separation between a senior second unit and the main dwelling – this request asks for an exception due to the fact that these are existing structures and the Ordinance may not be reasonable for existing structures. She also noted that the Ordinance had been updated to address the issue. Commissioner Machado determined that the exception could be granted with Commission approval, and this request does comply with the requirements of the Zoning District.

Chair Bettencourt asked about the square footage whereby the requirements for handicapped accessories must be provided. He also spoke on halls and doorways which must be modified to meet the requirements as well. SP Paxton explained the nuances of the Ordinances. Responding to a question from the Chair, SP Paxton and IDoP Bethke explained the process of converting foundations for temporary mobile homes to senior second dwellings and the systems used for ‘tie-downs’ for such mobile homes. IDoP Bethke said much depends on the recommendation of the Building Official officials for such conversions.

Chair Bettencourt opened the public hearing.

Ron King, 720 McMahan Rd., told Commissioners he was the applicant, and reiterated the request. He explained the process he has worked on to ensure proper conversion of the mobile home to a senior second unit. Mr. King said his parents would be occupying the unit. He also explained plans for installing an entrance ramp to the unit.

Chair Bettencourt asked SP Paxton to explain the inspection process for compliance.

With no others present to speak to the issue, the public hearing was closed.

**COMMISSIONER DeVRIES/TOGNAZZINI MOTIONED TO APPROVE USE PERMIT 899-04, INCLUSIVE OF THE AMENDMENTS NOTED IN THE STAFF REPORT, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN AS PRESENTED. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**Conditions of Approval:**

- 1. Sewer and Water:** On parcels with either public water and/or sewer service, letters must be provided from the appropriate sanitation and water district indicating that there will be adequate sewer and water service to the project. In areas not served by public sewer or water systems, a letter of adequacy of the existing systems must be submitted for the second unit from the County Health Department. [Health, Building]
- 2. Fire Safety:** A letter must be provided from the appropriate fire district indicating all fire protection requirements for the project, and all such requirements must be met. [Calif. Dept. of Forestry]
- 3. Occupancy:** The accessory senior dwelling unit shall be restricted to occupancy of a one or two person household. The accessory unit or the primary residence must be occupied by one household member who meets the definition of “senior citizen”. The owner of the unit shall annually send to the Planning Department the name and proof of eligibility of the current occupants. Failure of the owner to voluntarily submit the required proof of eligibility will result in the imposition of an administrative fee to cover the cost of the Staff inquiry to determine eligibility. Such fees shall be established from time to time by resolution of the Board of Supervisors. [Planning]
- 4. Parking:** Sufficient off-street parking shall be provided to meet the requirements of the parking section of the Zoning Ordinance for the main dwelling unit plus one space for the accessory senior dwelling unit. Any garage or carport constructed in connection with the senior citizen unit shall not exceed 550 square feet in area and is not considered part of the area of the unit, but is considered in the overall lot coverage. [Building, Planning]
- 5. Design:** The accessory senior citizen unit shall be designed in a manner as to be visually consistent and compatible (including use of similar materials and color scheme) with the principal residence on the site and other residences in the area. [Planning]
- 6. Declaration of Permit Restriction:** Before the issuance of a building permit the property owner shall file a Declaration of Permit Restriction with the County Recorder. This Declaration will incorporate the restrictions set forth in this section and any additional conditions placed on the use permit. These restrictions shall be binding upon any successor in ownership of the property. [Planning]
- 7. Numbering:** House numbers shall be posted so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the house numbers shall be set adjacent to the driveway and/or access road to the property. (House numbers for the senior unit shall be posted at Fairview Road and again at the driveway and shall be visible at night.) House numbers shall be posted when construction begins. [Building]
- 8. Hold Harmless:** The permittee shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against San Benito County or its agents, officers, or employees to attack, set aside, void, or annul the approval of this Use Permit and applicable proceedings. [Planning]

- 9. Compliance Documentation:** Prior to issuance of a Building Permit, the permittee 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, Building]
- 10. Periodic Review:** In the event of a compelling public necessity, non-compliance, problems, concerns, or complaints, this permit will be subject to further review and conditioning or, if necessary, revocation by the Planning Commission. Violation of the permit, creation of a nuisance, or a compelling public necessity could cause the revocation of this permit. Any expansion of this use beyond what is currently proposed must first be reviewed by the Planning Director, and if necessary, shall require further Use Permit review by the Planning Commission. [Planning, Building]

**Additional Conditions:**

- 11. Handicap Accessible:** The permittee shall make the following modifications to the mobile home within six months of approval of UP 899-04: 1) provide a handicap accessible ramp to the mobile home that complies with the requirements of the American with Disabilities Act and install grab bars in the master bathroom.
- 12. Conversion of Temporary Mobile Home to a Permanent Structure:** The applicant shall obtain a building permit to convert the mobile home from a temporary residence to a permanent residence with a permanent foundation. The applicant shall submit foundation plans, secure approval of a permit and complete the necessary inspections for the building permit within six months of approval of UP 899-04. The mobile home shall also be removed from the Department of Motor Vehicles Registration. [Planning, Building]

**Use Permit 903-04 – REQUEST:** A use permit to convert a temporary mobile home to a senior second unit. **APPLICANT/OWNER:** Alvis and Gloria Granger. **LOCATION:** 1721 Sunnyslope Lane. **ZONING:** Rural Residential. **ENVIRONMENTAL REVIEW:** Categorical Exemption.

SP Paxton presented the staff report, and explained this request is similar to that just reviewed: a mobile home proposed for conversion to a senior second unit, with exemption to the set-back requirement. She said the fire department has been consulted and does not feel the set-back requirement will cause concern. Like the previous item, SP Paxton said, Finding 2 should contain the addition that the site is free from environmental hazards and is consistent with County Policies and Ordinances, inclusive of the handicapped accessories. Condition 4 was noted as having revision to comply with the current Zoning Ordinance requirement that the unit shall not exceed 550 sq ft in area (parking) is not considered as a separate but as part of the overall covered space. SP Paxton noted that the Ordinance states the two dwellings should be similar in color and design. The two units have the same color trim but the main color is different. Furthermore, notice of concern has been received from a neighbor regarding the appearance of outbuildings on the site, which has caused a condition to be added that the senior second unit/yard area be harmonious with the main dwelling to provide visual continuity between the two buildings. SP Paxton called attention to the condition which will ensure consistency of addresses of the dwellings on the site.

Commissioner DeVries asked if the fence requirement is inclusive in Condition #14? [Yes]

Chair Bettencourt advised he had visited the site and felt the rear fence requirements unreasonable. He also noticed this unit is 1300 sq ft; SP Paxton stated the living space is less than 1300 sq ft.; a Building Official can make a determination regarding the appropriate space.

Discussion followed regarding the requirements to the Ordinance pertaining to conversions to senior second units.

Commissioner DeVries raised the issue of an inconsistency in the staff report regarding the 'living area sq ft' for a senior second/handicapped. SP Paxton explained the techniques the Building Official uses for calculations of living space. DCC Murphy read from the Ordinance regarding the matter of calculations for such units.

Chair Bettencourt opened the public hearing.

Bud Granger told Commissioners he was the applicant, and reiterated the request. Mr. Granger expressed opposition to Condition #5 (colors of the dwellings) and condition #14 (fence). DCC Murphy informed that Condition #5 is a requirement of the Zoning Ordinance.

