

<p style="text-align:center">SAN BENITO COUNTY PLANNING COMMISSION Minutes of April 5, 2006</p>

PRESENT: Bettencourt, DeVries, Machado, Smith, Tognazzini

ABSENT: None

STAFF: Director of Planning (DoP) Henriques, Principal Planner (PP) Byron Turner, Senior Planner (SP) Chuck Ortwein, Planning Technician (PT) Erin Engman, Planning Technician (PT) Chris Herrera; Deputy Director of Public Works (DDPW) Nazemi; Deputy County Counsel (DCC) Murphy; and Clerk Trish Maderis.

By having the pledge of allegiance recited in unison, Chair DeVries called the meeting to order at 7:03 p.m., and reiterated the standing rules of order.

PUBLIC COMMENT:

Chair DeVries opened the floor to opportunity for public comment.

Grant Brians, who lives on Fairview Road, shared concerns of road conditions due to development in the County.

Scott Fuller, representing San Juan Oaks, said he was present to remind Commissioners of the rezoning needed on the properties of interest in the San Juan Oaks development. He was advised that the matter would be agendaized as a discussion item for the April 19, 2006 meeting.

As no others indicated a wish to speak to items not appearing on the agenda, the public comment period was closed.

DIRECTOR'S REPORT:

DoP Henriques presented:

- Introduction of Senior Planner Chuck Ortwein
- Board of Supervisors (March 28, 2006) addressed the following:
 - ◇ Gavilan College site
 - ◇ Work on the Permit Center
 - ◇ Minor Subdivision - recommendations for scoring/rankings for allocations
 - ◇ Proposals for the General Plan update
 - ◇ Crowing Fowl Ordinance (first reading)
- Board of Supervisors (April 4, 2006) addressed the following:
 - ◇ Updates on Wastewater Issues
- Provided update on COG report (summary)

Chair DeVries and Commissioner Machado requested additional information be obtained from COG on transportation issues.

CONSENT AGENDA:

- Acknowledge Public Hearing Notice
- Acknowledge Certificate of Posting

COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO APPROVE ITEMS 1 AND 2 OF THE CONSENT AGENDA AS PRESENTED. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

- Minutes of March 1, 2006
DDPW Nazemi was asked to address the issue of deferred road improvement agreements (UP 710-96A / item 5)

COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO APPROVE ITEM 3 OF THE CONSENT AGENDA AS PRESENTED. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

PUBLIC HEARINGS:

Minor Subdivision No. 1173-05: REQUEST: To divide a 10-acre parcel into two 5-acre parcels; APPLICANT: Ruben Rodriguez; LOCATION: Jarvis Lane, Hollister; ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration

PT Engman presented the staff report, which recommended approval of the request.

The public hearing was opened with Grant Brians offering opinions of the request and stating opposition. No others were present to speak and the public hearing was closed.

Commissioner Bettencourt noted he had visited the site and clarified that Rosa Morada will be the traffic route instead of Jarvis (which is a 'bad' road).

PT Engman responded to a question from Chair DeVries by explaining that the soil on the site is *Grade 2*.

COMMISSIONERS BETTENCOURT/MACHADO MOTIONED TO ACCEPT THE MITIGATED NEGATIVE DECLARATION AND TO APPROVE MINOR SUBDIVISION THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT. NO. 1173-05 AS PER STAFF RECOMMENDATION. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

CONDITIONS OF APPROVAL:

1. **Mitigation Monitoring** – Prior to recordation of the parcel map or Planning Department approval of the improvement plans, whichever comes first, the applicant shall enter into a mitigation monitoring agreement with San Benito County. [Planning]
2. **Lighting:** A note shall be placed on an additional sheet to the Parcel Map that states: “All exterior lighting for new development on Parcels 1 and 2 shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. All fixtures shall comply with County Ordinance 748. Prior to the issuance of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan which shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture.” [MM 1, Planning]
3. **Aesthetics:** A note shall be placed on an additional sheet to the Parcel Map that states: “Future building shall be finished in earth tones that blend with the existing vegetation in the area and minimize the visibility of the home from public views. Prior to the issuance of the building permit, the applicant shall provide color samples for roof materials and all exterior wall finishes to the Planning Director for review and approval. The Building Inspector shall verify that the house has been finished in the approved materials and colors prior to the final occupancy of the home.” [MM 2, Planning]
4. **Habitat Fees:** Prior to the issuance of an occupancy permit, the applicant shall pay all applicable mitigation fees toward the financing of the San Joaquin Kit Fox Habitat Conservation Plan pursuant to Ordinance 541. [MM 4, Planning]
5. **Archaeological Resources:** If, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact or other evidence of an archaeological site is discovered, all further excavations and disturbances within 200 feet of the discovery shall cease and desist. If human and/or questionable remains have been discovered, the sheriff-coroner shall be notified immediately pursuant to County Ordinance 610. A note to this effect shall be placed on all construction, grading, or other improvement plans. [MM 6, Planning]
6. **Hours of Operation:** A note shall be placed on an additional sheet to the Parcel Map that states: “As required by County Ordinance, construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans.” [MM 13, Planning]
7. **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. [Planning, Building]

- 8. Grading:** A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states: "All grading and building permits for new development on Parcel 1 or 2 shall be conditioned to require that disturbed soils be watered during site grading and construction activities to minimize dust." [MM 3, Planning, Building]
- 9. Riparian Protection:** No grading activity shall take place within 50 feet (measured horizontally) from the top of the bank of a stream, creek, river, or within 50 feet of a wetland or body of water. [MM 5, Planning, Building]
- 10. Conformity with Geotechnical Report:** A note shall be placed on an additional sheet to the Parcel Map stating: "A Soil Engineering Investigation, dated May 2005, was prepared for this property by LandSet Engineers, Inc. (File No. LSS-0377-01) and is on file at the San Benito County Planning Department. The recommendations contained in said report shall be followed in all development of the property." [MM 7, Planning, Building]
- 11. Hold Harmless – Section 17-32 (k) Ordinance 617 –** Pursuant to Section 66474.9 of the Government Code, upon written notice by the County, the subdivider shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against 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. 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 Section 66474.9 of the Government Code. [Planning, Public Works]
- 12. Compliance Documentation –** Prior to parcel map or Planning Department approval of the improvement plans, whichever comes first, 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. The applicant shall also submit a response as to how this project complies with impact fees applicable to County ordinances including, but not limited to the following; Kit Fox, Drainage Areas, etc. [Planning, Public Works]
- 13. Drainage:** A note shall be placed on an additional sheet to the Parcel Map that states: "Prior to the issuance of any permits for new development on Parcel 1 or 2, the applicant shall provide sufficient information to demonstrate that drainage facilities which meet County standards will be provided for the site. Such information shall include flood information as well as the location, design, and supporting calculations for proposed drainage facilities." [MM 11, Public Works]
- 14. County Drainage Standards:** As part of the submission of any engineered improvement plans required for this project, applicant shall comply with County Drainage Standards and provide erosion and drainage control details for the project sheet. Any drainage calculations submitted shall comply with the requirements of the County Drainage Standard, and shall be engineer signed and stamped. Applicant shall submit drainage calculations for: any proposed or existing drainage courses to the proposed ponds, the proposed ponds, and the discharge lines for the proposed ponds. Further, applicant shall insure that all drainage courses shall either maintain a critical velocity less than maximum for the soil type, or be properly lined to handle a high critical flow velocity. [MM 12, Public Works]

