

SAN BENITO COUNTY PLANNING COMMISSION

Minutes of September 7, 2005

PRESENT: Bettencourt, DeVries, Smith, Tognazzini

ABSENT: None

LATE: Machado, who arrived and was seated at 7:11 p.m.

STAFF: Interim Director of Planning (IDoP) Michael Bethke, Senior Planner (SP) Mary Paxton, Associate Planner (AP) Byron Turner, Planning Intern (PI) Chris Herrera, Deputy Director of Public Works (DDPW) Arman Nazemi; Deputy County Counsel (DCC) Shirley Murphy; and Clerk Trish Maderis.

Chair Bettencourt called the meeting to order at 7:02 p.m., and reiterated the standing rules of order.

PUBLIC COMMENT:

Chair Bettencourt opened the floor to opportunity for public comment.

No persons in attendance wished to speak to items not on the agenda; the public comment period was closed.

CONSENT AGENDA:

- Roll noted and listed above.
1. Acknowledge Certificate of Posting
 2. Minutes of August 3, 2005
 3. Minutes of August 17, 2005
 4. Minor Subdivision No. 1123-02 – REQUEST: Reinstatement of allocation(s) for minor subdivision due to circumstances beyond applicant’s control as defined in Section 31-16 of San Benito County Ordinance No. 751. APPLICANT: Dave Grimsley. LOCATION: Thomas Rd., Hollister. ZONING: Agricultural Productive. ENVIRONMENTAL REVIEW: Mitigated Negative Declaration
 5. Minor Subdivision No. 1128-02 – REQUEST: Reinstatement of allocation(s) for minor subdivision due to circumstances beyond applicant’s control as defined in Section 31-16 of San Benito County Ordinance No. 751. APPLICANT: Bob Blodgett. LOCATION: Rocks Road, San Juan Bautista. ZONING: Agricultural Productive. ENVIRONMENTAL REVIEW: Mitigated Negative Declaration

Note: Item #6 was pulled from the consent agenda for staff recommendation and providing findings, per DCC Murphy.

**CONSENT AGENDA, ITEMS 1 - 5: COMMISSIONERS
TOGNAZZINI/DeVRIES MOTIONED TO ACCEPT THE CONSENT AGENDA
AS PRESENTED. MOTION PASSED 4 – 0, WITH MACHADO ABSENT.**

6. Minor Subdivision No. 1141-03 – REQUEST: Reinstatement of allocation(s) for minor subdivision due to circumstances beyond applicant’s control as defined in Section 31-16 of San Benito County Ordinance No. 751. APPLICANT: Chuck & Gene Zanger. LOCATION: Barnheisel Road, Hollister. ZONING: Agricultural Productive. ENVIRONMENTAL REVIEW: Mitigated Negative Declaration

COMMISSIONERS TOGNAZZINI/DeVRIES MOTIONED TO APPROVE ITEM #6, WHICH REINSTATED THE PRELIMINARY ALLOCATIONS WHICH LAPSED SEPTEMBER 7, 2005. [Commissioner Machado arrived.] SP Paxton provided data regarding the findings regarding the time-line chronology within the application, including the lapse in time by the applicant.

IDoP Bethke said there were extenuating circumstances because of (alleged illegal) grading issues which created the time misunderstanding. IDoP Bethke said he was in charge of this item and the previous application had been reactivated which would be reason enough for sufficient findings.

THE MOTION PASSED UNANIMOUSLY.

CONTINUED ITEMS:

Items 7, 8, 9 were noted as having requests for continuation; the items were taken up individually with the Commissioners agreement to the requests of continuation for each; the public was asked to speak on any of the items which held interest for them.

#7: Use Permit 915-05 – REQUEST: To authorize the continuation of an existing labor camp. APPLICANT/OWNER: Felicitas Valenzuela. LOCATION: 1500 Nash Rd., Hollister. ZONING: Agricultural Productive. ENVIRONMENTAL REVIEW: Categorical Exemption.

IDoP Bethke gave the staff report: staff is proceeding with the building permit processing; units must be brought to Code [were in violation]. Waiting for resolution of water storage issues.

COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO CONTINUE TO DATE UNCERTAIN. MOTION PASSED 5 - 0.

