

# **SAN BENITO COUNTY PLANNING COMMISSION**

Minutes of September 21, 2005

PRESENT: Bettencourt, DeVries, Machado, Smith

ABSENT: Tognazzini

LATE: None

STAFF: Interim Director of Planning (IDoP) Michael Bethke, Senior Planner (SP) Mary Paxton, Associate Planner (AP) Byron Turner, Assistant Planner (AP) Mike Keely, Planning Intern (PI) Erin Engman, 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 7:00 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:**

1. Acknowledge Public Hearing Notice published September 10, 2005
2. Acknowledge Certificate of Posting

*Note: Item #3 was pulled from the consent agenda at the request of Commissioner DeVries.*

4. Resolution No. 2005-07 – Adoption of Resolution of Rules for the Transaction of Business for Planning Commissioners

**Note: Item #5 was pulled from the consent agenda at the request of Commissioner Machado.**

5. Tentative Subdivision Map No. 99-63 – Request for Extension. REQUEST: To extend the time of the Vesting Tentative Map. APPLICANT/OWNERS: San Juan Vista Estates/Gregory Weiler and Mark Johnson LOCATION: Hwy 129 and Hwy 101, San Juan Bautista.

**CONSENT AGENDA, ITEMS 1, 2 and 4: COMMISSIONERS MACHADO/DeVRIES MOTIONED TO ACCEPT THE CONSENT AGENDA AS PRESENTED. MOTION PASSED 4 – 0, WITH TOGNAZZINI ABSENT.**

3. Minutes of September 7, 2005

Chair DeVries said he wished to review item 9 on the agenda of the last meeting: Tentative Subdivision Map 03-69 with a motion to continue to this meeting but he had not seen the item posted for this meeting. It was clarified that the item was on the agenda.

Further, Commissioner DeVries called attention to item 10 of the previous meeting, Minor Subdivision 1151-04, Conditions of Approval (lot split for estate planning purposes) and the conditions were placed during the meeting, specifically condition 18, road improvements: prior to issuance of a building permit, applicant shall make road improvements. He asked that the Commissioners ensure the conditions attached to the item were accurately reflected in the minutes. Commissioner Smith said the applicant was not going to solicit a building permit for the Lover's Lane property, and on the advise of County Counsel wording was indicated that in the future, if ever, the applicant would seek a building permit the road improvements would be made at that time. Discussion ensued with AP Turner explaining that if circumstances change in the future, at any time, and the property becomes buildable, at time the road improvements would be required. DCC Murphy thought that condition had been waived with findings. She further stated that deferment was under the discretion of the County Engineer. AP Turner reminded that the original condition was that the improvements would be required immediately in conjunction with the split. DDPW Nazemi spoke briefly on the deferment process. DCC Murphy reminded that only the minutes were under discussion, not the deferment process. Commissioner DeVries said that if the minutes reflect the fact that the Commission took action to approve the application provided that should future building occur on those two parcels which would require a building permit at that time the applicant shall make roadway improvements as specified.

Commissioner DeVries then called attention to item 13, page 9 of the minutes under discussion: ***following lengthy discussion, consensus was reached to recommend ...to the Board of Supervisors .... (a) commercial slaughter house ... agricultural productive (AP) and agricultural rangeland (AR) .....***, as he asked if it was AP and AR zoning? Staff clarified the accuracy of the minutes in this instance.

**COMMISSIONER DeVRIES MOTIONED APPROVAL OF THE MINUTES OF SEPTEMBER 7, 2005 AS PRESENTED.** DCC Murphy called attention to lack of findings for condition 18 and recommended continuation of the minutes in order to provide clarification of the matter. **COMMISSIONER DeVRIES WITHDREW THE MOTION AND OFFERED A SUBSEQUENT MOTION: CONTINUE CONSIDERATION OF THE SEPTEMBER 7, 2005 MINUTES TO THE NEXT REGULARLY SCHEDULED MEETING: OCTOBER 5, 2005. THE MOTION WAS SECONDED BY COMMISSIONER MACHADO AND PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVRIES, MACHADO, SMITH; NOES: NONE; ABSTAIN: NONE; ABSENT: TOGNAZZINI.**