Commissioners and the applicant discussed:

- fence distance from neighbors [15 feet +/- (applicant wants open – no fence)]
- whether applicant is willing to proceed with Conditions 5 and 14 in place [yes; will comply with conditions – but may or may not continue with permit process; dependent on cost]
- foundation for the senior second unit (applicant spoke on cost factor)
- intention of applicant to install a handicapped assessable entrance ramp
- having Building Official re-measure the actual living space

Mr. Granger explained the installation of the mobile unit by a professional installer.

Commissioner Smith asked about the intention of the applicant for handicapped access. Mr. Granger explained the main entrance would accommodate the handicapped access.

With no others present to speak to the issue, the public hearing was closed.

Commissioner DeVries explained concerns with the project being able to meet the provisions of the Ordinance (all interior spaces shall not exceed 1050 feet). DCC Murphy clarified that handicapped accessibility accommodations can be up to 1200 sq ft. (maximum) Commissioner DeVries pointed out that this unit would exceed that measurement by 104 sq ft. Commissioner DeVries emphasized he was not against conversion or placement of the handicapped units or elderly housing, but 'the law is the law'. Discussion ensued regarding the role of the Building Official and whether a ruling on measurement/calculations by the Official can overrule the conditions of the Ordinance. Variances as in this case were discussed.

SP Paxton clarified that additional measurements could be taken for further clarification.

**COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO CONTINUE THE MATTER OF USE PERMIT 903-04 TO THE AUGUST 3, 2005 PLANNING COMMISSION MEETING, AND DIRECTED STAFF TO CONTINUE INVESTIGATION OF THE SITE PLAN, INCLUDING PHYSICAL MEASUREMENTS OF THE SQUARE FOOTAGE AVAILABILITY IN THE UNIT OF THE PROPOSED DWELLING/SENIOR SECOND UNIT (HANDICAPPED ASSESSABLE). THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**Use Permit 920-05** – REQUEST: To erect a 55-foot artificial “treepole” for wireless phone antennas and 16’ x 10’ equipment shelter. APPLICANT/OWNER: Cingular Wireless/Lynn Hilden. LOCATION: End of Frank’s Drive (Ridgemark), Hollister. ZONING: R-1 (Single-Family Residential) ENVIRONMENTAL REVIEW: Categorical Exemption.

AP Turner presented the staff report, offering explanation of the project. He noted that Metro PCS (next agenda item) had withdrawn the request for co-location on the tower. Correction of language in Condition #2 was referenced.

The letter of opposition was referenced, as was a telephone call in opposition which had been received at the Planning Office and to some of the Commissioners.

Commissioners asked questions of staff regarding: further placement of receivers/transmitters on the existing pole; it is full both physically and re the conditions of the Ordinance.

Chair Bettencourt opened the public hearing.

Luke Stamos, Planning Consultant for Ruth & Going, Inc, 2216 The Alameda, San Jose, told the Commissioners he had assisted with the original placement of the pole and explained the FCC mandates which now required additional space for telecommunications. Mr. Stamos assured the Commissioners that the placement of this pole would be proportional to the first. There is a prospective applicant for this second pole, Mr. Stamos said, as he explained the placement of the cables, etc. within the pole.

Commissioners discussed with Mr. Stamos:

- provision of service – broadcast or wireless
- how many receivers/transmitters on a pole (two – restricted by physical attributes and Ordinance)
- landscaping (can be conditioned for landscaping; speaker says in-house landscaping firm to complete landscaping plan)
- applicant request for conditioning rather than continuation (staff says can tie into finalization of building permit)
- willingness of applicant to post bond for performance
- lessons learned from prior installations throughout the County

Chair Bettencourt and Commissioner Machado disclosed visits to the site, with Commissioner Machado speaking on the color of the water tower and the surrounding landscaping. Commissioner Machado indicated that he thought the tree effect to be good.

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

**COMMISSIONER MACHADO MOTIONED TO APPROVE USE PERMIT 920-05, INCLUSIVE OF THE MODIFICATION TO CONDITION #2 AS OUTLINED BY STAFF, AND INCLUDING ADDITIONAL CONDITIONS OF:**

- **EXTERIOR COLOR OF BUILDING TO BE NON REFLECTIVE AND COLOR OF EXISTING BUILDING IN AREA**
- **TREE HEIGHT BE EQUAL OR IN EXCESS OF EXISTING**
- **POST BOND [VALUE ESTIMATE DETERMINED BY LANDSCAPE ARCHITECT] FOR LANDSCAPING PLACEMENT (LANDSCAPE PLAN TO BE REVIEWED BY STAFF BEFORE A BUILDING PERMIT IS ISSUED) WITH LANDSCAPING TO BE REVIEWED ANNUALLY**

**COMMISSIONER DEVREIS SAID HE WOULD SECOND THE MOTION WITH AN AMENDMENT: LANDSCAPE PLAN TO IDENTIFY SIZE, SPECIES AND HEIGHT OF LANDSCAPE MATERIALS CONSISTENT WITH HEIGHT OF FENCING THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**Finding 1:** That the proposed use is properly located in relation to the General Plan, and the community as a whole and to other land uses, transportation, and service facilities in the vicinity.

*Evidence:* The General Plan and zoning designation for this site is single-family residential. Review of the proposed project has shown that it is consistent with all policies and ordinances, including the General Plan and Zoning Ordinance, subject to the recommended conditions of approval.

**Finding 2:** That the proposed use, if it complies with the conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard, or nuisance to persons or property.

*Evidence:* Appropriate County Departments and responsible agencies have reviewed the proposed project and found no inconsistencies with the General Plan and Zoning Ordinance. Comments can be found in County file UP 920-05.

### **CONDITIONS OF APPROVAL:**

#### **1. 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]

**2. 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]

**3. 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]

**4. Improvement Plans:** Prior to issuance of a building permit, the applicant shall submit building and improvement plans to the County Building Department for approval.

**5. Exterior Color:** Any color applied to the exterior of the equipment shelter shall be non-reflective. The exterior appearance of the equipment cabinets shall be maintained at all times.

**6. Lighting:** Any exterior equipment lighting shall be installed with a manual on/off switch and shall only be lighted while maintenance personnel are working at the site. Exterior lights shall be shielded to direct light downward.

**7. Equipment Removal:** Applicant shall remove the equipment and equipment shelter no later than six (6) months after operation of the communication facility ceases.

**8. Fire:** The project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, the Uniform Building Code, the San Benito County Code, and other related codes as they apply to a project of this type and size.

**9. Landscape Plan:** Prior to issuance of a building permit, applicant shall submit a landscape plan to the Planning Department for approval. The applicant shall post a bond for said landscape plan based on a value estimate by a qualified landscape architect. The size and specifications of the landscaping shall be consistent with the height of the proposed structures.

**Use Permit 917-05 – REQUEST:** To erect two (2) 12.5-foot ground mount poles for wireless phone antennas and a 15' x 10' equipment shelter. **APPLICANT/OWNER:** Metro PCS/Lynn Hilden. **LOCATION:** End of Frank's Drive (Ridgemark), Hollister. **ZONING:** R-1 (Single-Family Residential) **ENVIRONMENTAL REVIEW:** Categorical Exemption.