- 15. Dedication:** Prior to recordation of the Parcel Map for this project, applicant shall make an irrevocable offer of dedication for:
- a. Half of 60 feet right-of-way along Jarvis Lane extension, to San Benito County, along eastern property frontage of proposed Parcel 2;
 - b. Half of 60 feet road right-of-way along Dooling Road extension, to San Benito County, along western property frontage of proposed Parcel 1. [MM 14, Public Works]
- 16. Frontage Improvements:** Prior to recordation of the Parcel Map for the project, applicant shall enter into a deferred improvement agreement for following frontage improvements:
- a. Jarvis Lane extension (1/2 of 24 feet AC on 34 feet AB, rural standard) along eastern property frontage of proposed Parcel 2.
 - b. Dooling Road extension (1/2 of 24 feet AC on 34 feet AB, rural standard) along western property frontage of Proposed Parcel 1. [MM 15, Public Works]
- 17. Roadway Improvements:** Prior to recordation of the Parcel Map for this project, applicant shall make roadway improvements for common access driveway through the off-site ingress/egress easement between APNs 17-13-78 & -79 (i.e. 16 feet AC on 18 feet road bed plus 60 feet long vehicle turnaround), from Rosa Morada Road to the project parcels. (See Section 17-64, 65 of SBC Subdivision Ordinance) [MM 16, Public Works]
- 18. Encroachment Permit:** Prior to commencement of any improvements associated with this project, applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County road right-of-way. (See SBC General Design Standard Chapter 2.4 (A)) [MM 17, Public Works]
- 19. Fire Safety:** A note shall be placed on an additional sheet to the Parcel Map that states: “Prior to the issuance of any permits for new development on Parcel 1 or 2, the applicant shall comply with all requirements of the California Department of Fire, including the provision of an adequate water supply and flow for fire suppression. This may require the installation of one or more above ground water storage tanks and fire hydrants.” [MM 9, Fire]
- 20. Septic Suitability:** Prior to recordation of the Parcel Map, a septic system envelope for the area determined to be suitable for sewage disposal, shall be labeled separate from the building envelope. [MM 8, Environmental Health]
- 21. Water Analysis:** An independent third party or laboratory must collect a water sampling for analysis. Secondary standards for manganese exceed the maximum contaminant level and must be called out on the final map or must be treated. Treatment of the water for manganese requires review and approval of the Environmental Health Department. [MM 10, Environmental Health]
- 22. San Felipe Project:** Prior to recordation of the Final Map, the applicant should work in cooperation with the San Benito County Water District to ensure that, prior to start of work, the District’s facilities are accurately located and any potential impacts from construction activities are minimized. Written documentation from the SBCWD should be obtained prior to recordation of the Final Map, to confirm that the property owner has worked in cooperation with the SBCWD to meet any requirements for extension and/or modification of San Felipe infrastructure. [SBCWD]

23. Assessment – Section 17-32 (d) of Ordinance 617 - Prior to recordation of the Parcel Map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act. [Assessor, Public Works]

24. Recordation – Section 17-10 Ordinance 617 – A parcel map that conforms substantially to the approved tentative map shall be approved by the County Planning Department as well as the County Public Works Department and recorded with the County Recorder. The tentative subdivision will expire two years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a Parcel Map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Planning, Public Works, Recorder]

M-DISTRICT REVIEW 39-91-A Project: An Amendment to M-Dist Review 39-91 (Charles River Laboratories) to construct a 31,000 square foot structure along with an attached walkway. OWNER/APPLICANT: Ken Lindsay/Charlie Hilliard. LOCATION: 1000 Park Center Drive, Hollister; ENVIRONMENTAL EVALUATION: Negative Declaration

PT Herrera gave the staff report.

Chair DeVries opened the public hearing.

Applicant and property owner Ken Lindsay discussed with Commissioners:

Request was made to facilitate expansion of product line

Granting request would be good for the County as there are 110 employees to be affected

Additional request regarding Condition # 6: add ‘if applicable’

Upcoming meeting with City of Hollister personnel

Commissioner Bettencourt announced he had visited the site and was concerned with the requirement for 5-feet of right-of-way.

Chair DeVries clarified that the business conducts mice testing for the bio-medical industry.

The public hearing was closed.

DDPW Nazemi advised the City had asked for Condition # 6.

Engineer Roger Grimsley gave details of the history of the property and buildings.

