

SAN BENITO COUNTY PLANNING COMMISSION

June 4, 2008

Minutes

PRESENT: Bettencourt, Machado, Scattini, Tognazzini & DeVries

ABSENT: None

STAFF: Director of Planning (DoP) Art Henriques; Assistant Director of Planning (ADoP) Byron Turner; Public Works Engineer (PWE) Art Bliss; Assistant Planner (AP) Michael Kelly; Assistant Planner (AP) Ann Dolmage; Assistant Planner (AP) Michael Krausie; (DCC) Shirley Murphy; and Clerk Janet Somavia.

Chair Machado opened the Meeting at 6:02 p.m. as he led the pledge of allegiance to the flag and reiterated the standing rules of order.

DIRECTOR'S REPORT

DoP Henriques reported on recent Board of Supervisor meetings and information on the following items:

- Board of Supervisor meeting of May 27:
 - Budget Hearings on June 9 & 10.
 - Precision Building Inspection contract renewed for three years.
 - General Plan update and request for further information. General Plan Advisory Committee will be 15 members, 2 appointed per Board Member and 5 at large.
 - Adopted Resolution to deny the 766 Riverside Road Use Permit Appeal.
 - Workshop on Large Development Projects. To bring back on June 24.

- Board of Supervisor meeting of June 3.
 - Supervisor Botelho announced the groundbreaking for St. Francis Retreat.
 - Memorandum of Understanding between the City of Hollister and the County Redevelopment Agency pertaining to the new Courthouse.
 - Verbal report to Board from City of Hollister on Waste Water facility expansion.

PUBLIC COMMENT

Chair Machado opened and then closed, the opportunity for public comment as there were no persons present to address matters not appearing on the agenda.

CONSENT AGENDA

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of May 21, 2008
4. **TSM 99-63:** REQUEST: Time extension of tentative subdivision map. APPLICANT/OWNER: San Juan Vista Estates/Greg Weiler. LOCATION: Hwy 129 and Hwy 101. ZONING: Agricultural Productive (AP). PLANNER: Byron Turner (bturner@planning.co.san-benito.ca.us)

ADoP Turner requested that Item 4 be pulled from the Consent Agenda. Chairman Machado answered in the affirmative.

Commissioner Scattini moved to approve Items 1, 2 and 3. Commissioner Bettencourt offered a second to the motion which passed 5-0.

ADoP Turner stated the reason for pulling this item was that the wrong section of the Map Act was referenced in the Staff Report. ADoP Turner presented the contents of the staff report noting that the correct Subdivision Map Act number is Section 66452.6(e). An extension of three years would be the maximum amount of time for extension. Staff recommends approval of the extension of the Vested Tentative Subdivision Map until September 2011.

Commissioner Scattini questioned the difference in the Subdivision Map Act and the County Ordinance. ADoP Turner stated that our County Ordinance is far stricter than the Map Act. There was discussion among the Commissioners regarding changing our ordinance and if this project could be extended after three years. ADoP Turner stated that he would need to research this and would get back to the Commission. DCC Shirley Murphy stated that there is currently a Bill before the State Assembly to extend all maps for 24 months. Commissioner Scattini moved to extend Vested Tentative Subdivision Map No. TSM 99-63 until September, 2011. Commissioner Bettencourt offered a second to the motion which passed 5-0.

PUBLIC HEARING ITEM ~ COMMISSION ACTION

5. **VARIANCE NO. 08-26** REQUEST: The applicant is seeking a Variance from Chapter 18, Section 18.153.2 (b), of the County Code in order to construct a 2,000 square foot horse barn within the side yard setback. APPLICANT/OWNERS: Darcy Wong. LOCATION: 85 McCary Drive, Hollister. ZONING: Agricultural Productive (AP). PLANNER: Michael Krausie (mkrausie@planning.co.san-benito.ca.us)

AP Michael Krausie presented his staff report explaining the application. Applicant is seeking a Variance from Chapter 18, Section 18.153.2(b) of the County Code in order to construct a 2000 square foot horse barn within the side yard setback. The Applicant has applied for and received approval from the Hidden Valley Subdivision Architectural Control Committee. Staff recommends approval.

AP Krausie then showed a power point presentation showing the proposed location of the building and surrounding property.

Commissioners discussed the setback requirements and asked regarding Home Owner Association approval of the location. AP Krausie stated that because this barn would house animals it required a 40 foot setback, which is what the variance was about and yes they had HOA approval.

Chairman Machado opened the Public Hearing.

Frank Lee representing the applicant, Darcy Wong, Darcy Wong is legally blind the only other spot is at the bottom of property. The ACC and the applicant are all in agreement. Because of the septic lines they will need to build with 20 feet of property lines. Commissioner Scattini asked what kind of materials. It will be stick built and look like the house.

Chairman Machado closed the Public Hearing.