AP Turner presented the staff report, indicating this request was new, with the applicant having withdrawn a request for co-location within the previous agenda item. This is, however, he said, the same location as previously referenced. Responding to a question from the Commissioners, AP Tuner said his understanding that the requirements of landscaping for the previous applicant would be sufficient for the site.

Commissioner Smith asked who the financial beneficial of the installations would be? [Lynn Hilden]

Don Wong, representing Metro PCS, said the proposed three equipment cabinets would be six-foot and placement would be below the fence line. Mr. Wong explained the equipment size and placements for the installation.

Chair Bettencourt asked if the County could co-locate communication equipment on the installation.

Mr. Wong said he had been approached by Clear Wire regarding co-location and explained their needs. He said that so long as there is not interference with the operations of his company, co-locators would be accepted. Mr. Wong said the installation would be painted to match the installations in the area.

DCC Murphy asked about having landscaping as a condition if the previous applicant did not perform. "Would the current landscape/foliage be sufficient?" she asked, cautioning that if condition for landscaping requirement were not in place and the prior applicant did not perform, enforcement for landscaping might not occur.

Mr. Wong said he understood the desire to have minimal visual impact at the site, and Metro PCS would accept conditions regarding landscaping, but that the company fully intended to install equipment which would not be visible behind the chain link fence.

Chair Bettencourt opened the public hearing, noting the Metro PCS representative had already been heard.

Discussion followed regarding:

- height of the poles
- poles versus tree – appearance (applicant says cost increase is of concern)
- landscaping requirements

John Schwartz, told Commissioners he was present to represent Metro PCS said stressed he favored pipes versus trees.

Commissioner Smith said that in looking at the photos of existing trees and proposed poles, he felt consistency of esthetics is important and should be applied unilaterally.

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

Chair Bettencourt asked for an amount of co-location for County communications; Mr. Wong indicated concurrence with that request, following review of the County's request.

**COMMISSIONER MACHADO OFFERED A MOTION TO APPROVE USE PERMIT 917-05 WITH THE SAME REQUIREMENTS FOR PAINT COLORS OF EQUIPMENT AS PREVIOUSLY APPROVED; FOR THE INSTALLATION TO BE TREES, NOT POLES; AND LANDSCAPING PLAN (WITH A BOND) BE REQUIRED FOR THE PERIMETER OF CABINETS/LEASE AREA ; ALONG WITH A CO-LOCATOR ALLOWED ON THE INSTALLATION.**

Commissioner DeVries clarified placement of the landscaping (at the perimeter of the buildings, not around the fence).

Commissioner Tognazzini asked about standards for the trees [industry standards] – as contrasting with pole(s) placement.

Mr. Wong advised that each tree is custom designed.

DCC Murphy clarified that **THE REQUIRED FINDINGS AND CONDITIONS WERE INCLUDED IN THE MOTION.**

**COMMISSIONER TOGNAZZINI PROVIDED THE SECOND TO THE MOTION WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**Finding 1:** That the proposed use is properly located in relation to the General Plan, and the community as a whole and to other land uses, transportation, and service facilities in the vicinity.

*Evidence: The General Plan and zoning designation for this site is single-family residential. Review of the proposed project has shown that it is consistent with all policies and ordinances, including the General Plan and Zoning Ordinance, subject to the recommended conditions of approval. While Ordinance 762 (Wireless Telecommunications Facilities Regulations Ordinance) encourages co-location of wireless facilities, since the existing treepole at the site cannot support further co-location, the construction of another wireless facility, capable of further co-location, at the same site, could be considered consistent with the wireless communication ordinance.*

**Finding 2:** That the proposed use, if it complies with the conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard, or nuisance to persons or property.

*Evidence: Appropriate County Departments and responsible agencies have reviewed the proposed project and found no inconsistencies with the General Plan and Zoning Ordinance. Comments can be found in County file UP 917-05.*

### **CONDITIONS OF APPROVAL:**

#### **1. 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. [PLANNING]

#### **2. Compliance Documentation:**

Prior to recordation of 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]

**3. 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]

- 4. Improvement Plans:** Prior to issuance of a building permit, the applicant shall submit building and improvement plans to the County Building Department for approval.
- 5. Exterior Color:** Any color applied to the exterior of the equipment shelter shall be non-reflective. The exterior appearance of the equipment cabinets shall be maintained at all times.
- 6. Lighting:** Any exterior equipment lighting shall be installed with a manual on/off switch and shall only be lighted while maintenance personnel are working at the site. Exterior lights shall be shielded to direct light downward.
- 7. Equipment Removal:** Applicant shall remove the equipment and equipment shelter no later than six (6) months after operation of the communication facility ceases.
- 8. Fire:** The project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, the Uniform Building Code, the San Benito County Code, and other related codes as they apply to a project of this type and size.
- 9. Landscape Plan:** Prior to issuance of a building permit, applicant shall submit a landscape plan to the Planning Department for approval. The applicant shall post a bond for said landscape plan based on a value estimate by a qualified landscape architect. The size and specifications of the landscaping shall be consistent with the height of the proposed structures.

**Zone Change 05-143:** Workshop to provide direction on rezoning of about 50 acres of land zone R1/RM with environmental constraints to Rural and 50 acres of Agricultural Productive (AP) land near Enterprise Road and/or Airline Highway to Single Family Residential and Residential Multiple. APPLICANT: San Benito County. LOCATION: Enterprise Road and Airline Highway. ZONING: AP (Agricultural Productive) R1 (Single Family Residential) RM (Residential Multiple). ENVIRONMENTAL REVIEW: Pending.

SP Paxton gave the staff report, noting the lands are within the Rural/Urban designation near Ridgemark and that the action under discussion was reflective of requirements of the Housing Element. SP Paxton gave an overview of the request and the area under discussion. Lack of services and targeting of the designated area was of concern to the Commissioners during previous discussion she said, and gave an overview of staff findings regarding the site.

Commissioners asked SP Paxton several questions and had discussion regarding alternatives. Further discussion surfaced regarding: deadlines for the zone change; housing element conditional certification (need for implementation); viability for Tres Pinos use; mixed use for the Tres Pinos area; labor camp placement in relation to the site; prioritizations; possible annexation to Hollister; sewer placement/connection availability; limited land supply at San Juan Bautista; open space areas of the various subdivisions; lack of infrastructure in the areas of water and wastewater; other environmental detriment features.

SP Paxton stressed the project area is one of the few areas the County has for infill for urban development. Higher density would be desirable for this site, she said. AP Paxton also said that the time element is important. DCC Murphy said that the Commissioners need to provide advice and guidance to the Board of Supervisors on the matter. SP Paxton emphasized the importance of recommending rezoning at least 23 acres to be rezoned to single family residential (R1 – 8 units per acre) and 23 acres to be rezoned to residential multiple (up to 20 units per acre) in the area [SP Paxton suggested that Commissioners could make recommendation for other acreage, but cautioned that the CA Housing and Community Development Department had looked favorably on the current suggestions]. Conditions such as a PUD overlay could be required if the Commissioners feel that the infrastructure is not adequate at present. AP Paxton stressed this is a zone change, not a guarantee or promise of allocations. Discussion continued regarding the infrastructure (lack thereof) for water and wastewater. SP Paxton called attention to attachments in the staff report which gave clear indication of the location(s) under discussion, as well as the opportunities for the sites being considered. True areas for infill were included in the staff report, SP Paxton indicated. AP Paxton reiterated some of the key points of the CA Housing and Community Development documents which had received favorable reaction from that agency.