Commissioner Smith then requested revisiting the ‘slaughterhouse issue’, saying the minutes were not clear. Commissioner Smith indicated AP Turner had been seeking advice from the Commission; AP Turner concurred, saying staff was looking for direction from the Commission on whether a commercial slaughterhouse could be considered a Conditional Use (CU) in San Benito County? AP Turner pointed out that in many other Counties in the region which were researched, it is a conditional use in agricultural zones. Commissioner Smith asked if there had been some interest by a party who wants to move forward and is staff taking any consideration, still researching language from other Counties? AP Turner responded that a meeting had taken place with the potential applicant and that plans were underway to take language to the Board of Supervisors regarding the matter. Chair Bettencourt noted that changes to the CU process had to come from the Board. Commissioner Smith said he thought the ‘minutes could tighten that up a little bit’ to show that a potential applicant is interested in starting/operating a commercial slaughterhouse. Commissioner Machado reminded that starting/operating/applicant for a slaughterhouse had not been discussed at the previous meeting. AP Turner agreed that no mention had been made of a specific applicant for such an operation; only if such use was appropriate in specified zoning areas. DCC Murphy advised that if the Commissioners would like to further discuss the possibility of changing the Zoning Ordinance, staff could be directed to bring the matter to a future meeting. She continued by reminding that the minutes are to reflect only what was discussed during a meeting and the accuracy of what was said is to be voted on during consideration of the minutes. Chair Bettencourt reminded that the vote had been completed for continuation of the minutes.

**5. (Consent Agenda item)** Tentative Subdivision Map No. 99-63 – Request for Extension. REQUEST: To extend the time of the Vesting Tentative Map.  
APPLICANT/OWNERS: San Juan Vista Estates/Gregory Weiler and Mark Johnson  
LOCATION: Hwy 129 and Hwy 101, San Juan Bautista.

Commissioner Machado questioned the rationale for extension of time. IDoP Bethke responded, saying an incorrect Code section had been used which created confusion as to whether an extension was possible for this size subdivision. He made the correction to be in proper form for the subdivision, which indicated that the map would be extended for one year. [It was clarified that a 60-day extension is automatic and begins when the request for extension is submitted.] Discussion ensued with the matter being cleared up regarding the extension of time and when maps must be filed/recorded.

**COMMISSIONER MACHADO/SMITH MOTIONED APPROVAL OF TENTATIVE SUBDIVISION MAP NO. 99-63 – REQUEST FOR EXTENSION. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; TOGNAZZINI WAS ABSENT.**

6. **Use Permit No. 922-05** – REQUEST: Installation of a 20-foot high “treepole” with three panel antennas for telecommunications service. APPLICANT: Metro PCS. PROPERTY OWNER: Richard & Charles Bangle. LOCATION: 1100 Comstock Rd., Hollister ZONING: Agricultural Productive

AP Turner presented the staff report, noting that Metro PCS submitted for the installation of a 20-foot high “treepole” with three panel antennas with a 6-foot surrounding fence. Landscaping for the site is proposed by the applicant. AP Turner provided information regarding the location, Zoning, and General Plan designation. The requested use is permitted under current Ordinances, he said. Conditions for landscaping and visual acuity have been included, AP Turner noted, due to the proximity of the installation to nearby dwellings. A question has been raised regarding consistency with the County’s Telecommunications Ordinance, AP Turner told the Commissioners, which states that new wireless communication systems shall not locate sites within 500 feet of residential areas. The proposed site location is within 500 feet of a residence. However, the applicant and Metro PCS have provided communication that no other viable location exists for the installation; consequently, staff had prepared findings, along with consideration of notification for future development, for the Commissioners to consider in the event of approval. AP Turner explained the conditions and findings for making determinations to ensure consistency with the Telecommunications Ordinance.

Chair Bettencourt opened the public hearing.

Patrick Cruzen, representing Metro PCS, indicated the company accepted the conditions of approval as presented. He also said the property owners have no objection to the conditions. Mr. Cruzen provided a brief background of the project and the efforts of the company/applicants to facilitate the request. Mr. Cruzen called attention to Condition #3, and said proper equipment cabinets (not a shelter) would be installed along with the indicated landscaping.

Commissioner DeVries indicated that Mr. Cruzen was actually referring to Condition #5 (second sentence). All agreed a correct version would be cabinets, and not shelters. Mr. Cruzen provided the specifications for the cabinets.

Commissioner Machado determined that the cabinets would be used for housing the equipment supporting the treepole installations.

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

Commissioner Smith mentioned that in the past such installations have been reviewed, and reiterated the staff report recommendations. He spoke as to the ability for residents in the area to have 'readings' completed based on the conclusions presented by staff. Commissioner Smith commented he did not see a need for public hearings in the matter. DCC Murphy advised that Use Permit applications are required by law to have a public hearing and that had just been completed.

