

# **SAN BENITO COUNTY PLANNING COMMISSION**

Minutes of May 17, 2006

PRESENT: Bettencourt, DeVries, Machado, Tognazzini, Smith

ABSENT: None

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

Chair DeVries called the meeting to order at 7:04 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.

## **STAFF REPORT:**

- PP Turner presented the staff report, noting the following:
- DoP Henriques – attending CA Planning Director’s Association meeting with discussions of update for General Plans
- announcement of new Counsel, Dennis LeClere, most recently from Monterey County, with indication of a background in land use and LAFCO
- a new Director of Public Works Director, Jerry Lo, from West Sacramento
- legal challenge of the crowing Fowl Ordinance with the Board of Supervisors to address in closed session May 23, 2006

**CONSENT AGENDA:**

Roll Noted ~ Commissioners present

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes May 3, 2006

**COMMISSIONERS BETTENCOURT/MACHADO MOTIONED TO APPROVE THE CONSENT AGENDA (Items 1, 2, and 3). THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**PUBLIC HEARING ITEMS:**

**Report regarding final revisions of the ranking system of San Benito County Growth Ordinance No. 751 for Preliminary Allocation** ranking ~ Minor and Major Subdivisions point system for recommendation to Board of Supervisors.

Staff report by PP Turner:

- hearing at Board of Supervisors on May 23 2006 at 1:30 p.m. Commissioners encouraged to attend for questions (limited to two Commissioners – Bettencourt and DeVries indicated intention to attend; also DoP Henriques, PP Turner, and DCC Murphy )
- staff has not received any comments from public; Board of Supervisors directed staff to review to make ‘sure headed in right direction’ for as much clarity and data for the Board members as possible

Discussion evolved as to the number of allocations to be given this year. [total: 148 requests; **45** available for award 2005 calendar year] Detail of 27 given to San Juan Oaks annually until 2011 {not included in 45 available for award this cycle}

Public Hearing opened.

Dan Lima, 537 Mission Vineyard, San Juan Bautista, further clarified 27 allocations given for San Juan Oaks; not included in 45 to be awarded this cycle.

Public comment opportunity closed with no others to speak to the matter.

**COMMISSIONERS MACHADO/BETTENCOURT MOTIONED TO RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF THE REVISIONS TO THE MINOR AND MAJOR OF THE PRELIMINARY ALLOCATION RANKING SCALE FOR THE GROWTH ORDINANCE. PASSED: 5 - 0**

**Minor Subdivision 1179-05** - REQUEST: To divide a 10.83-acre parcel into two approximately 5-acre parcels. APPLICANT: Luis & John Silvierra LOCATION: 3000 Cienega Rd. ZONING: Agricultural Productive; ENVIRONMENTAL REVIEW: Mitigated Negative Declaration.

PP Turner gave staff report:

- Grade 1 soils not issue for this subdivision
- attention to language modifications in Conditions
  - o 1 and 5: by ~~Board of Supervisors~~ *County Engineer*
  - o 13 ~~CA Department of Fire~~ *County Fire*
  - o 16 and 21 ~~deed restrictions~~ *note placed on an additional sheet to the parcel map*

Public hearing opened.

Engineer Roger Grimsley representing applicant indicated agreement with noted changes and all other Conditions.

Commissioners referenced

- Condition 19, asking about the western frontage {adjacent to the Bill Damm property also adjacent to Hollister School District property}
- well site – in place and will have amendment to small water system {agreement to be in place}
- house on parcel 2

No others addressed the matter; public hearing closed.

Chair DeVries asked record to show he has objection to the AP Grade 1 soils policy which permits development.

**COMMISSIONERS BETTENCOURT/SMITH MOTIONED TO APPROVE THE MITIGATED NEGATIVE DECLARATION AND THE REQUEST FOR MINOR SUBDIVISION 1179-05 INCLUSIVE OF THE MODIFICATIONS TO THE CONDITIONS INDICATED, TOGETHER WITH THE FINDINGS AND CONDITIONS LISTED THEREIN. PASSED: 4 – 1 WITH MACHADO DISSENTING.**

**Conditions of Approval:**

**1. Recordation:**

A Parcel Map shall be submitted for review by the Planning and Public Works Departments before filing for recordation. The tentative map shall expire two (2) years after Planning Commission approval, unless extension(s) are granted pursuant to local regulation and the Subdivision Map Act. [PLANNING, PUBLIC WORKS, RECORDER]

**2. Hold Harmless:**

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 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. [PUBLIC WORKS]

**3. Assessment:**

Prior to recordation of the Parcel Map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492 through 66494 inclusive of the Subdivision Map Act. [ASSESSOR, PUBLIC WORKS]

**4. Easements:**

The Parcel Map shall show all easements for access, utilities, and drainage. [PLANNING, PUBLIC WORKS]

**5. Compliance Documentation:**

Prior to action on the Parcel Map, the subdivider 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 subdivider shall also submit a response as to how this project complies with all applicable impact fees. [PLANNING, BUILDING, PUBLIC WORKS]

**6. Encroachment Permits:**

Prior to any construction within the County right-of-way, the applicant shall obtain the appropriate encroachment permit from the Public Works Department. [PUBLIC WORKS]

