

# **SAN BENITO COUNTY PLANNING COMMISSION**

Minutes of February 15, 2005

PRESENT: Bettencourt, DeVries, Machado, Tognazzini

ABSENT: Smith

STAFF: Director of Planning (DoP) Henriques, Principal Planner (PP) Turner, Associate Planner (AP) Kelly, Code Enforcement Officer Watson, Deputy Director of Public Works (DDPW) Nazemi; Deputy County Counsel (DCC) Murphy, and Clerk Maderis.

Chair DeVries called the meeting to order at 7:03 p.m., leading the pledge of allegiance, and reiterating the standing rules of order.

## **PUBLIC COMMENT:**

Chair DeVries 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.

## **DIRECTOR'S REPORT:**

DoP Henriques presented the following information:

BOS announcements

- fire regulations are being updated with an eye to potential Ordinance revisions for sprinklering
- (positive) meeting with Valley Transit Authority officials (Santa Clara County) regarding agreement for the 'flyover' installation at the 152/156 intersection
- Zone change – staff request to 'hold over' for review by the Commission

## **CONSENT AGENDA:**

Roll Noted ~ Commissioners present

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes February 1, 2006
4. Zone Change 05-152, General Plan Amendment 05-27. Project [Pulled for review]

**COMMISSIONERS MACHADO/BETTENCOURT MOTIONED TO APPROVE THE CONSENT AGENDA (items 1, 2, and 3). THE MOTION PASSED WITH**

**THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; SMITH WAS ABSENT.**

4. **Zone Change 05-152, General Plan Amendment 05-27. Project:** The applicant is requesting a Zone Change and General Plan Amendment to change the existing Agricultural Rangeland (AR) land use and zone designations to Agricultural Productive (AP) for approximately 40-acres of property located on Santa Ana Valley Road. **Applicant:** Jack Tyler. **Location:** Santa Ana Valley Road. **Environmental Evaluation:** Mitigated Negative Declaration.

Item 4 was pulled from the Consent Agenda for further discussion of the prepared resolution. Following discussion, advise from Counsel, and information from staff, **COMMISSIONERS TOGNAZZINI /BETTENCOURT MOTIONED TO APPROVE ITEM 4 ON THE CONSENT AGENDA APPROVING PASSAGE OF RESOLUTION 2005-9, WITH AUTHORIZATION FOR THE CHAIR TO SIGN. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; SMITH WAS ABSENT.**

**CONTINUED ITEMS:**

**5. Minutes December 21, 2005 ~ Stevens Creek Quarry Conditions of Approval**

Chair DeVries asked what kind of condition could be ‘focused’ out of the minutes as it still seemed somewhat ‘out of focus’. PP Turner reviewed Condition #20 which limits the hours and days of operation (M – F, 7 a.m. – 7 p.m. and Saturday 8 a.m. to 3 p.m. for maintenance purposes only) – noting that is how the Condition should read. The information provided was taken from the tape, he said. Commissioner Bettencourt called attention to the request of the operator. PP Turner said it was the responsibility of the operator to notify the County of planned work. Chair DeVries said there appears to be a situation of having the original minutes not reflect the Saturday issue and now the revised minutes seems to indicate the need for a Condition to be phrased specifically based upon the minutes. [To DCC Murphy] “Is this appropriate to again continue the minutes to allow staff the opportunity to phrase a condition based on these minutes?” Chair DeVries asked. “Or should we try to do that now, on the spot?”

PP Turner suggested rephrasing Condition 20 – with Commissioner Bettencourt suggesting a misprint – to say:

*Hours of operation shall be restricted to Monday through Friday, from 7 a.m. to 7 p.m. and Saturday from 8 a.m. to 3 p.m. for maintenance purposes only and that the operator shall notify if any anticipated hauling is to take place on Saturday.*

DCC Murphy advised that once the Commission has acted, there is not additional opportunity for changes to Conditions, if they were not reflected in the final action. The minutes can only reflect what was actually said; minutes cannot be revised after the fact or revise approval to clarify language. Staff will just have to best they can, she said, with what is in the approval notice. Discussion ensued regarding the matter.