Staff noticed that notices had been sent to all property owners who might ultimately be affected by the rezoning.

Chair Bettencourt opened the public hearing.

Brad Sullivan, 1550 Prune Street, informed that he is a local attorney but was present to speak as a private citizen. Mr. Sullivan called attention that Chapter 30 of the Ordinance is not applicable in the findings. SP Paxton responded to the comments made by Mr. Sullivan, with Mr. Sullivan subsequently requesting that Chapter 30 not apply as it is unknown what projects might evolve from the potential rezoning. SP Paxton said the properties within the Rural/Urban land-use designation have a range of densities up to 20 units per acre and Chapter 30 does not apply these lands are already designated for urban density development with a maximum of 20 units per acre, so it is doubtful that the Ordinance applies to this zoning request. Mr. Sullivan persisted, asking Commissioners to make that specific finding that Chapter 30 does not apply in any recommendation to the Board of Supervisors because of specific environmental issues present on the site. Mr. Sullivan said that a legal challenge could be made on the basis of the language in Chapter 30.

Eric Dietz, General Manager and Chief Operating Officer of Ridgemark Golf and Country Club, 3800 Airline Highway, spoke to the Commissioners asking about the amount of funding affected for the County and the end use planned for the funds. Mr. Dietz said he had received the notice of hearing, but not a staff report, which he wanted. SP Paxton advised that there was no proposal to change the land use within the Ridgemark Corporation holdings so a staff report was not sent. IDoP Bethke said he thought the dollar amount possibly affected had the potential of a \$2.7 million.

Chair Bettencourt asked if highway funding could be lost if the County did not have an accepted Housing Element (which would be predicated on the action before the Commissioners). DCC Murphy said that was unknown but could have the possibility of truth. Mr. Sullivan said he had experience with the issue as a member of the CA League of Cities and because of the unrealistic plans presented for affordable housing; one of suggestions had been to withhold portions of the vehicle license funds and gas tax monies. That did not occur, Mr. Sullivan said, but the Community Service and Health Service Block grants had been withheld. The action is still being threatened, but the outcome is not known at this time.

Mr. Dietz thanked the Commissioners.

Commissioner Smith asked why Tres Pinos residents were not represented at the meeting. SP Paxton explained that the area had not been considered for the zone change. Commissioner DeVries commented that the infrastructure in Tres Pinos was not inductive to the zone change. Commissioner Smith said representatives of the Tres Pinos community should be given the opportunity to address the issues before a decision is made. SP Paxton said a workshop was planned for the area two months ago, but circumstances intervened and the Board was directed to take the lead in the matter. She said some inquiries from the Tres Pinos Water Agency had been received and attempts were being made to set up a meeting for discussion with the Directors. SP Paxton said that the matter to be continued to a future date, pending meeting announcement being sent residents of Tres Pinos and additional data being gathered for inclusion into the staff report(s). DCC Murphy asked if any environmental review has been completed on the proposed rezone? SP Paxton said environmental review would be prepared when more specific sites are targeted.

SP Paxton advised that the staff is seeking authorization to implement the program as outlined and requesting the Commissioners to give direction on sites to rezone and how the Commissioners want us to proceed.” Chair Bettencourt asked how many more workshops/public hearing were required before Commissioners send the issue to the Board of Supervisors for final action? SP Paxton said it is necessary to identify what the project will be, then environmental review can commence whereupon that document can be circulated for 30 days, then the matter will be returned to the Commissioners. SP Paxton indicated that workshops could be conducted concurrently with the review work if the Commissioners so directed.

DCC advised tht the Commissioners would ultimately need to make recommendation to the Board of Supervisors in the form of a Resolution regarding the change decided.

Chair Bettencourt invited other members of the public to speak.

Roger Grimsley, 1000 San Benito Street, reported to the Commissioners he would advocate Area A (Corotto/Lompa property) as indicated in the staff report. He said there is about 160 acres within that site which would be ample to meet the requirements of the Housing Element. "We recognize there are some constraints on the property, but urge consideration of the site," Mr. Grimsley told the Commissioners, as he described the site as being ideal for urban development with higher density. Mr. Grimsley described the features of the property as 'having natural infill to the area, being within the Sunnyslope {Water District} sphere of influence, and having a nearby existing sanitary sewer line serving Riverview Estates', and – eminently - when the City of Hollister completes it's sewer treatment facility that services Riverview Estates, then Mary {SP Paxton} can make contact for implementing some type of sanitary facilities to support the higher density. "You recognize in the current designation it can only be fulfilled with large estate lots and would support septic tanks. By designating higher densities, and interfacing with the City of Hollister, higher densities can be achieved to fulfill the Housing Element and the affordable housing. The mixed density she [SP Paxton] is talking about doesn't necessary mean all the area has to be affordable; it can be mixed to where you could have condominiums, affordable units, estate lots, as well as large estate lots," Mr. Grimsley explained. "So it could be a large enough area to achieve the objective of 160 acres." Mr. Grimsley indicated the attendance of the owners of the property referenced at the meeting, and urged the Commissioners to consider Area A as viable and positive."

Evelyn Lompa said she and her son own the property referenced by Mr. Grimsley. She urged the Commissioners to rezone the property as indicated. Ms. Lompa said she had supported the rezone in Faxes to staff and wished to point out that the County already owns the large rock quarry there and that could be filled and used for housing. One concern, Ms. Lompa said, was for the hills as there would be possibility of estate lots and that could be on the hills which would provide good views.

Kathleen Yager, 216 Enterprise Rd., spoke to the Commissioners saying she supported rezone of the labor camp. Ms. Yager said that the staff recommendations were comprehensive and realistic. She said that while rezone of the labor camp might result in lowering the value of her own property, she still offered support. "A basic question," Ms. Yager said, "is do we want to do the development or not. If we want to do the development, we need to look at avoiding obvious hazards, such as landslides, earthquake faults, traffic jams. Look carefully to where we actually have water and sewer currently. A problem with Area A is dependency on the City of Hollister for service provision. Along Southside Area A would be my second choice, but it is dependent on having the City of Hollister getting the sewer situation in hand." Ms. Yager continued by addressing the other areas which – in her thinking – were possible solutions/alternatives.

Bruce Yager, 216 Enterprise Rd., told the Commissioners he is a local Pediatrician and said he agreed with the previous speaker. Dr. Yager spoke of the youth in the area who attend Ladd Lane and Southside Schools and the value of exposing those students to the current rural flavor of the area. Dr. Yager said he could see merit in having zoning in the areas identified by the staff, as well as Tres Pinos. "If you're really, really forced because of the deadlines imposed and the need for money, then approve it with the understanding that other areas will be developed and undo what was done pragmatically," Dr. Yager urged.

Felix Ordineza said he wished he had gotten a pamphlet (staff report). Mr. Ordineza said his address is 2910 Southside Road and that he lives directly across from property being discussed. He said he was against this. I'm originally from Santa Clara County and I came here to get away from all the fiasco that's going on there. I look at that area and know that's why I came to San Benito County. This is a beautiful environment but what we're discussing here has nothing to do with that. I should have some rights; I should have some consideration," Mr. Ordineza stated. Mr. Ordineza continued at length regarding his farming operations, the traffic operations, the infrastructure, the 'blackmail' thing with the State, and the fines levied by the State for the sewer ponds overflowing. Mr. Ordineza said it appears that the 'cart is being put way before the horse' now and concluded by speaking of his personal rights as a property owner. (Mr. Ordineza's comments were greeted with enthusiasm by some members of the audience.)