Commissioner Bettencourt moved to approve Variance No. 08-26 with all the findings and conditions. Commissioner Scattini offered a second which passed 5-0.

DoP Henriques stated that this is final unless appealed to the Board of Supervisors within ten (10) days.

6. **VARIANCE NO. 08-25** REQUEST: The applicant is seeking a Variance from Chapter 18, Section 18.153.2 (b) of the County Code in order to construct a swimming pool within the rear yard setback. APPLICANTS/OWNERS: Martin and Anna Tiscareno. LOCATION: 3384 Montebello Court, Hollister. ZONING: Agricultural Productive/Planned Unit Development (AP/PUD). PLANNER: Ann Dolmage (adolmage@planning.co.san-benito.ca.us)

AP Ann Dolmage presented the staff report explaining the application. The Applicant is seeking a Variance from Chapter 18, Section 18.153.2 (b) of the County Code in order to construct a swimming pool within the rear yard setback. Applicant has gained approval from the Montebello Estates Home Owners Association. This parcel has a setback of 35 feet, but the applicant would like to place the pool 17 feet 9 inches from the rear property line.

AP Dolmage then showed a power point presentation with the proposed location of the pool and an aerial map of the property.

Staff recommends denial due to the inability to make all the required findings. However, the Planning Commission can approve the variance by making the findings listed in the staff report and subject to the attached conditions of approval.

Commissioners discussed the setbacks within PUDs; possibly change the setbacks in future PUD's. ADoP Turner explained that some PUDs reflect other zoning. This can be done at the

time of the adoption of the PUD. If this is something that the Commission wants to look at we could revisit the setbacks for the entire subdivision. With future PUDs we can take a look at the setbacks and possibly write in alternate standards for setbacks. If this were to happen these types of projects would not need to come before the Commission. Commissioner Scattini stated that he would like to revisit this at a later date. Commissioner Machado asked how many variances. ADoP Turner stated very few. After some discussion among the Commissioners, ADoP suggested a discussion item in the future to look at all the PUDs in the County and their setbacks.

Commissioner Scattini questioned the reason for denial. ADoP stated that denial was based on staff not being able to make the findings that there are extraordinary circumstances.

Chairman Machado opened the Public Hearing. There being no public comment, Chairman Machado closed the Public Hearing.

Commissioner Bettencourt moved to approve Variance No. 08-25 with the findings and conditions. Commissioner Tognazzini offered a second to the motion which passed 5-0. DoP Henriques again stated that this is final unless appealed within 10 days.

7. **MINOR SUBDIVISION NO. 1176-05** REQUEST: To subdivide a 15-acre parcel into two parcels of 10 and 5 acres. APPLICANT/OWNER: Brian Mode. LOCATION: 4655 San Juan Canyon Road, San Juan Bautista. ZONING: Rural (R).
PLANNER: Michael Kelly (mkelly@planning.co.san-benito.ca.us)

AP Michael Kelly presented the staff report explaining the application. The applicant proposes to divide a 15.12 acre lot into two parcels, one a 10.01 acre parcel containing the applicant's residence and the other a 5.11 acre lot, the ownership of which to be transferred to the applicant's daughter. This Subdivision was granted on a one time, one lot exemption from the Growth Management System to allow the applicant to create a new lot for his daughter.

AP Kelly then made some changes to the conditions. The following conditions should be prefaced with "A note shall be placed on Parcel Map stating": #12, #17, #26 & #34. On Condition #33 replace the wording for a deed restriction with wording "The applicant shall place on the parcel map a note that states". On condition #19 eliminate words "1 and". The sentence should then read "Prior to recordation of the parcel map, the applicant shall record a deed restriction stating that sale of Parcel 2 to any individual other than a family member"

Commissioner Bettencourt questioned whether this went through the Preliminary Allocation process. AP Kelly stated that this was a family exemption from the PA process approved in 2004 and issued an extension on 1/17/2007 by the Planning Commission.

Chairman Machado opened the Public Hearing.

Matt Kelly – Engineer for Mr. Mode. Mr. Mode has read the conditions and the mitigated measures and accepts the revisions of the conditions as stated. We would appreciate your approval of this subdivision.

Chairman Machado closed the Public Hearing.

Commissioner DeVries moved to adopt the Mitigated Negative Declaration and approve Minor Subdivision 1176-05 based on the finding and recommended conditions of approval set forth by staff with the following changes: that Conditions 12, 17, 26 & 34 be amended to insert the phrase “ a note shall be placed on the Parcel Map stating ” and then the condition; that Condition 33 be changed to delete the phrase “The applicant shall record a deed restriction with the Recorder’s office” and add “The applicant shall place a note on the parcel map that states,” and that Condition 19 be amended to delete Parcel 1 so that the deed restriction references the sale of Parcel 2. Commissioner offered a second to the motion which passed 5-0.