**COMMISSIONERS BETTENCOURT/TOGNAZZINI MOTIONED TO CONTINUE THE MATTER OF THE MINUTES DECEMBER 21, 2005 TO PROVIDE OPPORTUNITY FOR COMMISSIONER BETTENCOURT TO LISTEN TO THE TAPES AND REPORT AT THE MARCH 1, 2006 MEETING. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: BENICH; ABSENT: SMITH.**

**PUBLIC HEARING ITEMS:**

**6. USE PERMIT NO. 891-04: 1 Year Review** – APPLICANT: Mike/Leticia Montuy. LOCATION: 1533 Shore Road, Hollister USE: Operation of paintball facility including paintball games in ten netted fields, sale of paintball related equipment and clothing and the same of pre-packaged foods.

AP Kelly presented the staff report, indicating that the findings for Conditional approval were available.

Chair DeVries opened the public hearing.

Joe Perry 1383 Shore Road, said he was a next door neighbor to the business. Mr. Perry expressed concerns that the business was operating off-season and the place looked 'shabby'. Mr. Perry also had a letter from another neighbor (Al Vatles, Jr.) read into the record -which had been sent to Commissioner Bettencourt - objecting to the operation as currently exists.

Randy Changco, 1353 Perry Ct., spoke in opposition to the continuation and/or expansion of the Use Permit mentioning the litter and associated issues with the operation, as well as traffic concerns. Mr. Changco said the weekend events were especially troublesome. Chair DeVries reviewed with Mr. Changco the issues of visual limitations, noise, and traffic concerns. Responding to Commissioner Bettencourt, Mr. Changco explained the location of his home.

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

Commissioners engaged in discussion of:

- clarification that this hearing was designated as a review, not a request for expansion
- currently several violations of the existing CUP, e.g., operating during the off season, not adhering to Conditions of Approval, Environmental Health violations
- need for Code Enforcement to prepare a report
- need for confirmation of violations BY Planning Staff
- preparation of list of Conditions not being met
- reluctance of operator/applicant to work with Staff
- consideration of 60-day continuation

**COMMISSIONERS BETTENCOURT/TOGNAZZINI MOTIONED TO CONTINUE THE MATTER OF USE PERMIT NO. 891-04 TO THE APRIL 19, 2006 COMMISSION MEETING TO PROVIDE AMPLE TIME FOR STAFF REVIEW OF THE OPERATIONS. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, TOGNAZZINI; NOES: NONE; ABSTAIN: BENICH; ABSENT: SMITH.**

**7. USE PERMIT NO. 935-05:** REQUEST: To install two (2) panel antennas on an existing fifty-foot tall monopole and new equipment cabinets. APPLICANT: Metro PCS. LOCATION: Rocks Road. ENVIRONMENTAL EVALUATION: Categorical Exemption.

PP Turner presented the staff report, who advised the applicant had originally asked for a new site; but in working with staff, had agreed to co-location.

Commissioner Bettencourt asked about Condition #7 which would ensure removal of equipment in the event of discontinuation of service.

Chair DeVries opened the public hearing.

Lisa Nahmanson, 1080 Marina Village, 4<sup>th</sup> Floor, Alameda, represented the applicant and answered questions regarding co-location raised by the Commissioners.

Commissioners also discussed with the applicant:

- efforts to make tree towers/leasing space on another's tower
- owner(s) of tower(s) [3 different leases]
- location of the various towers on the subject property (photographs provided)
- types of towers already installed
- concern of increase in numbers of co-location on towers; increased eyesore
- reluctance to continue proliferation of poles

Chair DeVries said he (personally) poles unsightly, ugly and horrible, spoiling a beautiful landscape. He indicated a strong wish to 'go on record that efforts need to be made to meet the requirements of the Ordinance while searching for installations in a more sightly, esthetically pleasing way, such as in Caramel, Monterey, etc., where the 'rules' are more stringently applied.

PP Turner reminded of Ordinance language and requirements.