Tim Johnson gave his address as 4250 Southside Road and told Commissioners that several public facilities are within minutes of Area A and could provide services whereas other areas were not capable of such support. Mr. Johnson urged support of Area A, and indicated he is a property owner within that site.

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

Commissioner DeVries addressed the Mixed Use concept for the Tres Pinos site. He noticed that it is currently zoned commercial, and that with a Mixed Use designation, the commercial nature would be retained and only allowing residences on upper stories, making the comparison with downtown Hollister on San Benito Street. Building would not occur until services could be provided, but such rezone would probably appease the State, Commissioner DeVries declared. He continued by stating he continued to support rezone of the labor camp and additionally look at a portion of Cielo Vista that fronts on Airline Highway.

Chair Bettencourt reminded that property owners support the rezone of Area A, and that residents of Tres Pinos and Cielo Vista were not present. Commissioner DeVries responded that he was stating his opinion and was not aware that a vote/decision was underway. Commissioner DeVries indicated that the Board of Supervisors is the final decision making body.

Commissioner Machado asked if Cielo Vista was surrounded by the City. SP Paxton illustrated a small sliver on the north and west sides of the development (about 40 acres; formerly part of the West of Fairview Specific Plan but no longer associated with that drive) which was not annexed to the City. Commissioner Machado said he suspected that Areas A and B indicate funneling of the development to that area. Commissioner Machado recalled prior discussions regarding Tres Pinos and Pacinies. Have there been any discussions with the City of Hollister regarding the capability of the sewer plant for such a rezone as there had been thoughts in the past that if the area was rezoned/re-designated for higher density but it was dependent on the City's sewer capacity.

SP Paxton summarized direction given to staff for progression:

- notice to be provided to residents {and emphasizing the Water District} of Tres Pinos
- explore mixed use in the commercial zone of Tres Pinos
- continue exploration of rezone of the labor camp, Cielo Vista
- and research with the City of Hollister how any excess capacity in the sewer facility could be utilized

Commissioner Tognazzini asked Mr. Grimsley how much of Area A could really be developed? [About 40 acres outside the fault line which runs along the base of the hill] Commissioner Tognazzini then asked about the number of acres which need to be rezoned. SP Paxton said there are about 53 acres which have been identified in the Housing Element as 'constrained'. "It is essential a trade: taking the constrained land that is zoned for residential and rezone it to rural or lower density then rezone some agriculture productive land with a residential designation. The split would be about 50-50 with half being single family residential and half residential mixed use," SP Paxton explained.

Concluding the agenda item, Chair Bettencourt accepted the direction to staff as presented.

**Minor Subdivision 1147-04** – REQUEST: A request to subdivide a 20 acre parcel into four lots. APPLIANT/OWNER: Mike Dunn. LOCATION: Meadow Lane. ZONING: Agricultural Productive. ENVIRONMENTAL REVIEW. Mitigated Negative Declaration.

SP Paxton presented the staff report, providing information regarding water, waste water, and detention facilities. She said that at the time of distribution of the staff report, no letters or objections had been raised, but two had been received during the past week. The letter from the neighbor was distributed and contained allegations of localized flooding issues in the area. SP Paxton said that prior development had helped to alleviate some of those concerns and this development should continue that mitigation. SP Paxton said there was a 'fault' concern and the applicant is in the process of having a supplemental trenching report completed. At this point, the subdivision has suitable building sites outside the fault zones, she said.

SP Paxton called attention to the Conditions and Findings prepared by staff, and emphasized Condition #18 (mitigation measures in the initial study) saying an addition should be: *The requirement of the mitigation measures be met prior to the recordation of the parcel map*; and in Condition #9: ~~installation~~ *install* and add (at the end): *the intersection [word was not complete] is to be completed*

Chair Bettencourt opened the public hearing.

Roger Grimsley spoke to the Commissioners as the representative of the applicant. SP Paxton has outlined 22 Conditions, he said – to which the applicant agrees, then called attention to ‘a couple of clarifications’:

Condition #8 – ~~detention~~ *retention pond*

Condition #9 – 2A a *60 foot row* – this, Mr. Grimsley said, should be added to 1A on page 7 to a *60-foot right of way*

Mitigation measure #6: Mr. Grimsley said this is unnecessary and asks that item B be removed. DCC Murphy clarified the item was in the Mitigated Negative Declaration during circulation of that document, which would indicate acceptance by the applicant; if the item were to be removed at this time, the document would have to be re-circulated and findings made to justify removing it. Mr. Grimsley argued for removal even though the mitigation agreement had been signed, citing the terrain in the area: no slopes or sharp precipices.

Commissioner Smith said that most of the regulations... and the County intends to follow ‘best practices’. Mr. Grimsley agreed, citing increased costs and future staff demanding the condition be adhered to. Commissioner Smith stated a belief tht the condition was a result of federal rulemaking and the County could not argue the point. Mr. Grimsley urged the inclusion of working *‘if necessary’*. DDPW Nazemi spoke from the audience saying: “No, that is only during the rainy season.” Mr. Grimsley continued arguing, and saying, “If it is written, the applicant will be held to it. Give us a little discretion.”

Commissioner DeVries asked if adding the phrase suggested by Mr. Grimsley would require document recirculation? DCC Murphy said the standard is whether the change is substantial and referred to the staff for identification of such. DDPW Nazemi and SP Paxton conferred and said the change is minor and acceptable.

Ray Jean, 531 Morada Lane, neighboring property owner to the southeast side, disagreed with the statements made by Mr. Grimsley that the ground is flat, and citing the example of building his garage. He also told of living in the area and seeing localized flooding on several occasions. DDPW Nazemi clarified road maintenance by property owners in the area.

Commissioner Machado called attention to work done in the area (cleaning the creek) with materials being pushed back into the creek and ‘that’s a violation’ he declared. DCC Murphy spoke on Regional Water Quality Control becoming stricter on ‘non-point source pollution into waterways’ and the results thereof. DDPW Nazemi said public works is unaware of the violation(s) cited by Commissioner Machado. Commissioner Machado said what he could not understand was a prior violation not being dealt with but this applicant is being held up in the discussions. DDPW Nazemi said he did not know of the previous project [Commissioner Machado reiterated his concerns with ignoring one and not another.]

DDPW Nazemi said his understanding of the situation was that the culvert that was there in the previous subdivision was 3/4s plugged so the new subdivision as per the requirements had to raise the culvert to the actual natural flow line to avoid further plugging. The previous culvert had actually sunk about 2 – 3 feet below the actual flow so the drainage issue had to be revisited so the natural flow could continue. If the culvert is plugged again – and it hasn’t been inspected since the last construction, DDPW Nazemi said, it needs to be maintained.

Mike Dunn, the applicant, stated as the current applicants and a previous developer at the site, he had not gone into the culvert again or the drainage ditch after it was signed off on [by Public Works]. “If there is silt or something back into the culverts now and it needs to be cleaned, we can do it in the next phase. There were some changes to the original design by public works,” Mr. Dunn informed. “Any culvert has to be maintained.”