Commissioners, the applicant, and staff discussed:

- request for language ('if applicable') for condition # 6 problematic
- approval now – rescind later
- authority cannot be delegated
- potential for having matter on consent calendar April 19; approve as presented; continue discussion with City (options available)
- final decision by Commissioners negates further discussion/decision-making
- current easement/right-of-way
- drainage (current adequate capacity) – intent to 'hook-up' to City when available
- 21 employees to be added

COMMISSIONERS TOGNAZZINI/BETTENCOURT MOTIONED TO APPROVE THE NEGATIVE DECLARATION AND TO GRANT THE PROVISIONS OF THE M-DISTRICT REVIEW 39-91-A, INCLUSIVE OF THE FINDINGS AND CONDITIONS WITHIN. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE 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. **Site Maintenance:** The project site shall be continuously maintained and kept clear of trash and litter by the applicant.
5. **Access:** Access shall be gained to the property from the existing driveway as stated and indicated on site plan.
6. **Reservation for City of Hollister:** The applicant shall make an irrevocable offer of dedication to the County of San Benito for a five foot right of way along the north project boundary for the future extension of Flynn Road.
7. **Drainage:** Applicant shall submit verification of the capability of the existing drainage pond to hold additional run off. If existing facilities are inadequate, the applicant shall submit a drainage plan, that includes the construction of new detention pond, that complies with the County Drainage Standard for newly created impervious areas shall be submitted and approved by the Department of Public Works

8. **Storage of waste and materials:** Outdoor storage of any and all materials and equipment shall be located behind a structure, or a solid wood fence which provides screening from public view and transported to an approved County dump site on a regular basis. [Planning]
9. **Cultural Resources:** In the event any archaeological sites or resources are discovered during any activities, all activities will be stopped within 50 meters of the discovery and the applicant shall comply with the County ordinance regarding archaeological finds until the site can be evaluated by a qualified expert. At that time all appropriate mitigation measures will be implemented. [Planning]
10. **Landscaping:** The submitted landscaping plan shall be reviewed by a County approved biologist. The applicant shall prepare or have prepared a landscape plan that is consistent with the County's Water Conservation Ordinance. The applicant shall implement the approved plan within 60 days of final approval. The proposed landscaping shall also be visually consistent with existing landscape on this parcel. [Planning]
11. **Lighting:** Prior to issuance of a Certificate of Occupancy, any outside lighting shall be hooded and directed as not to shine directly upon adjoining property or public right of way. No direct glare shall be permitted to be visible beyond any boundary line of the subject property. [Planning]
12. **Sewage Disposal:** Prior to issuance of a building permit, applicant shall obtain approval for the installation a septic system of adequate size and capacity from the Department of Environmental Health. The property owner shall be required to record an easement that delineates the location of the proposed septic tank and leach field on the adjacent property. The easement shall also include language that will require abandonment of the easement upon termination of the moratorium on wastewater disposal in place within the City of Hollister. Once the building moratorium is lifted, the property owner shall properly abandon the existing septic tank which currently supports the project site and connect to the City sanitation system. Prior to commencing work, the property owner shall obtain a tank abandonment permit from the San Benito County Division of Health. A connection application must be submitted to the Engineering Department within 90 days of the moratorium being lifted. The owner shall obtain an Industrial Waste Discharge Permit prior to abandoning the existing septic tank system and connecting to the City's sanitation sewer. The Permit fees shall be paid in full by the owner at the rates in effect at the time the Permit is first issued. The abandonment and destruction process shall be monitored and approved by the City Utility Division and the San Benito Department of Health and Human Resources. [Environmental Health]
13. **Parking:** The applicant shall be required to comply with Division 2 of Article 14 in Chapter 18 of the San Benito County Code, entitled *Additional Parking Regulations*.
14. **Water System:** The applicant shall meet all requirements for connection to the City of Hollister, including, but not limited to installation of a reduced pressure principle at the City's water meter and the recruitment of a Professional Engineer to calculate the pressure and water supply needed for this project. [City of Hollister]

15. **Regional Water Quality Control Board:** Applicant shall obtain *A General Permit for Storm Water Discharges associated with Construction Activity* from the Regional Water Quality Control Board before commencement of any activities on the subject property, including clearing, grading, stockpiling, or excavation.
16. **Fire Safety:** The applicant shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, Uniform Building Code, and Chapter 17 of the San Benito County Code as they apply to a project of this type and size.[San Benito County Fire]
17. **Expansive Soils:** The applicant shall adhere to the recommendations made in the Geotechnical Investigation prepared by Pacific Geotechnical Engineering for the placement of foundation and all work to be performed on the subject.