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

**COMMISSIONERS BETTENCOURT/TOGNAZZINI MOTIONED TO APPROVE USE PERMIT NO. 935-05. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, TOGNAZZINI; NOES: MACHADO; ABSTAIN: BENICH; ABSENT: SMITH.**

## **DISCUSSION ITEMS:**

### **8. Discuss revisions of the Crowing Fowl Ordinance**

DoP Henriques presented the staff report, noting the growing number of complaints/concerns raised to the Board of Supervisors. He noted the combined efforts of the Code Enforcement and Environmental Health personnel.

Noticed as matters of concern:

- numbers of fowl currently permitted
- definition of small livestock farming
- types of permits to address the matter
- need to reduce allowable numbers of fowl
- noise
- exceptions
- commercial operations

Chair DeVries opened the public hearing.

David Rovella, 720 Lone Tree Road, spoke on the concern of time required to have corrective action. He told of the difficulty in living near the current operation, reiterating the need for relief. Responding to questions from the Commissioners, Mr. Rovella expressed opinions on the noise level and distance requirements currently in place.

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

Commissioners discussed the 2-year enactment period. Also discussed and explained (by staff) was the language currently in place regarding the matter.

County staff present [Code Enforcement, Animal Control] spoke to the issues, with further research by staff requested.

Other issues discussed:

- concerns being forwarded to the Board of Supervisors
- laws pertaining to Planning and Zoning
- requirements for raising fowl (acreage needed)
- concerns of amortization period
- legality of raising the fowl (explanation by DCC Murphy)

**COMMISSIONERS BETTENCOURT MOTIONED TO AGENDAIZE THE CROWING FOWL ORDINANCE FOR PUBLIC HEARING ON MARCH 15, 2006 AT THE REGULAR MEETING OF THE PLANNING COMMISSION. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; SMITH WAS ABSENT.**

*With agreement of the Commissioners, and by order of the Chair, agenda item 9 was moved to the end of the agenda and item 10 was taken up at this time.*

**10. Discuss revisions of the ranking system of the San Benito County Growth Ordinance for Preliminary Allocation ranking.**

*Due to the heightened interest in this matter, the Chair announced that the members of the audience were welcomed to join in the discussion, noting a separate public hearing would not be opened.*

Issues discussed included:

- aversion of terminology, e.g., probable, mandatory
- BoS wishes to have some language retained, unchanged
- Approval of the 75-25 ratios
- subdivision sizes (majors/minors) and requirements for each
- limited uses
- need/importance of following point system
- desire for having existing applications moved forward
- ‘excellence points’ contingent on ‘community betterment’
- re-write of Ordinance
- schedule of awards for allocations (minors/majors first?)
- concerns of continued wait time for County leadership decision making
- need for enhanced preservation/conservation for all sectors of consideration
- infill (considerable discussion regarding this matter)

Chair DeVries asked DoP Henriques to comment on the time line for presenting the draft proposal to the BoS.

*The regular order of the agenda was resumed.*

**9. Discuss revisions of the Grading Ordinance**

PP Turner gave the staff report, noting the revision(s) proposed.

Chair DeVries opened the public hearing.

*Speakers with items of specialized interest were:*

Carmen Gabriele, 2800 Salinas Road, San Juan Bautista, provided an overview of the issues he has at the location

Engineer Roger Grimsley, concerns of the 30% slope requirements access ability – said 20% more realistic

Attorney Brad Sullivan creation of longer road possible through engineering design; suggested removing percentage requirements or at least lowering them.

Public hearing closed.

DDPW Nazemi spoke, addressing several issue of importance to the Public Works Department.

Ann Hall, San Benito Engineering, said there was concern with arbitrary percentage numbers; and addressed natural slope(s) of road(s).

Members of the audience continued with comments considered pertinent.

DoP Henriques indicated intent to have staff prepare two resolutions which will be presented to the Commissioners.

DCC Murphy provided an overview of the background of the current Grading Ordinance.

With no other business to be presented the meeting was adjourned at 10:50 PM

*Minutes transcribed by:*

*Judi Johnson*

*Attest:*

*Art Henriques, Director of Planning*