Commissioner Smith asked staff if San Benito County Water District was responsible for flood control and if that falls under the prevue of that agency? DDPW Nazemi said the District used to carry the title of ‘Flood Control District’ but he was unaware of any implementation of duties. He spoke on the fact that funding is limited for them in the area of flood control. Commissioner Smith asked if the San Benito County Water District would perform an analysis of the project to ascertain flow patterns. DDPW Nazemi spoke at length of the designs which had been presented and the requirements for developers to bring the developments up to standards of the study. “Basically the engineering of the projects is between Public Works and the engineer for the developer,” DDPW Nazemi said. Commissioner Smith indicated thinking the District should be more involved in the study and recommendations.

Mrs. Janet Brians, 747 Shore Road, asked if the Commissioners and staff have considered a clustering policy for the project, considering the size of the property and the flooding issue.

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

Chair Bettencourt asked SP Paxton what the classification of soils on the property [class 1 soils]. SP Paxton reminded the exception of parcels subdivided to 5 acre lots on three sides takes precedence over the requirement for preservation of ag lands.

Commissioner DeVries said the request fits the zoning and ‘here we go again: chopping the County up into five-acre parcels and not protecting the ag land’. He reiterated previous opinions that the County is not serious about protecting class 1 soils.

**COMMISSIONERS TOGNAZZINI/SMITH MOTIONED TO APPROVE MINOR SUBDIVISION 1147-04 WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN, TOGETHER WITH THE MODIFICATIONS IDENTIFIED DURING STAFF PRESENTATION AND COMMISSION DISCUSSION. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**CEQA Findings:**

**Finding 1:** That the Negative Declaration for Minor Subdivision 1147-04 has been prepared in compliance with the provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the San Benito County Implementing Procedures for the California Environmental Quality Act.

**Evidence:** All provisions including both State and County environmental guidelines and policies for the preparation of an Initial Study and proposed Mitigated Negative Declaration have been followed. The milestone documents in the preparation of the Initial Study are filed in the project record located at the San Benito County Planning Department in file number MS 1147-04. These documents include the Notice of Availability and the Initial Study. The applicant agreed to the mitigation measures prior to the release of the initial study for public review. A public review period of the Initial Study was conducted from June 7 to June 28, 2000. No letters were received.

**Finding 2:** The Planning Commission has considered the proposed Initial Study together with all comments received from the public review process prior to consideration of the project.

**Evidence:** The Initial Study, written comments received on the Initial Study, as well as verbal testimony, were presented to the Planning Commission at the July 20, 2005 Planning Commission meeting. The Planning Commission considered all the evidence prior to adopting the Mitigated Negative Declaration. Mitigation Measures for drainage were revised in response to public comment and new information was added that clarifies drainage issues and pursuant to section 15073.5(c) (1) of CEQA recirculation of the initial study is not required.

**Finding 3:** That the Negative Declaration reflects the independent judgment of San Benito County.

**Evidence:** The Planning Department prepared the Initial Study for the Mitigated Negative Declaration and made revisions in response to comments. The Commission considered and reviewed the Initial Study and considered public comment prior to action on the Mitigated Negative Declaration.

**Finding 4:** The Planning Commission has found that the preparation and content of the Negative Declaration for Minor Subdivision 1147-04 reflects the independent judgment of San Benito County and there is no substantial evidence that the project will have a significant effect on the environment.

**Evidence:** The Planning Commission considered the Mitigated Negative Declaration, Staff Report and all verbal testimony presented at the public meeting of July 20, 2005 and determined that no substantial evidence of a significant effect was submitted regarding the project. They determined that the Conditions of Approval as submitted in the Staff Report presented adequate mitigation to change the project and to reduce and avoid any significant environmental impacts.

**Finding -- Fish and Game Code**

Pursuant to Public Resources Code Section 21089(b) and Section 711.4 of the Fish and Game Code, the following findings must be determined:

An Initial Study has been conducted by the lead agency to evaluate the potential for adverse environmental impact.

That this project involves no potential for an adverse effect, either individually or cumulatively, on wildlife resources or the habitat upon which the wildlife depends.

That the lead agency has, on the basis of substantial evidence, rebutted the presumption of adverse effect contained in Section 753.5(d) of the Code of California Regulations.

**Evidence:** An Initial Study was conducted by the lead agency. The Initial Study is found in file number MS 1147-05 at the County Planning Department office. Some ground disturbance and tree removal will occur with the construction of the access road, driveways, septic systems and house pad. The de minimus finding cannot be made.

**Required Findings:**

The Planning Commission shall deny this subdivision request if the evidence presented does not support the following findings:

1. That the proposed map is consistent with applicable general and specific plans.
2. That the design or improvements of the proposed subdivision is consistent with applicable general and specific plans.

**Evidence:** The project has been designed and conditioned to maintain consistency with the general plan.

3. That the site is physically suitable for the type of development.
4. That the site is physically suitable for the proposed density of development.

**Evidence:** The project site is relatively flat and the applicant has demonstrated that on-site soils are suitable for septic and that there is adequate quality and quantity of water.

5. That the design of the subdivision or the proposed improvements will not likely cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

**Evidence:** Conditions have been placed on the subdivision to direct development away from a creek that experiences localized flooding and to limit tree removal not associated with construction of a home during the nesting season and to reduce localized flooding.

6. That the design of the subdivision or type of improvements is not likely to cause serious public health problems.

**Evidence:** Septic and water systems will be required to comply with state and local regulations to ensure public health and safety.

7. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through, or use of, property within the proposed subdivision.

**Evidence:** The project has been conditioned to provide easements for Pacific Gas and Electric and the maintenance of the proposed driveway. The applicant has submitted a title report with the application and it is on file with the Planning Department. Staff has reviewed this report. There were no indications that there would be conflicts with easements as a result of this subdivision.

8. Subject to Section 66474.4 of the Government Code, that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Govt. Code, Sec. 51200 et seq.) and that the resulting parcels following a subdivision that land would be too small to sustain their agricultural use.

**Evidence:** The project site is not included in a Williamson Act contract. The Planning Commission has considered size of the parcels in relation to general plan policy for protection of agricultural lands.

9. Subject to Section 66474.6 of the Government Code, that the discharge of waste from the proposed subdivision into an existing community sewer system would not result in violation of existing requirements prescribed by the Central Coast Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

**Evidence:** The proposal is located over three miles from a community sewer system. The applicant has provided evidence that the septic systems will comply with design requirements for a standard septic system.

**CONDITIONS OF APPROVAL:**

**1. Recordation - Section 17-10 Ordinance 617**

A Parcel Map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The tentative subdivision will expire two years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a Parcel Map within the period of approval or a period of extension shall terminate all subdivision proceedings. [PLANNING, PUBLIC WORKS, RECORDER]

**2. Conformity to the Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by 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. 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 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 its right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [PUBLIC WORKS]

**4. Mitigation Monitoring**

Prior to recordation of the parcel map, the applicant shall enter into a mitigation monitoring agreement with San Benito County. [PLANNING]

**5. Compliance documentation**

Prior to recordation of the Parcel Map, the applicant 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 applicant shall also submit a response as to how this project complies with impact fees applicable to the following ordinances: Kit Fox, Drainage Areas, Benefit Areas, and other applicable ordinances. [PLANNING, PUBLIC WORKS]

**6. Assessment - Section 17-32 (d) of Ordinance 617**

Prior to recordation of the Parcel Map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act. [ASSESSOR, PUBLIC WORKS]

**7. 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, BUILDING, FIRE]

**8. Water Supply/Septic-- Section 17-65(d) of Ordinance 617 – Mitigation Measures 14**

Prior to recordation of the Parcel Map, the applicant shall submit to the Planning and Public Works Departments written confirmation from the Environmental Health Department that domestic water is available in sufficient quality and quantity for a local small water system with four connections. Any proposed disposal system shall conform to the standards in Resolution No. 83-12 of the California Regional Water Quality Control Board Central Coast Region and shall be located 100 feet from on-site wells, the drainage channel east of the project site and 200 feet from the proposed detention pond.