8.* Use Permit 924-05 – REQUEST: To convert a 576 square foot garage to an accessory senior second unit. APPLICANT: Marjorie Palmer. LOCATION: 1528 Merrill Rd., San Juan Bautista ZONING: Agricultural Rangeland. ENVIRONMENTAL REVIEW: Categorical Exemption.

Staff report by SP Paxton, explaining that the septic issues have been dealt with Environmental Health and the applicant. Still to be determined are the small water systems issues which must be worked out among the applicant, Environmental Health, and planning staff.

COMMISSIONERS DeVRIES/SMITH MOTIONED TO CONTINUE USE PERMIT 924-05 TO SEPTEMBER 21. MOTION PASSED 5 - 0.

9.* Tentative Subdivision Map 03-69 – REQUEST: To subdivide an approximately 32-acre parcel into 5 1-acre parcels and 1 open-space parcel including a caretaker unit. APPLICANT: Tina Bertuccio LOCATION: Union Road at Summerset Dr., Hollister ZONING: Agricultural Productive – Planned Unit Development (AP-PUD). ENVIRONMENTAL REVIEW: Mitigated Negative Declaration)

Staff report by AP Turner: item back to Board of Supervisors for further clarification on a condition of approval regarding the road right of way and secondary access relocation; relocation to the satisfaction of the parties involved has not been acquiesced to date. Commissioners asked questions regarding unit placement on the ‘remainder parcel’. Nearby residents had been notified of the impending continuation.

COMMISSIONERS TOGNAZZINI/MACHADO MOTIONED TO CONTINUE TENTATIVE SUBDIVISION MAP 03-69 TO SEPTEMBER 21. MOTION PASSED 5 - 0.

10. Minor Subdivision 1151-04 – REQUEST: To subdivide a 19-acre parcel into two 9.68-acre parcels. APPLICANT/OWNER: Beverly Dixon. LOCATION: 6955 Lovers Ln., Hollister. ZONING: Agricultural Productive. ENVIRONMENTAL REVIEW: Mitigated Negative Declaration. (continued from 8-3-05) Staff report by AP Turner: Previous subdivisions were denied due to intent to install above-ground septic systems. It has been determined that in 1988 that one subdivision was approved with the condition of ‘non development’. Recommendation by staff was for denial but Commissioners could approve with conditions, notes to the map and deed restrictions.

Public Comments:

Janet Brians, 747 Shore Road, in support of the recommended denial.

Dan Weatherly, San Benito Engineering, said the request is for estate purposes only and will not be developed. Asked that Condition #18 be deferred until a building permit is issued as a note to the map would be adequate; also requested that the water system permit be deferred until a second unit is placed. AP Turner indicated that the conditions – if deferred – become operable at any time the property is deemed developable.

Discussion followed regarding the potential/actuality of having building sites added to the location. Comparison with other requests in the area and the policies of the Regional Water Control Board were discussed at length.

DCC Murphy clarified that waivers for the improvements are allowable under Section 17-63A of the Subdivision Ordinance and the deferment approved as necessary – with specific findings and conditions - is by the County Engineer.

Ray Pierce said a variance would work on approval of the deed restriction as outlined by Mr. Weatherly as he noted this matter was family-based to clarify property ownership. He said the note to the map and deed restriction would cover the matter if approval were given.

Discussion ensued regarding agriculture production potential on the property. Whether this was, in reality, a lot split was discussed.

COMMISSIONERS SMITH/DeVRIES MOTIONED TO APPROVE MINOR SUBDIVISION 1151-04 [WITH THE EXCEPTIONS INDICATED (DEFERRING CONDITIONS 18 & 19 UNTIL ISSUANCE OF A BUILDING PERMIT IN ACCORDANCE WITH MS-823-88)] TOGETHER WITH THE FINDINGS LISTED AND INCLUSIVE OF THE MITIGATED NEGATIVE DECLARATION. THE MOTION PASSED 4 – 1 WITH MACHADO DISSENTING.

