SAN BENITO COUNTY PLANNING COMMISSION

Minutes of November 2, 2005

PRESENT: Commissioners Bettencourt, DeVries, Machado, Smith, Tognazzini

ABSENT: None

LATE: None

STAFF: Interim Director of Planning (IDoP) Michael Bethke; Principal Planner (PP) Byron Turner, Deputy County Counsel (DCC) Shirley Murphy; Deputy Director Public Works (DDPW) Arman Nazemi, and Clerk Trish Maderis.

Chair Bettencourt called the meeting to order at 7:00 p.m., as he led the pledge of allegiance to the flag.

Chair Bettencourt summarized the standing rules of order, including data indicating that no new business could be considered by the Commissioners after 10:30 p.m.

PUBLIC COMMENT:

Chair Bettencourt opened the floor to opportunity for public comment.

Grant Brians, 6580 Fairview Road called attention to the Dark Sky Ordinance which is designed to regulate lighting, and requires that lighting not be directed to the sky and further light must be shielded. Mr. Brians said that he had noted recently many new installations recently which were clear violations and which had been reported to the Code Enforcement Officer. Since those violations had not been corrected, the matter was being brought to the attention of the Commission.

With no others present indicating a wish to speak to matters not on the agenda, the public comment period was closed.

Chair Bettencourt then called for the Director's Report.

Director's Report:

IDoP Bethke presented the following items:

- Board of Supervisors (BoS) – at a recent retreat – discussed the recommendation for the General Plan update and made a decision to postpone the matter until the hiring of a new Director was completed
- three potential candidates for the position were interviewed today
- proposal for BoS and Commissioners to participate in an Ethics committee discussion in the future
- backlog of work beginning to be loosened and should be completed by the end of the year
- request to set December 21 as a meeting date to facilitate the reduction of the backlog
- interview this Friday for Associate Planner position (Lorrie Chase may be returning which would cause the Planning Staff to be 'up to speed' in numbers)
- December 7 proposed for Preliminary Allocation discussion (only item to be considered)

***CONSENT AGENDA*:**

Roll Noted ~ Commissioners present

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes October 19, 2005

COMMISSIONERS MACHADO/SMITH MOTIONED TO APPROVE THE CONSENT AGENDA AS PRESENTED. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

***CONTINUED ITEMS*:**

County of San Benito - General Plan

IDoP Bethke reminded that the Board of Supervisors had directed this item be held pending appointment of a permanent Planning Director.

Chair Bettencourt opened the public hearing.

With no one present indicating a wish to speak to matters not on the agenda, the public comment period was closed.

Chair Bettencourt directed staff to agendaize the matter of the General Plan update for San Benito County pending appointment of a new Planning Director.

USE PERMIT 915-05: Request: To Authorize the continuation of an existing labor camp. Owner/Applicant: Felicitas Valenzuela Location: 1500 Nash Road. Zoning: Agricultural Productive. Environmental Evaluation: Categorical Exemption.

Noting this matter had been continued from the October 19, 2005 Planning Commission meeting, PP Turner gave the report, saying the applicant is requesting the continuation of an existing labor camp. PP Turner noted the following conditions:

- the mobile homes have been removed
- units 17 and 18 have been consolidated into one unit for safety
- unit 16 which had been identified as substandard will be converted to storage
- be a secondary access to the site added in the form of a driveway
- a 40,000 gallon water storage unit will be placed at the location
- all units identified for habitation will be sprinklered

PP Turner reminded that the camp was originally put into place in the 1960s, and the Conditional Use Permit (CUP) had lapsed. He told of the work completed to bring the property into compliance and staff recommended the request be granted, including approval of the Use Permit.

Chair Bettencourt opened the public hearing.

As no one was present to speak to the matters, the public comment period was closed.

Commissioner Machado asked if the conditions of approval had been implemented? PP Turned indicated that the work was continuing and the fire tank as well as a fully charged fire hydrant be installed within 30 days of approval. PP Turner advised that all other conditions have been completed.

Commissioner Smith asked if all the conditions had been met regarding water quality standards? PP Turner and IDoP Bethke responded with explanation of the water monitoring being the responsibility of the State, which is checked weekly.

Chair Bettencourt asked about enforcement of fire safety equipment. PP Turner explained that the inspection and enforcement will be the duty of the State with the County having the responsibility for issuing and monitoring the CUP.