[BUILDING, PLANNING, ENVIRONMENTAL HEALTH]

**9. Road Standards--Article XIII Appendix C San Benito County Road Standards Ordinance 617 and Roadway Improvements and Dedication Section 17-31 (j) 17-53 and 17-64, 65(a),**

Prior to recordation of Parcel Map, the applicant shall be required submit improvement plans for construct or contribute funds for the future construction of the following improvements road:

1. Prior to recordation of the parcel map, the applicant shall make an irrevocable offer of dedication for:
  - a. a 60 foot right-of-way on Meadow Lane to San Benito County along the property frontage of parcel 1.
  - b. a 30 foot right-of-way for the proposed common driveway
  - c. a 50 foot radius right-of-way for an emergency turnaround, where the common driveway terminates (section 17-53 SBC Subdivision Ordinance)
2. Prior to recordation of the parcel map for this project, the applicant shall make roadway improvements for
  - a. Proposed common driveway (i.e. 16 feet AC on 18 feet road bed plus 40 feet radius bulb turnaround.
  - b. Proposed emergency vehicle turnaround (sections 17-64, 65(a) of SBC Subdivision Ordinance)
3. Prior to commencement of any improvements associated with this project, applicant shall obtain a Public Works Encroachment Permit for any work being performed within the road right-of-way (SBC General Design Standard Chapter 2.4 (A))

4. Prior to recordation of the parcel map, the applicant shall improve the off-site access driveway from Meadow Lane dog-leg, along the western boundary of APN 17-10-56, to the north line of proposed parcel 4 (i.e. 16 feet AC on 18 feet road bed) turnaround.

**10. Street Names – Section 17-D 4.10 B.1:** Prior to recordation of the parcel map, the street names for the common road shall be named by the developer subject to the approval of the San Benito County Communications Department. Duplicate names, near duplicate and phonetically similar names to street names already in use shall not be allowed. Names with more than 13 letters are not allowed. [PLANNING, PUBLIC WORKS, COUNTY COMMUNICATION]

**11. Maintenance--Section 17-A.7 Ordinance 617 - Mitigation Measures 7, 11**

Prior to recordation of the Parcel Map, the applicant shall provide an agreement for maintaining the common private driveway, local small water system, detention facilities, alteration of leach fields and grease separators. [PLANNING, PUBLIC WORKS]

**12. Utilities - Section 17-65 (f) of Ordinance 617**

Prior to recordation of the Parcel Map, the applicant shall cause the recording of a deed restriction that will state: "Utility service systems to all parcels shall be placed underground." The subdivider is responsible for installing the underground service to each parcel. The utilities and the statement will also be noted a separate sheet of the Parcel Map, or by separate instrument that shall indicate its relationship to the Parcel Map in compliance with Section 66434.2 of the Subdivision Map Act. [PUBLIC WORKS]

**13. Easements - Sections 17-31 (j) and 17-32 (e) Ordinance 617**

Prior to recordation of the Parcel Maps, the applicant shall make all necessary grants of easements for access, and utilities, in favor of the persons or entities designed to benefit therefrom. The Parcel Map shall show all easements for access, utilities, and drainage. [PUBLIC WORKS]

**14. County Service Area - Ordinance 651**

Prior to recordation of the Parcel Map, the applicant shall make application to LAFCO to join a County Service Area 43 for fire and sheriff protection. All related processing fees, including State Board of Equalization fees, must be submitted prior to recordation of the final map. [LAFCO]

**15. Habitat Conservation Plan – Ordinance 541**

Prior to recordation of the parcel map the applicant shall pay mitigation fees as required by Ordinance 541.

**16. Storage Tanks**

Prior to recordation of the Parcel Map, all underground storage tanks (hazardous materials) shall be registered with the San Benito County Health Department. [HEALTH]

**19. Improvement Plan Notes and/or Notes on parcel map required by Mitigated Negative Declaration Mitigation measures 2, 3, 4, 6, 8, 10**

Prior to recordation of the parcel map, the applicant shall submit improvement plans for the proposed subdivision. Said plans shall be reviewed by the Planning and Public Works Department for compliance with county driveway standards (Zoning Ordinance section 44), mitigation measures in the approved mitigated negative declaration for MS 1147-04, and county standards.

**20. Environmental Mitigation Measures:** The mitigation measures set forth in the mitigated negative declaration environmental assessment are incorporated herein as follows and shall be fulfilled prior to recordation of the parcel map:

**Mitigation measure 1:** A condition shall be placed on the subdivision requiring that a note be placed on an additional sheet of the parcel map with the following statement: “All exterior lighting shall be shielded downward so that the light shines a maximum of 180 degrees radius from fixtures, shall be directed away from roads and nearby properties and the lighting fixtures shall be high pressure sodium vapor, or metal halide or a similar equivalent.

**Mitigation Measure 2:** Prior to approval of the project, the applicant shall add the following note to the improvement plans to minimize particulate emissions: “The contractor shall require water trucks to operate in conjunction with grading equipment and application 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 will be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed prior to the resumption of grading. “[Planning, Building, Code Enforcement]

**Mitigation Measure 3:** In order to protect nesting birds during the spring, a note shall be added as an additional sheet to the parcel map and to the improvement plans stating the following: “Removal of orchard trees other than for construction of residences is prohibited during the months of February to August unless a pre-construction survey verifies that the trees are not used by raptors or species of special concern. “[PUBLIC WORKS, PLANNING]

**Mitigation Measure 4:** A note shall be placed on the improvement plans for the minor subdivision and attached to the parcel map as an additional sheet stating that “In the event, that prehistoric traces (the remains, artifacts, concentrations of shell/bone/rock/ash) are encountered, all construction within a fifty meter radius of the find should be stopped, the Planning Department notified, and an archaeologist retained to examine the find and make appropriate recommendations.” [BUILDING, PLANNING, PUBLIC WORKS]

**Mitigation Measure 5:** In order to avoid the potential for surface fault rupture on parcels 3 and 4, the applicant shall include the non-buildable area established by the 1990 Weber Hayes Surface fault investigation on an additional map sheet of the recorded parcel map.

In order to avoid the potential for surface fault rupture on parcels 1, 2 and 3, the applicant shall include the portions of proposed parcels 1, 2 and 3 west of the Alquist-Priolo Earthquake fault hazard zone as a non-buildable area for structures for human occupancy and for accessory structures occupied more than 2000 hours per year on an additional map sheet of the recorded parcel map. As an alternative, a second phase geologic investigation shall be prepared consistent with the recommendations in the April 1, 2005 Geologic Investigation Peer Review File No. LSC-0394-01 by Landset Engineers, Inc. to provide site specific evidence regarding the presence or absence of surface fault hazard on the portions of parcels 1, 2 and 3 of the Alquist-Priolo Special Studies Zone Earthquake Fault hazard. Any non-buildable areas established as a result of the fault hazard investigation shall be included on an additional map sheet for MS 147-04.