Conditions of Approval:

1. Recordation:

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

2. Hold Harmless:

Pursuant to Section 66474.9 of the Government Code, upon written notice by the County the subdivider shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul the approval of the subdivision and applicable proceedings. San Benito County shall be subject to Section 66474.9(b)(2) of the Government Code. San Benito County reserves the right to prepare its own defense pursuant to said section. [PUBLIC WORKS]

3. Assessment:

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

4. Easements:

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

5. Compliance Documentation:

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

6. Encroachment Permits:

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

7. Conformity with Plan:

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

8. Lighting:

A note shall be placed on an additional sheet to the Parcel Map that states: "All exterior lighting for new development on Parcels 1 and 2 shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. All fixtures shall comply with County Ordinance 748. Prior to the issuance of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan which shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture." [Mitigation Measure 1]

9. Air Quality:

A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states: "All grading and building permits for new development shall be conditioned to require that disturbed soils be watered during site grading and construction activities to minimize dust." [Mitigation Measure 2]

10. Archaeological Resources:

If, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact or other evidence of an archaeological site is discovered, all further excavations and disturbances within 200 feet of the discovery shall cease and desist. If human and/or questionable remains have been discovered, the sheriff-coroner shall be notified immediately pursuant to County Ordinance 610. A note to this effect shall be placed on all construction, grading, or other improvement plans. [Mitigation Measure 3]

11. Soils Report:

A note shall be placed on an additional sheet to the Parcel Map stating: "A Preliminary Geotechnical Investigation, dated November 8, 1999, was prepared for this property by Earth Systems Pacific Consultants (File No. SH 10236-SA) and is on file at the San Benito County Planning Department. The recommendations contained in said reports shall be followed in all development of the property." [Mitigation Measure 4]

12. Fire Standards:

A note shall be placed on an additional sheet to the Parcel Map that states: "Prior to the issuance of any permits for new development on Parcel 1 or 2, the applicant shall comply with all requirements of the California Department of Fire, including the provision of an adequate water supply and flow for fire suppression. This may require the installation of one or more above ground water storage tanks and fire hydrants." [Mitigation Measure 5]

13. Drainage:

A note shall be placed on an additional sheet to the Parcel Map that states: "Prior to the issuance of any permits for new development on Parcel 1 or 2, the applicant shall provide sufficient information to demonstrate that drainage facilities which meet County standards will be provided for the site. Such information shall include flood information as well as the location, design, and supporting calculations for proposed drainage facilities." [Mitigation Measure 6]

14. Improvement Plans:

As part of the submission of any engineered improvement plans required for this project, applicant shall comply with County Drainage Standards and provide erosion and drainage control details for the project sheet. Any drainage calculations submitted shall comply with the requirements of the County Drainage Standard, and shall be engineer signed and stamped. Applicant shall submit drainage calculations for: any proposed or existing drainage courses to the proposed ponds, the proposed ponds, and the discharge lines for the proposed ponds. Further, applicant shall insure that all drainage courses shall either maintain a critical velocity less than maximum for the soil type, or be properly lined to handle a high critical flow velocity. [Mitigation Measure 7]

15. Sewage Disposal:

Prior to recordation of the Parcel Map, a deed restriction shall be recorded designating parcel 2 as "unbuildable, unless a sewage disposal system is approved by the San Benito County Environmental Health Department" This restriction shall also be noted on the map. [Mitigation Measure 8]

16. Construction Hours:

A note shall be placed on an additional sheet to the Parcel Map that states: “As required by County Ordinance, construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans.” [Mitigation Measure 9]

17. Right-of-way:

Prior to recordation of the Parcel Map, applicant shall make an irrevocable offer of dedication for half of a 60 foot right-of-way along Lover’s Lane, to San Benito County, along property frontages of proposed parcels 1 & 2. [Mitigation Measure 10]

18. Road Improvements:

Prior issuance of a building permit, applicant shall make roadway improvements for Lover’s Lane, along property frontages (i.e. half-road, rural standard 24 feet AC on 34 feet roadbed). [Public Works, Subdivision Ordinance Section 17-65,65 (a)]

19. Water System:

Prior to issuance of a building permit, A small water system permit is required from the County Division of Environmental Health. [Environmental Health]

20. Utilities:

Prior to recordation of the parcel map, the applicant shall record a deed restriction that states: “Utility service systems to all parcels shall be placed underground”. [Public Works, Subdivision Ordinance Section 17-65 (f)]

21. County Service Area:

Prior to recordation of the parcel map, the applicant shall make application to LAFCO to join 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, Ordinance 651]

22. Habitat Conservation Plan:

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

11. Planning Commission Procedures – Discussion of Amendments

(continued from 8-17-05 and previous meetings) Staff report by IDoP Bethke.