Commissioner DeVries spoke on the prospective benefit of having the CUP conditioned to ensure periodic review by the Commissioners. Staff agreed this would be positive.

COMMISSIONER MACHADO MOTIONED APPROVAL OF USE PERMIT 915-05: AUTHORIZING CONTINUATION OF THE EXISTING LABOR CAMP, INCLUDING THE FINDINGS AND CONDITIONS AS PRESENTED, WITH THE MODIFICATION OF A CONDITION REQUIRING A ONE-YEAR REVIEW FOR STUDY OF THE MANDATORY CONDITIONS. COMMISSIONER TOGNAZZINI SECONDED THE MOTION WHICH CARRIED BY THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

USE PERMIT 765-99 (Amendment): Request: To modify Condition 3 (requirement for traffic improvements on Highway 25: approach to operation. Owner/Applicant: Don Chapin. Location: State Highway 25 (Bolsa). Zoning: Agricultural Productive

PP Turner reported the applicant had presented a letter regarding the matter late in the afternoon this date. Staff requested a continuation in order to have the opportunity to properly respond to the letter.

Chair Bettencourt opened the public hearing.

Denny Madigan, 101 Ken Court, said he had been involved with mining enterprises around the world. He called attention that he had sent the letter which had been received. Mr. Madigan said the letter had multiple issues referenced; however, safety was the major issue. Mr. Madigan said he had just witnessed the entrance of a truck from the operation which caused safety concerns. The speaker said a legal left turn can be made from the operation, but the issue of safety is raised again. Mr. Madigan urged staff and the Commissioners to work together with CalTrans and the applicant to 'correct the problems' centered on safety concerns at the entrance to the operations.

With no others present to speak to the matters, the public comment period was closed.

Commissioners discussed the matter with staff, including DCC Murphy, whereby it was determined that continuation to the next meeting would not be overwhelmingly detrimental to the applicant.

COMMISSIONER DeVRIES MOTIONED TO CONTINUE THE MATTER OF USE PERMIT 765-99 TO THE COMMISSION MEETING OF NOVEMBER 16, 2005. THE MOTION WAS SECONDED BY COMMISSIONER TOGNAZZINI AND CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

Commissioner Smith requested consideration of a special meeting for TDCs. It was reminded that the bulk of the November 16 meeting will be devoted to TDCs.

USE PERMIT 384-86(A)/RECLAMATION PLAN 2005-18: Request: Expand existing quarry onto adjacent parcels and update reclamation plan. Owner/Applicant: Stevens Creek Quarry Inc. Location: 1275 Anzar Road. ZONING: R (Rural) Environmental Evaluation: Mitigated Negative Declaration.

PP Turner presented the staff report, reminding the matter had been continued from October 19, 2005 and saying the current CUP does not have an expiration date but is based on tonnage. PP Turner reminded of the current conditions under which the operations occur, and advising this modification will allow for additional mining operations including land leased from two neighbors. The life of the quarry could be extended 12 years if this request is approved.

DCC Murphy advised the Commissioners of the provisions of the Mining Ordinance would necessitate additional findings (from Chapter 6(c) 7 County Code: Surface Mining) which would need to be included. These deal with the Use Permit, and provide detail of the operations as well as mitigations for environmental effects which can be identified. State regulations must be adhered to as well, she said, and recommended that staff review all the required conditions with a 'rewrite' for inclusion of the findings to be returned to the Commissioners. The Interim Director will also be required to communicate with the State regarding the conditions of requirement. Commissioner DeVries asked, on completion of the staff rewrite, if the matter could be placed on a consent calendar? DCC responded that could be done, and if the Commissioners felt it warranted, the matter could be 'pulled' for further discussion.

Chair Bettencourt opened the public hearing.

David Brown, 4509 Golden Foothill Parkway, of Resource Design Technology, was present to represent the applicant. Mr. Brown introduced others present who were involved in the application process, including the applicant, and told of his work in mine inspection/consulting. Mr. Brown said the application had been completed in accordance with all the state regulations for mining. He told of the accomplishments of the Stevens Creek Quarry Company including upgrading Anzar Road. Mr. Brown said there were some complexities not readily apparent, but there was urgency in being able to operate and mine the neighboring property. He spoke of the scale and the need to move it, but explained that could be completed later. Mr. Brown spoke of the existing reserves available and the possibility of recovering additional reserves on both the initial and neighboring/adjoining sites.