8. **PRELIMINARY ALLOCATION EXEMPTION 08-01** REQUEST: To obtain a one-time, one-lot family member exemption from the County Growth Management System in order to obtain preliminary approval for subdividing a 10-acre property into two parcels. APPLICANT/OWNER: Mary Jane Walker. LOCATION: 4343 Airline Highway, Hollister. ZONING: Rural (R). PLANNER: Michael Kelly (mkelly@planning.co.san-benito.ca.us)

AP Michael Kelly presented the staff report explaining this application. The applicant wishes to obtain a one-time, one lot family member exemption from the County Growth Management System in order to obtain preliminary approval for subdividing a 10 acre property into two parcels of five acres each. The new parcel’s owner would be the applicant’s grandson.

Commissioner Scattini questioned AP Kelly regarding the 10 year restriction on sale of the property and what would happen if they were to sell this parcel prior to the 10 years. DCC Shirley Murphy stated that this would be a violation of County Ordinance. Was not sure how this would be handled. Commissioner Scattini stated that it was not required right now. Possibly some research could be done and brought back at a later meeting.

There was discussion among the Commissioner regarding the difference in the previous subdivision and a Preliminary Allocation Exemption. AP Kelly explained that the previous action was a subdivision based on an approved Preliminary Allocation Exemption. This action was to simply approve the Preliminary Allocation Exemption to the Growth Management System. Commissioner Bettencourt questioned why no conditions. AP Kelly explained that Preliminary Allocation Exemptions do not have conditions, they only need to meet the requirements set forth regarding family and then approved.

Chairman Machado opened Public Hearing.

Ann Hall – Engineer representing the applicant. Willing to answer any questions.

Chairman Machado closed Public Hearing.

Commissioner Bettencourt made motion to approve Preliminary Allocation Exemption 08-01 and Resolution 2008-02. Commissioner Scattini offered a second to the motion which passed 5-0.

DISCUSSION ITEM

- 9.** Large Development Projects – Planning process and procedures.
Report of presentation to Board of Supervisors on May 27, 2008

DoP Henriques presented a power point report on the above topics presented to the Board of Supervisors.

There were several questions regarding the reimbursement agreement portion of the presentation. DoP Henriques indicated that we have two such agreements at present and we are keeping track of these by hours and increments of hours. We are currently proposing to contract with part-time accounting people to keep track of what each department and our consultants are doing.

There was discussion regarding the General Plan Amendments and Specific Plan. Commissioner DeVries has concerns regarding General Plan Amendments. DoP Henriques stated that if the voters turn a large residential project down, the General Plan Amendment and related Board approvals go away.

There were questions regarding the General Plan Amendment being done only four (4) times a year. The General Plan amendment can be done in joint action and count as one (1). We currently have about four (4) General Plan amendments on file.

Commissioner Bettencourt asked about the Permit Streamlining Act. DCC Shirley Murphy stated that this act does not apply to administrative acts such as General Plan Amendments and Specific Plans.

Commissioner Bettencourt asked when it comes to Planning Commission can they make recommendations for changes? DoP Henriques stated that at that time the Commission could make changes and recommendations that would go to the Board of Supervisors.

Chairman Machado called for a brief break at 7:40 p.m.
Called back to order at 7:47 p.m.

- 10.** General Plan Update presentation to Board of Supervisors.

DoP Henriques presented a power point report on the General Plan Update.

County on the Climate Change Registry. Not strictly tied into some of the climate change legislation. Have some flexibility because of being on registry.

Staff will make sure that the Planning Commission and Board of Supervisors are always plugged in and kept informed of the General Plan Advisory Committee progress.

Advisory Committee will consist of 15 members. Two (2) appointed by each Board member and five (5) at large members.

EIR not in budget for this next year. The current budget for the General Plan update is currently a little under \$280,000. Possibly lower at the end of budget hearings.

Commissioner Scattini commented that the 600 responses was not a fair assessment of the community. DoP Henriques stated that 17,000 surveys were mailed. We will be stepping up our communication with the public, such as more website updates and newspapers. Planning Commission comments about possibly advertise on the movie screens.

Commissioner DeVries would like to see the Aromas and Tres Pinos areas form a private committee to discuss their own issues and report back to the Advisory Committee. Maybe establish a village plan done by a committee of these communities.

Commissioner Bettencourt suggested using the High School government classes as well as possibly Gavilan College to spread the word.

Commissioner Scattini wants to commend Commission DeVries on his latest leadership classes at the Tres Pinos School.

11. DRAFT Proposed Planning Division fee increase.

DoP Henriques stated that the fee schedule was something that the Commission had requested so they were included in this packet. These fees will be sent out to groups in the building industry for comments. We will not come back to the Board until early fall.

ADJOURNMENT

On a motion by Commissioner Scattini with a second by Commissioner Tognazzini the meeting was adjourned at 8:10 p.m.

Minutes prepared by:
Janet Somavia
Planning Commission Clerk

Attest:
Art Henriques
Director Planning