Revisions to Grading Ordinance No. 708. Revisions to Ordinance No. 708 of the San Benito County Code; Sections 7A-3, Definitions; 7A-4, Permit Exemptions; 7A-6, Areas of Landslides and steep Slopes; 7A-9, applications; 7A-11, Permit Limitations and Conditions; and 7A-15, Grading Inspection.

PP Turner gave the staff report, and called attention to specific points of revision, including 9A-11 (overburden).

Chair DeVries opened the public hearing and acknowledged the following speakers:

Roger Grimsley who suggested language changes, including striking last sentence of 7A-15.

Grant Brians opened on purpose of bonding; agreement on quantity (overburden); questioning of 50-foot to stream banks (also augment stream banks); suggested change: 7-A/6/B1: ~~recent~~ *verifiably inactive*, but meant **active**.

Joe Tonascia spoke on ag grading issues (relation to residential zoning); RR and RT zoning do not include ag;

The public hearing was closed.

Commissioners discussed liability issues / substantive findings / bonding requirements.

Chair DeVries reiterated the issues:

- 7A-4(a) ag grading/zoning concerns
- 7A-6 distance from stream bank
- 9A-11 overburden
- 7A-15 bonding

DoP Henriques suggested adding to 7A-4(a): '*or where ag uses currently exist in ~~non-~~conforming zones*'.

Other items discussed included:

- allowing in all zoning districts
- can historical use be changed, e.g., orchard to row crop
- Staff identified definition of ag (language in Ordinance)
- need to limit numbers (not all grading for building)
- drainage issues resultant from grading
- need clarification on
 - ◇ 9A-11
 - ◇ specific language sections
 - ◇ distance from stream / how ~ where measured
 - ◇ requirements/involvement of other agencies

COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO CONTINUE THE MATTER TO THE MEETING OF MAY 3, 2006 AND DIRECTED STAFF TO RESEARCH THE ISSUES DISCUSSED WITH A NEW REPORT TO BE DISTRIBUTED. THE MOTION CARRIED UNANIMOUSLY; ALL COMMISSIONERS WERE PRESENT.

DISCUSSION:

Discuss revisions of the ranking system of the San Benito County Growth Ordinance for Preliminary Allocation ranking ~ Major Subdivision section

Chair DeVries noted a public hearing would not be opened, but the audience was invited to participate with comments.

PP Turner gave the staff report, advising this matter 'mirrors the changes/language of the minor subdivisions', and suggesting the following modifications:

- ~~mandatory~~ *heavily weighted*
- importance of water requirements / ~~probable~~ *fully tested*
- ~~grade 1 soils~~ *prime farmland / farmland of statewide importance*

Other issues discussed:

- water treatment – State requirements; minimum standards for quality and quantity
- traffic
- access
- landslide
- discretionary points – reapplications
- Commissioners to decide/prioritize criteria; staff compute numbers
- necessity to meet public health standards
- CC&Rs of subdivisions/developments
- noise / light / site-vision distances
- conservation and preservation (termed critical issues)
- TCDs
- affordable housing provisions

BY CONSENSUS, STAFF WAS DIRECTED TO CONSIDER THE DISCUSSIONS OF THE RANKING SYSTEM AND PREPARE A REPORT FOR FUTURE CONSIDERATION. *{This item was revisited at the end of the meeting; Staff was directed to bring the matter to the April 19, 2006 meeting with potential vote agendaized.}*

Review criteria and provide direction to staff for processing applications for land use and building permits on non-conforming legal lots.

PP Turner advised this matter was under discussion to let the Commissioners give their views to staff.

Under public comment, Chair DeVries acknowledged two speakers:

Joe Tonascia, Southside Road and Grant Brians who offered suggestions on 'non conforming'.

Public hearing was closed.

DCC Murphy advised the best avenue would be to amend the Zoning Ordinance.

Discussion ensued regarding:
language of the Ordinance
pre-existing conditions
Use Permit opportunities
Zoning amendments
aspiration to 'move faster'
enforcement of CC&Rs (DCC Murphy explained process)

Staff was directed to continue review of the criteria for processing applications for land use and building permits on non-conforming legal lots, and to return with recommendations for amending the Zoning ordinance as warranted.

With no other business to be presented at the meeting the Planning Commission meeting was adjourned at 11:10 PM

Minutes transcribed by:

Judi Johnson