Commissioner Machado said that a recurring question was of 'residential area'. DCC Murphy clarified that the Telecommunications Ordinance says a tower cannot be located within 500 feet of a residence and therefore issue becomes the term 'residential area' and whether that applies to the residence on the property: 1) whether it means the applicants house and 2) whether it pertains to other residences, i.e., rentals, etc. Commissioner Machado led discussion regarding the 'confusion' and the requirement of the 500-foot limitation. [Staff stated that the 500-foot separation appeared to be a separation from neighbors. DCC Murphy said her recollection was that concern had been 'if a pole might fall and hurt someone' but Federal law preempts local government from consideration of health and safety issues in the placement of such installations.]

Commissioner Smith said he would urge the Commissioners to make that determination. Chair Bettencourt asked if that was a motion; Commissioner Smith indicated agreement. Commissioner Machado seconded the motion.

Commissioners Machado and DeVries indicated thinking that perhaps a 'common sense approach' may be needed in placement of the installation – and further that the Ordinance may be due for a change. Commissioner Machado urged consistency and amending the Ordinance to eliminate the 500-foot separation.

AP Turner spoke on the need for deed restriction(s) for notification to future owners; and having the Planning Commission – in this instance – determine that the 500-foot requirement need not apply to the property owner's residence.

Commissioner DeVries clarified that his position was that it may make a difference in the exact location of the pole and the general setting of a request. Commissioner DeVries spoke on the important of aesthetics and mitigation of aesthetics, asking if the landscape plan might be brought to the Commission rather than being an Administrative decision. Commissioner Machado concurred and said the demographics and vegetation surrounding the adjacent areas might dictate the landscaping. AP Turner advised the current requirements for landscaping and informing that the landscaping issue can be revisited with a bond being required for landscaping, with the plan being revisited as directed by the Commission. Commissioner DeVries said he would like to have review of the landscaping plan at time of consideration of the Use Permit. AP Turner explained the requirements of a bond for landscaping.

Commissioners then turned discussion of landscaping materials, including fencing.

Chair Bettencourt called for action on the motion. Commissioner Smith denied making a motion. Commissioner Smith asked about the easement and the relation to the existing utility easement on the site. Mr. Cruzen responded with explanation of the easement and further clarified availability of water from the applicants.

Chair Bettencourt asked Mr. Cruzen to shed light on the involvement of the applicants in the landscaping plans. Mr. Cruzen complied with the request.

**COMMISSIONER DeVRIES MOTIONED TO APPROVE USE PERMIT NO. 922-05 INCLUDING A FINDING THAT ‘RESIDENTIAL AREAS’ AS WRITTEN IN ORDINANCE 762 DOES NOT INCLUDE THE PROPERTY OWNER’S RESIDENCE.**

Commissioner Smith asked if the Commissioners wanted to include in the motion a requirement for review of the Use Permit after a one-year period to ensure all conditions were met?

Commissioner Devries asked that the motion be held for further discussion. He said that it would be desirable to have the landscaping plan considered as part of the Use Permit application. Chair Bettencourt asked if that would cause the bond to be released once the one-year review was completed. Responding to a question from Commissioner DeVries, AP Turner explained the process for calling up a permit for administrative review. Discussion/clarification ensued regarding use of the bond to ensure compliance with the conditions of the application. DCC Murphy explained the specifications of calling the permit and subsequent action by a bonding company.

Commissioner Machado indicated he felt it would be important to have the Ordinance and the conditions clarified so that micro-management on the part of the Commission is not required. “I think staff can handle it if the clarifications are present,” he said. AP Turner explained that staff review is consistent with past practice, and further that the Ordinance requires a renewal of the Use Permit in five years. Commissioner Machado encouraged further perusal of the matter is Commission discussion.

**COMMISSIONERS DeVRIES/SMITH MOTIONED TO APPROVE USE PERMIT NO. 922-05, with Commissioner Smith asking for the removal of the inclusion of *a finding that ‘residential areas’ as written in ordinance 762 does not include the property owner’s residence*; Commissioner DeVries acquiesced. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVRIES, SMITH; NOES: MACHADO, whose negative vote was based on the 500-foot requirement; ABSTAIN: NONE; ABSENT: TOGNAZZINI.**

#### **RECOMMENDED CONDITIONS:**

##### **1. Hold Harmless:**

Pursuant to Section 66474.9 of the Government Code, upon written notice by the County the applicant 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 issuance of a building permit, 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 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.