Procedure # 2 amend to elect Officers of the Commission annually at the first meeting in February {from 1st meeting in January}

Procedure # 3 Director of Planning and Building Inspection (or designee) shall be the designated Secretary to the Planning Commission, and in the absence of the Director the Chair shall appoint an Acting Secretary; however the Secretary shall have no voting rights. .

Commissioners asked questions regarding the duties of the Secretary, emphasizing the recent change of format of the minutes. IDoP Bethke said because of the staff shortages the format was changed from verbatim to 'action minutes' which 'right now is as much as we can provide'. He explained that the provisions of the Brown Act allow verbatim of actions or documentation as warranted and services of a court reporter could be provided. IDoP Bethke said some jurisdictions proceedings were even briefer than those now provided to the Commissioners. Commissioner DeVries said another safeguard is for Commissioners to amend the minutes during the open meeting. IDoP Bethke said if the Commissioners have questions or concerns about the minutes, they should contact staff before the meeting. Commissioner Machado asked how long the tapes of the meetings were retained. Clerk Maderis explained the procedure, noting the current format closely follows that of the Board of Supervisors. She stated the tapes are always available for the public, and are sold. Commissioner Machado noted that a dialogue of the items of the meetings is valuable as it is frequently necessary for reference. Chair Bettencourt said he thought any change in procedures and protocols should have come before the Commissioners before the change occurred. He also expressed concern that 'things have been lost' and he wanted clarification/assurance of retention of the tapes.

Commissioner Machado indicated support for change in Procedure #2 as this lent validity to consistency of leadership. Other Commissioners concurred.

COMMISSIONERS DeVRIES/TOGNOZZINI MOTIONED TO APPROVE THE CHANGES IN THE PLANNING COMMISSION PROCEDURES AS OUTLINED BY IDOP BETHKE. MOTION PASSED 5 – 0.

DISCUSSION ITEMS:

12. Recreation requirements for Planned Unit Developments (PUD)
(continued from 8-17-05) Staff report by IDoP Bethke who said two new planners would be coming on board (Associate from Santa Cruz and Assistant from Fremont) and they – along with students from CSU San Jose – would be assigned to work on this matter.

BY CONSENSUS THE MATTER WILL BE RETURNED FOR CONSIDERATION AT THE OCTOBER 5 MEETING.

13. Commercial Slaughter House operations in AR Zoning District

Staff report by AP Turner as he explained this is mostly considered as Conditional Use Permit in agriculture/industrial areas. DCC Murphy explained that the process includes amendments to the Zoning Ordinance which must be approved by the Board of Supervisors.

Following lengthy discussion, **CONSENSUS WAS REACHED TO RECOMMEND AMENDMENTS TO THE BOARD OF SUPERVISORS ZONING ORDINANCE FOR ALLOWANCE OF COMMERCIAL SLAUGHTER HOUSE OPERATIONS IN THE AGRICULTURAL PRODUCTIVE (AP) AND AGRICULTURAL RANGELAND (AR) ZONING DISTRICTS BASED ON SIZE OF ACREAGE WHICH COULD SUBSEQUENTLY BE APPROVED BY THE PLANNING COMMISSION.**

14. Policy Interpretation – Parcel Size for Subdivisions

Staff report by SP Paxton; public has been asking about the minimum parcel size for subdivisions: If the minimum is one-acre and an owner has 1.98 acres, can it be subdivided into one acre and 0.98 acres? Staff is asking direction regarding the matter and explained the research completed on the Subdivision Ordinance as well as the lots recorded since the adoption of the current Subdivision Ordinance all met the minimum gross parcel size for minor subdivisions. Staff suggested County Counsel might need to review the matter. DCC Murphy said a cursory review of the Ordinance does not indicate the ability to begin a subdivision process without the minimum requirements of acreage. Discussion followed as several scenarios were presented. Since staff research had not produced evidence of ability to subdivide less than the minimum, the subject was acknowledged to be moot.

Other Business:

Commissioner DeVries commended SP Paxton for the presentation to the San Juan Bautista Planning Commission the Transfer of Development Credit program.

With no other business to be discussed at the meeting the Planning Commission meeting was adjourned at 8:31 p.m.

*Minutes transcribed by:
Judi Johnson*

*Attest:
Michael Bethke, Interim Director of Planning*