**Mitigation Measure 6:** In order to minimize sedimentation and erosion from subdivision improvements, the following measures or their equivalent shall be placed on the improvement plans for the subdivision:

- 1) Dirt from construction of proposed common private driveway and detention facilities shall be contained on site through a combination of practices including
  - a) Access during construction of the common private driveway shall be limited to one location
  - b) If construction occurs between October 15<sup>th</sup> and April 15<sup>th</sup>, a temporary silt fence, fabric rolls and or sand bag barrier shall be placed between the culverts on Meadow Lane and Fallon Road and the areas proposed for road widening to keep sediments from entering the water bodies
- 2) Only areas proposed for development shall be disturbed and shall be clearly labeled on the improvement plans.
- 3) Grading activity shall be completed between April 15 and October 15 with the following erosion control and revegetation measures incorporated into the improvement plans:
  - a) Topsoil shall be reapplied on cut and fill slopes and fertilized.
  - b) All disturbed areas shall be reseeded at a rate of 30 to 50# of seed per acre.
  - c) Sediment and runoff from seeded areas shall be retained on site and shall be prevented from flowing into drainage features. Sediment catchment barriers shall be inspected by the applicant immediately after any significant rainfall and at least daily during any period of prolonged rainfall.
  - d) Alternative erosion control and revegetation methods may be approved at the discretion of the Planning Department [PLANNING, PUBLIC WORKS]

**Mitigation Measure 7:** To minimize contamination of stormwater runoff, the applicant shall ensure that grease separators are incorporated into the improvement plans near the culvert on Meadow Lane, and outlets to the retention ponds. A program for regular maintenance of the grease traps shall be incorporated into the Maintenance agreement for the subdivision as a condition of approval of Minor Subdivision 1147-04. [PLANNING, PUBLIC WORKS]

**Mitigation Measure 8:** In order to avoid reduce potential cumulative localized flooding in the project area, the applicant shall be required to make improvements called out in the drainage study conducted for the Ordinance 529 Santa Ana Drainage Basin Drainage Impact Fee for the culvert cross of dogleg road-turn of Fallon Road (structure 22 of sub-basin D2 of sheet 6 of 8 of said study). The cost of the improvements up- and beyond the applicant's fairshare shall be reimbursed to the applicant from the Ordinance 529 Santa Ana Drainage Basin Impact Fee fund.

**Mitigation Measure 9:** In order to avoid an increase in concentrated flow at the Fallon Road/Fairview Road intersection as a result of implementation of mitigation measure 8, the Public Works Department shall install a flow restrictor in the new culvert at the Fallon Road/Meadow Lane intersection to minimize the concentration of flow from the new culvert until drainage improvements are installed at the Fairview Road/Fallon Road intersection.

**Mitigation Measure 10:** In order to protect riparian corridors for habitat and groundwater recharge, a 50 foot non-developable setback extending east from the top of the creek bank shall be added as an additional sheet to the parcel map. A note shall also be placed as an additional sheet to the parcel map stating that non-native landscaping as well as primary and/or accessory structures shall be prohibited in the non-development area.

The improvement plans shall be designed to prohibit any subdivision improvements within 50 feet of the top of the creek bank (roads/detention facilities) with the exception of a ditch to drain from the proposed detention pond on parcel 1. [PUBLIC WORKS, PLANNING]

**Mitigation Measure 11:** As a condition of recordation of the parcel map, the applicant shall be required to prepare a maintenance agreement for maintenance of subdivision improvements. The agreement shall also include maintenance for alteration of leach fields, and maintenance of grease separators. [PLANNING, PUBLIC WORKS]

**Mitigation Measure 12:** Prior to the recordation of the parcel map the applicant shall contribute \$13,893.18 to a benefit area for left-and right-turn channelization at the intersection of Fairview Road and Fallon Road; widening Fallon Road to a 28 feet of paved width on a 38-foot roadbed with five-foot shoulder on each side from Fairview Road to Spring Grove Road and warning signs advising motorists that the Fairview Road/Fallon Road intersection is subject to periodic flooding. [PLANNING, PUBLIC WORKS]

**Mitigation Measures 13:** The following notes shall be placed as an additional sheet to the recorded parcel map:

- Prior to issuance of a building permit for a residence, the applicant shall submit a letter from the Environmental Health Department verifying that the septic system has been designed to allow alteration of flow to two leachfields to allow resting of the leachfields and to allow access for inspection, cleaning and pumping. Leachfield shall be located at least 100 feet from on-site detention ponds, the creek on the west side of parcels 1, 2, 4 and the on-site well.
- A local small water system permit shall be obtained from the Environmental Health Department prior to issuance of a building permit for a second connection to the on-site well. Levels of manganese in the well water exceed secondary drinking water standards and can cause discoloration of laundry. [PLANNING, PUBLIC WORKS, ENVIRONMENTAL HEALTH]

**20. Geology:** The applicant shall comply with the recommendations for site grading and construction contained in the Earth Systems Geotechnical Engineering Report for MS 1147-04. [PLANNING, PUBLIC WORKS]

**21. Drainage - Chapter 3 of Appendix D of Ordinance 617 and Mitigation Measure 8:**

Prior to the recordation of the parcel map, a drainage, grading, and erosion control plan prepared by a registered civil engineer shall be submitted to the County Public Works Department for review and approval. The drainage plan shall be designed and constructed to provide storm water detention or retention improvements consistent with county standards in the subdivision ordinance (control a 100-year storm event runoff and limit the outflow to 10-year predevelopment level). The plans shall include drainage and erosion control measures in conformance with County standards and the requirements of the Regional Water Quality Control Board. [PLANNING, PUBLIC WORKS]

## **22. San Felipe Water System –**

To ensure provision of San Felipe Water Service to the new parcel(s) complies with provisions of the San Benito County Water District's regulations for the San Felipe Water Project, the applicant shall be responsible for the consultation with the San Benito County Water to determine whether extension or modification of the infrastructure is necessary. Required improvements shall be completed prior to recordation of the parcel map.

Prior to the recordation of the parcel map, the applicant shall submit a letter from the San Benito County Water verifying that service has been extended to the new lots consistent with the requirements of the San Benito County Water District Resolution 98-14 or any subsequent amendment (A Resolution of the San Benito County Water District Board of Directors Rescinding Resolution 99-04 and Establishing Policy Regarding Distribution of Land Within the San Felipe Project Distribution System Service Area in Zone 6). [PLANNING, PUBLIC WORKS]

Noting the Commission rule of no new business being considered after 10:30 p.m., Item No. 18 (Steven Olivares) and Item No. 19 (Beverly Dixon) would be heard at the next regular meeting scheduled for August 3, 2005.

From the audience, Patrick Marshall, Attorney for Steven Olivares (as known by Clerk Maderis) stated he would not be available for the August 3, 2005 meeting, also from the audience, Gail McAbee (also as known by Clerk Maderis) requested that this item be heard 'first' at the August 3, 2005 meeting. Chair Bettencourt advised Mr. Marshall he could submit a letter stating he would not be available to the Commission and he (Chair Bettencourt) had no objection to placing this item first on the Continued Business Agenda. Chair Bettencourt then adjourned the meeting at 10:48 p.m.

*Transcription provided by:  
Judi Johnson*