**10. Renewal:** Renewal of the Use Permit shall be required every 5-years from the date of approval.

**11. Deed Restriction:** Prior to issuance of a building permit, the applicant shall record a deed restriction stating that the property owner/developer is aware of potential issues regarding the placement of a wireless communication facility, and that any future development on the site would be required to adhere to the 500-foot separation policy.

7. Use Permit No. 926-05 – REQUEST: Conversion of existing residence to senior dwelling; proposed single family dwelling more than 100' from existing residence. APPLICANT/OWNER: Mark and Kim Lavagnino. LOCATION:

13150 Cienega Rd, Hollister. ZONING: Agricultural Rangeland. Categorically exempt from environmental review.

SP Paxton presented the staff report explaining the request and providing the site location and demographics. Questions regarding compliance with the Zoning Ordinance have been raised, SP Paxton explained, and provided options for the Commissioners to consider if approval is desired by the Commissioners. She further explained that staff had provided information to the applicant, which may have been confusing to the applicant; and as staff continued work on the Ordinance, standards had been changed which had proved to be an obstacle to the applicant.

Chair Bettencourt opened the public hearing.

Kim Lavagnino, the applicant, asked questions of DCC Murphy who responded with explanation of the Zoning Ordinance and the requirements for a senior second dwelling.

IDoP Bethke explained that an option may be for the Ordinance to be revisited.

Commissioner DeVries advised that in view of the confusion of information provided to the applicant, it might be wise to consider exceptions/what could be done for this applicant. Responding to questions regarding variance to the Ordinance, DCC Murphy emphasized the Commissioners cannot show favoritism, and that there is no other use for this property. "A variance to the Ordinance is extremely difficult and findings would be most difficult to provide," DCC Murphy said.

Chair Bettencourt commented he had visited the site 'and it is beautiful'. Chair Bettencourt reminded those present of the discussions which had taken place at the initiation of the request over a year ago. He also asked about the flood zone issues on the property.

IDoP Bethke urged the Commissioners to provide direction to staff with any desire to revisit the Ordinance, including special exceptions for identified projects for the 100-foot rule included in the Ordinance. He said the Ordinance may be brought back for further action following staff study of the matter. IDoP Bethke said staff recognized that other pending applications may be facing the same issues.

Commissioner Machado asked about the number of occupants anticipated in the dwelling. SP Paxton responded with information regarding the age requirements for the occupancy of the accessory unit. Further data was given to the Commissioners by DCC Murphy regarding the requirements of the Ordinance for those living in the accessory units.

During discussion, Commissioners secured information which could provide direction to staff for revision of the Ordinance. The applicant emphasized the importance of working on the 'main house' before the rainy season and further the significance of providing affordable housing (a necessity in the County) on the site. Commissioner Machado

expressed concern that the initial intent of the Ordinance seems to have been lost over time.

Commissioner DeVries clarified with IDoP Bethke his statements of staff being able to provide ministerial approval for the permit for the new home (which would approve the request and allow the construction of the new dwelling) and recommendation to the Board of Supervisors Ordinance 52.3.c be reworded to allow for special exceptions with the proviso/footnote that in the event the Ordinance is not reworded in a way to provide for the new home and the existing/proposed senior accessory unit that the unit would need to be identified for a non-inhabitable use.

Further discussion revealed that changes to the Ordinance may be possible within two months. IDoP Bethke indicated that staff would 'fast track' the plan check for the working drawings as well. It was determined tht the plans had been submitted; IDoP Bethke promised the building permit would be expedited, explaining that would not indicate favoritism as 'many others are in the pipeline and it has become a Countywide issue' and warrants the Board of Supervisor's review. DCC Murphy reminded it is a Zoning Ordinance amendment and under state law a public hearing must be at the Commission level before a recommendation to the Board. "If it is to be limited to a one-line change, it should be achieved fairly quickly, even with a CEQA review," she commented.

Chair Bettencourt closed the public hearing as no others were present to speak to the matter.