Mr. Brown said the agreements included the final grading plan and the mining plan with reclamation aspects. Mr. Brown spoke at length about West Knoll, an esthetic 'feature' of the property. Mr. Brown highlighted the required conditions, explaining how the applicant will meet those conditions. Mr. Brown stressed the essentialness of quarries, and said that this would be a win-win situation, which he termed 'unusual when speaking of quarries'. Mr. Brown emphasized all products from the operation would be generated from the quarry within the County and would be sold from the 'point of sale' within the County, indicting that any tax generated would be paid to San Benito County.

Jennifer Galindo, 1400 Anzar Rd., San Juan Bautista, spoke in support of the project and urged the Commissioners to approve the request. She said that in 2002 the family had written to the County indicating concerns of her family about possible land slide. Ms. Galindo said she had built a house at West Knoll, which they own and that she worked closely with the applicants and had found the operators to be exceedingly cooperative.

Chair Bettencourt asked Ms. Galindo about the location of her home in relation to West Knoll.

Bill Hunter, 430 School Road, San Juan Bautista, told the Commissioners he lives nearby the subject property and feels the concerns – raised by him and other neighbors - have not been solved. Mr. Hunter declared, "The project still has a myriad of problems. I must tell you I am against this project." Mr. Hunter also indicated he had written a letter about the concerns regarding the project, including the level and times of the operations during the first ten years of the CUP.

Chair Bettencourt discussed with Mr. Hunter the location of his property and set-backs from the fence lines.

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

Chair Bettencourt disclosed that he had visited the site and toured the area with employees of the Stevens Creek Quarry.

Commissioners brought the following issues forward for discussion:

- condition of the roadway: DDPW Nazemi said he was unaware of drainage problems, but the road surface had deterioration due to the truck traffic
- conditions of approval, including the potential of revisiting road issues with a requirement to bring the road to Public Works Department standards
- Condition # 24 which requires repair of Searle and Anzar Roads within 1-year of approval of the Use Permit
- need to address grading and drainage issues (possible to add language)
- Mr. Hunter's letter of September 7, 2005
- possibility of including erosion issues in the CUP as a condition of approval

Discussion continued with Commissioner Smith requesting Mr. Hunter to address specific issues.

Chair Bettencourt re-opened the public hearing.

Responding to the Commissioners, Mr. Smith addressed issues of (grading) cuts made ostensibly for a driveway but it appears to be a waterway diversion/drainage field which has affected water flowing onto his property and causing erosion. Mr. Hunter explained that at the north end of the property, Granite Rock owns the property there and has trench cut on their property and it comes down. Due to that action, water no longer drains naturally.

Commissioner Devries said that after he had met with the applicant, some of the neighbors, PP Turner, and Supervisor Botehlo, where a number of concerns had been listed, it has become apparent those concerns did not 'make it into the Conditions' including:

- ✧ hours of operation could differ from the suggested 7:00 a.m. to 7:00 p.m.
- ✧ noise from the operation
- ✧ needed road improvements
- ✧ traffic – per one of neighbors, a change of location for the driveway could help [this was discussed at length with aerial photographs being distributed for review]
- ✧ need for different configuration for the driveway/access road and elimination of current driveway
- ✧ School Road is narrow and steep

Mr. Brown returned to the podium to offer rebuttal of points the speakers had raised:

- ○ grading of slopes according to plans drafted which insure stability
- ○ erosion issues naturally created
- ○ traffic / noise issues (compared to fast food restaurants)
- ○ amounts of materials to be excavated
- ○ upkeep of set backs
- ○ drainage within quarry (much in existing regulations)
- ○ maintenance of roadways
- ○ Planning Staff to inspect operations annually
- ○ sonar backup installation for trucks
- ○ operators currently responding to need of construction so hours of operation changes difficult, but will do best possible for business
- ○ impact fees acceptable on 'fair share basis' for roads [later in discussion DDPW Nazemi clarified that this is such a short span of roadway that an impact fee assessment would not be practical]
- ○ access road to site is very steep, so don't think reconfiguration of driveway would enhance problems

The public hearing was closed.

Commissioners continued discussion regarding:

- slope range (6 – 1)
- applicant upkeep of Anzar Road
- tax recovery for County
- possible 'life span' of road [also discussed: potential for road upkeep to highway 101; Searle road does not show signs of 'stress'; lack of ingress from Aromas area; consideration of monitoring Condition]
- drainage concerns of area residents
- vegetation requirements for reclamation areas/oak trees at the top of the ridge (state requirements)
- when/how CUP can be reviewed
- clarification of Condition #24 [inclusion of on-going maintenance requirement]

Rich Voss, owner of Stevens Creek Quarry, spoke on the equipment on site and hauling equipment.

COMMISSIONER SMITH MOTIONED TO APPROVE USE PERMIT 384-86(A)/RECLAMATION PLAN 2005-18, AS PRESENTED TOGETHER WITH THE REQUIRED FINDINGS AND CONDITIONS.

DCC Murphy advised that all the required findings and conditions, as well as any revisions must be put in writing (for Commissioner's and public review). Chair Bettencourt reminded that the matter could be placed on the Consent Agenda at the next meting pending receipt of the required findings and conditions and with minor changes to the staff report reflecting the required changes.

COMMISSIONER SMITH WITHDREW THE MOTION.

COMMISSIONER DeVRIES MOTIONED TO CONTINUE THE MATTER TO THE NOVEMBER 16, 2005 CONSENT AGENDA, WITH AMENDMENTS AS OUTLINED BY DCC MURPHY.

Identified for change were the following:

- **Condition 16 (include reference to requirement for sonar beepers for backup warnings shall be installed on all trucks – inclusion of 6-months time frame requirement)**
- **Condition 24 amend to include repair of roadwork on Anzar Road to the intersection with Searle Road /consultation with CalTrans for the requirements; County public Works Department to be consulted as well for full compliance**
- **CUP renewal following three years of operation; consent for continued operation will be contingent on approved inspection by the County Planning Department (Mr. Brown questioned the three-year term; Commissioner DeVries provided explanation this was standard to endure all conditions were being met and that the operation was being run in compliance)**
- **Inclusion of the required findings and conditions be placed in writing**

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

PUBLIC HEARING ITEMS:

At the request of IDoP Behtke, who noted the large number of person in attendance with an interest in item 9, the matter was taken up at this point.

Tract Map 04-71: Request: To divide a 38.5-acre parcel into seven (7) approximately 5-acre parcels to be developed as single-family dwellings. Owner/Applicant: David Baumgartner Location: Between Fairview and Magladry Road. Zoning: AP-Agricultural Productive. Environmental Evaluation: Mitigated Negative Declaration

PP Turner gave the staff report, as he noted amendment to the Conditions:
#31 and 32 (delete): ***~~found acceptable by the Department of Public Works~~***
#32 (add) ***Applicant shall contribute a pro rate share for the cost of improvements***
#37, included by requirement of Ordinance 766 (inclusionary Housing) ***Applicant shall comply with requirements of this Ordinance by paying an in lieu fee of $27,019.60 per lot.*** [Planning Director shall periodically review and update the requirement of Condition #37]

Chair Bettencourt opened the public hearing.

Dan Weatherly, of San Benito Engineer, representing the applicant told Commissioners:
Condition #9: underground utilities {change in policy from previous subdivisions? Would prefer to have above ground/overhead transmission] PUC allows waivers, Mr. Weatherly stated.
Condition #24C Fairview Road frontage; Mr. Weatherly explained that the 250 foot wide strip on Fairview would be widened then shrunk; he suggested having shoulder road work done then deferring road widening until it is feasible to widen a longer stretch of roadway.
Conditions # 31 and 32 objected to calling an Established Benefit Area. Mr. Weatherly spoke to the notion of having a right turn lane from Fairview to Lone Tree Road.

David Baumgartner, 3332 Swan Court, spoke to the Commissioners as the applicant. He said that regarding the inclusionary fees of $27,019.60 per lot, this was not a fair way to do business as the amount of the fee had changed as he noted Fairview Road needed a lot of help. Regarding the Conditions, Mr. Baumgartner said, "We'll do what we have to do."

Michael Matulich 4708 Fairview Rd. told Commissioners that he owns the property adjacent to the proposed subdivision. Mr. Matulich said his fears and concerns included:

- ► drainage ponds – worried about run-off to his property
- ► septic tanks for waste water – asked the leach lines not be in the area of his well
- ► overhead lighting – effects of bleeding to his quarters

Grant Brians returned to the podium to address the matter. Mr. Brians raised concerns of:

- ▫ run-off of drainage water
- ▫ the soils on the property are good for agriculture production
- ▫ need to retain agriculture lands and prevent housing placement on such land

Concluding, Mr. Brians asked the Commissioners to deny the request.