**COMMISSIONER DEVRIES MOTIONED THAT APPLICATION (USE PERMIT NO. 926-05 ) STAFF BE DIRECT TO PROVIDE A MINISTERIAL APPROVAL FOR THE PERMIT OF THE NEW HOME AND THAT A RECOMMENDATION BE FORWARDED TO THE SAN BENITO COUNTY BOARD OF SUPERVISORS SUGGESTING AN AMENDMENT TO ORDINANCE 52.3.C TO INCLUDE A PROVISION FOR SPECIAL CIRCUMSTANCE OR SPECIAL EXCEPTIONS AND THT NOT WITHSTANDING MINISTERIAL APPROVAL OF THE PERMIT FOR THE NEW HOME IN THIS REQUEST SHOULD THE ZONING AMENDMENT NOT BE PUT INTO EFFECT IN SUCH A WAY THAT IT WOULD PROVIDE FOR THE EXISTENCE OF A SENIOR UNIT AT A DISTANCE IN EXCESS OF THE 100-FEET THAT THE UNIT WOULD BE NON-INHABITABLE OR THE UNIT WOULD HAVE TO HAVE A NOON-INHABITABLE USE.**

DCC Murphy suggested forwarding the recommendation to the Board as indicated in the motion, the Commissioners could ask staff to prepare proposed changes. She explained if the matter were sent directly to the Board, it would have to be returned to the Commissioners.

Commissioner DeVries withdrew the motion as presented.

**COMMISSIONERS DEVRIES/SMITH MOTIONED TO APPROVE USE PERMIT NO. 926-05 UTILIZING MINISTERIAL APPROVAL BY PLANNING DEPARTMENT STAFF AND FURTHER HAVING STAFF PROVIDE PROPOSED REVISIONS TO THE ORDINANCE. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; TOGNAZZINI WAS ABSENT.**

**CONDITIONS OF APPROVAL:**

1. **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]
2. **Compliance Documentation:** The applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
3. **Conformity to Plan:** The development and use of the site shall conform substantially to the application site plan and Conditions of Approval as approved by the Planning Commission and filed with the Planning Department. Any increase in the nature or intensity of land use on the site shall be subject to further Planning Commission review and approval. [Building, Planning]
4. **Sewer and Water:** On parcels with 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]
5. **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]
6. **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 is not considered part of the area of the unit, but is considered in the overall lot coverage. [Building, Planning]
7. **Design:** The senior citizen unit shall be designed in a manner as to be visually consistent and compatible with the principal residence on the site and other residences in the area. [Planning]
8. **Declaration of Deed Restriction:** Before the issuance of a building permit the property owner shall file a Declaration of Deed Restriction with the County Recorder. This Declaration will incorporate the restrictions set forth in Section 52.2 and any additional conditions placed on the use permit. These restrictions shall be binding upon any successor in ownership of the property. [Planning]
9. **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 Cienega Road and again at the driveway and shall be visible at night.) House numbers shall be posted when construction begins. [Building]

10. **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 fifty-five years of age or older. 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]
11. **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]
12. **Flood Plain Certification:** Prior to issuance of any building permit, a flood plain certification shall be required that meets the requirements of Ordinance No. 598. [Planning]
13. **Flood Plain Alteration:** The design of any proposed grading and development shall not alter the flood plain. The applicant shall provide engineering documentation that any proposed grading "fill" within the flood plain will not displace or change the boundary or elevation of the current flood plain. Applicant shall also comply with the County Drainage Standard by providing engineering documentation. [Planning]

### **CONTINUED ITEMS:**

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.

SP Paxton reported that this item, continued from the September 7, 2005 Commission meeting still had unresolved water issues and that a continuation was being requested.

**COMMISSIONERS MACHADO/SMITH MOTIONED TO CONTINUE THE MATTER TO THE OCTOBER 19, 2005 COMMISSION MEETING. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; TOGNAZZINI WAS ABSENT.**

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

This matter had been continued from the Commission meeting of September 7, 2005 AP Turner noted as he provided the staff report and gave insight into the history of the request. He informed that following presentation at the Board of Supervisors meeting at the September 13 meeting the matter had been continued to the October 4 meeting of that body. Pending that meeting, AP Turner said, staff was of the opinion that solidified answers to questions raised could provide data needed for decision making by the Commissioners at the October 19, 2005 meeting.

Commissioner DeVries asked for clarification of whether a unit could be placed on the remainder parcel (for a caretaker); AP Turner clarified that was proper action. Commissioner DeVries asked what would be the discussion at the Board of Supervisors on October 4? AP Turner responded issues dealing with secondary access: whether is required and where it could be located.