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

Commissioners discussed the following in relation to the request:

- ▫ ability to have water standards met [Environmental health to determined – based on number of hook-ups]
- ▫ provision of utilities
- ▫ road improvements (DDPW Nazemi advised that the developer is required to pay 1/2 of the road improvement costs)

Responding to a request from the audience, Chair Bettencourt reopened the public hearing.

Debbie Gonzalez, 475 Magladry Rd., told the Commissioners the road has never been finished (Magladry Road).

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

Discussion ensued between the Commissioners and DCC Murphy regarding the legal requirements for road improvements and/or offering road deferred improvement agreements. DDPW Nazemi advised the Department of Public Works is not objecting to the deferred road improvement agreement and understands the objections the applicant's representative has presented regarding an Established Benefit Area.

PP Turner suggested that in view of the issues surrounding this application, staff should meet with the applicant/representatives to establish clarity in the following areas:

- ▫ pro rate share for the cost of road improvements
- ▫ in lieu fees for the Inclusionary Housing issue [*and* the matter of affordable housing: clarification of how many/where placed/when built (which had generated considerable discussion as well as having the public hearing opened and closed again)]
- ▫ utilities

COMMISSIONER MACHADO OFFERED A MOTION FOR CONTINUATION TO THE NOVEMBER 16, 2005 MEETING (CONSENT AGENDA) IN ORDER TO OBTAIN CLARITY OF THE ISSUES PP TURNER PROPOSED FOR DISCUSSION WITH THE APPLICANT. COMMISSIONER DEVRIES SECONDED THE MOTION WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

DCC Murphy responded to a question from the Commissioners by stating that any item placed on the Consent Agenda could be 'pulled' for discussion by any of the Commissioners.

Workshop Housing Element Program 1-1: Request: Planning Commission workshop to review available land to accommodate a variety of housing types in tandem with a review of the San Benito County Growth Management Ordinance and Inclusionary Housing Ordinance

The staff report for this agenda item was given by IDoP Bethke. Commissioners raised the following during discussion:

- selection of sites – how the determination was achieved
- process of rezoning for meeting State requirements
- cooperation with local agencies and municipalities
- requirements for the Housing Element
    - low income/affordable/mixed use
    - density
    - placement in relation to available utilities, e.g., water/sewer
- procedures for consideration of requests/applications for rezone

Chair Bettencourt opened the public hearing;

The following persons spoke to the objections they presented regarding the matter:

Scott Fuller, General Manager of San Juan Oaks, who pointed to inconsistencies on pages 3 and 4 of the report. Mr. Fuller spoke at length regarding concerns of: Inclusionary Housing and the subsequent effect on the number of affordable houses within a project.

Brian Curtis, 1851 Airway Drive, Los Banos

Brad Sullivan Attorney with the Lombardo and Gilles firm in Hollister. Mr. Sullivan spoke to the inability to require an indefinite growth control provision (which he claimed is in State law)

Roger Grimsley, engineer, who presented apprehension/opposition regarding the Growth Control Ordinance, and saying the constraints of that measure were 'unreasonable'.

Grant Brians who reiterated arguments he has presented in the past regarding opposition to five acre parcels. Mr. Brians also spoke in favor of sustainable agriculture.

Having heard the speakers and ascertaining that there were no others present to address the matter, Chair Bettencourt closed the public hearing.

Commissioners continued discussion of the matter with DCC Murphy being asked to clarify issues associated with the one-percent growth cap in the County and any exceptions to the Ordinance.

Also discussed was:

- taxes generated by housing (Commissioner Tognazzini claimed the amount was about 11¢ on the dollar)
- need for generation of economic analysis for differing types/sizes of development
- the fact that San Benito County has a high population of residents who commune to other areas for employment and consequently are limited involved with local concerns

Noting this matter was for discussion, the Chair cited the lateness of the hour suggesting that further discussion would be necessary at another time.

Invoking the Commission's working rule of no new business after 10:30 p.m., the Chair declared the meeting adjourned at 10:40 p.m.

(Of interest: agenda Item 10: Discussion: Interpretation of the applicability of the requirement for Conditional Use Permit for residential dwellings on Grade 1 soils in Section 18.10(y), 18.15 and 18.21 of the County Code was not addressed at this meeting.)

Minutes transcribed by:
Judi Johnson

Attest:
Trish Maderis, Clerk