**COMMISSIONERS MACHADO/SMITH MOTIONED TO CONTINUE THE MATTER OF TENTATIVE SUBDIVISION MAP 03-69 TO THE OCTOBER 19, 2005 PLANNING COMMISSION MEETING. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; TOGNAZZINI WAS ABSENT.**

**DISCUSSION ITEMS:**

**Overview of Surface Mining and Reclamation Act**

SP Paxton presented the staff report which was informational/discussion item only with no action required. She provided information of the record which had instigated the Act and the effects at the local level, as well a brief overview of the mining activities in the County. Responding to a question from the Chair, SP Paxton informed that there are pending applications for Use Permits/Reclamation Plan submittals/review. The County's Surface Mining Ordinance was noticed and reviewed.

**Preliminary Allocations Update Report**

AP Turner gave an update on the procedures, and noted the application period has ended with a total of 20 new applications [16 for minor subdivisions – requesting 36 new lots; 4 applications for major subdivision – requesting a total of 31 new lots]. Combined with last year's applications which did not receive a full allocation, the total requests for 118 new lots. Having reviewed the matter, AP Turner said, it looks like 83 allocations will be available for distribution.

Chair Bettencourt asked about the number of allocations being based on population figures. AP Turner explained that the numbers of allocations may vary year to year as population numbers received fluctuate. Chair Bettencourt asked about prior year

applicants and re/new application of those applicants. Discussion ensued regarding the positions in the queue of the prior year applications.

Roger Grimsley was present and explained the applications he had submitted for clients the previous year and the subsequent resubmittals, including information of revisions.

Commissioner DeVries broached the subject of special consideration to the previous applicants. DCC Murphy explained the allocation process based on the Ordinance.

Commissioner Machado indicated he was not interested in having the applications which do not meet the minimum qualifications presented for consideration.

Discussion ensued regarding the scoring, appeal process, and rankings of the applications. Chair Bettencourt emphasized that decisions may not be made at one meeting, but thorough discussion be undertaken. Commissioner Machado advocated having a special meeting devoted to discussion/study of the presented applications.

Mr. Grimsley requested that applications which do not do not meet the minimum qualifications be provided with information as to why/how those minimum qualifications were not met, then a second screening occur.

Ray Piece was present and expressed the opinion that Commissioners should give priority to projects already in process (past projects) for completion. He stressed the need to compete projects. Mr. Pierce said it was important to let applicants to know why they applicants had not been ranked.

AP Turner highlighted the importance of having DCC Murphy review the Ordinance with the Commissioners prior to the allocations being awarded.

Chair Bettencourt introduced new planning staff: AP Keely, with IDoP Bethke providing information of the work assigned to AP Kelly.

### **OTHER MATTERS:**

Commissioner Machado said there were several projects pending in the County and the Commissioners were not totally in the information loop. He said the Commission would be well served if a report was provided by staff regarding 'what's going on, where is this in the processes. "We have the Growth Ordinance and I don't know where some of these large projects fit into that," Commissioner Machado declared. "I think if some of those things could be explained to the Commission and where these projects lay, not the technical part, it would be beneficial."

IDoP Bethke said that what he had done in other jurisdictions, Planning Commission meetings opened with a brief Director's report identifying issues which might be of interest to the Commissioners. He offered to work the DCC Murphy to establish

procedures and perimeters for such a report. Chair Bettencourt encouraged having such a report provided.

Commissioner Machado suggested an update/discussion on the Growth Ordinance would be beneficial.

DCC Murphy cautioned that the report should not lead/result in discussion as that would be susceptible to challenge for those who might believe due diligence had not occurred.

Commissioner Smith asked if a special meeting would be in order to have discussion on the projects 'floating around which had been on the back burner for several years'. "Do you think there would be problems with a special meeting like that?" he asked. DCC Murphy said that whether it was an agenda item regularly scheduled meeting or a special meeting, the requirements of the Brown Act must be met.

IDoP Bethke said he would be available to provide information to the Commissioners at their request either individually or two meeting together.

**IT WAS DECIDED BY CONSENSUS THAT A DIRECTOR'S REPORT WOULD BE AGENDAIZED AT THE BEGINNING OF EACH MEETING.**

Commissioner DeVries urged other Commissioners to attend public meetings being presented by potential developers.

With no other business to be discussed at the meeting the Planning Commission meeting was adjourned at 9:30 p.m.

*Minutes transcribed by:  
Judi Johnson*

*Attest:  
Michael Bethke, Interim Director of Planning*