**7. 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]

**8. 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." [Mitigation Measure 1]

**9. Air Quality:**

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 shall be conditioned to require that disturbed soils be watered during site grading and construction activities to minimize dust." [Mitigation Measure 2]

**10. 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. [Mitigation Measure 3]

**11. Soils Report:**

A note shall be placed on the an additional sheet to the Parcel Map stating: "A Preliminary Soil Engineering report, dated May 5, 2004, was prepared for this property by Earth Systems Pacific Consultants (File No. HO 07522-01) and is on file at the San Benito County Planning Department. The recommendations contained in said reports shall be followed in all development of the property." [Mitigation Measure 4]

**12. Leachfield:**

A note shall be placed on an additional sheet to the Parcel Map that states: "The total depth of any leachfield trench shall not exceed seven feet". [Mitigation Measure 5]

**13. Fire Standards:**

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 County 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, and the installation of NFPA 13D Residential Fire Sprinkler Systems." [Mitigation Measure 6]

**14. Drainage:**

As part of the submission of engineered improvement plans for the 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 drainage courses and any proposed detention ponds. Calculations shall include, but are not limited to maximum allowable velocity (to assess potential erosion impacts). [Mitigation Measure 7]

**15. Water System:**

Prior to recordation of the parcel map, the applicant shall amend the existing local small water system permit from the San Benito County Environmental Health Department. [Mitigation measure 8]

**16. Water Quality:**

A note shall be placed on an additional sheet to the Parcel Map that states "The concentrations of Total Dissolved Solids and Specific Conductance exceed the Maximum Containment Level outlined in the San Benito County Code". [Mitigation Measure 9]

**17. Construction Hours:**

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.” [Mitigation Measure 10]

**18. Right-of-way:**

Prior to recordation of the parcel map, applicant shall make an irrevocable offer of dedication for a 40 foot road right-of-way along the existing paved road for access to back parcels, to San Benito County, along western frontage of proposed parcel 1, or provide evidence that the required right-of-way already exists. [Mitigation Measure 11]

**19. Road Improvements:**

Prior to recordation of the parcel map, applicant shall:

(a) Enter into a deferred improvement agreement to repair the existing paved roadway as needed, along western frontage of proposed parcel 1 (16 feet AC on 18 feet roadbed);

(b) Pay a pro-rata share for the Cienega Road Realignment, based upon an engineer cost estimate of frontage improvements for Cienega Road, to the Cienega Road Realignment fund. [Mitigation Measure 12]

**20. Fair-share Contribution:**

Prior to recordation of the parcel map, the applicant shall contribute a pro-rata share for the cost of improvements for the following:

(a) Signal for roadway intersection at Union & Cienega Roads (\$38.76);

(b) Hospital Road Bridge crossing (\$428.57)

(c) Widening of Union Road (\$6,913.62);

(d) Widening of Union Road Bridge (\$523.11). [Mitigation Measure 13]

**21. Utilities:**

Prior to recordation of the parcel map, a note shall be placed on an additional sheet to the Parcel Map that states: “Utility service systems to all parcels shall be placed underground”. [Public Works, Subdivision Ordinance Section 17-65 (f)]

**22. County Service Area:**

Prior to recordation of the parcel map, the applicant shall make application to LAFCO to join County Service Area 43 for fire and sheriff protection. All related processing fees, including State Board of Equalization fees, must be submitted prior to recordation of the final map. [LAFCO, Ordinance 651]

**23. Fish & Game Fees:**

Applicant shall pay applicable Department of Fish and Game fees of \$1,250 plus \$25 filing fee prior to recordation of the parcel map. [CDFG}

**Discussion: Amendment of Section 18-145.4(c)** regarding location of **accessory senior dwelling units.**

Staff report by PP Turner with explanation of prior changes to the Section and the intent (no more than 100 feet away from the primary main residence) was to cluster development and avoid unnecessary development on agricultural land. Applicants have petitioned for waiver the requirement. On September 21, 2005, staff was directed by Commissioners to change wording to allow senior accessory dwelling more than 100 feet from main house. Draft initial study has been prepared, he said, and Commission direction is requested on the following:

- intention of commission to remove the 100-foot requirement altogether or give specific circumstance
- possible cost of variation (request made due to current location of infrastructure: water, electric, etc.)
- Planning staff to continue administrative decision making *or* to Commission for decision making

Chair DeVries said straw vote to be taken from Commissioners on each of the three issues raised in staff report:

- intention of commission to remove the 100-foot requirement altogether  
[Bettencourt: no; DeVries, Tognazzini, Machado, Smith: case by case basis]
- possible cost of variation (request made due to current location of infrastructure: water, electric, etc.;  
[Commissioners said environmental and hazard constraints must be considered; cost not variable; physical constraints: staff to determine]
- Planning staff to continue administrative decision making *or* to Commission for decision making  
[Requests for variation to be heard to Planning Commission for decision]

Administrative decisions by staff can be appealed to Commission. DCC Murphy said.

Public Hearing opened.

Steve Johnson, PO Box 53, Paicines, urged changes for flexibility and told of his issues: topography and Williamson Act regulations. He urged consideration on case-by-case basis.

Lengthy discussion with speaker by Commissioners

With no others to speak, public hearing was closed regarding his specific data.

DCC Murphy provided overview of constrains built into the section discussed.

**Announcements:**

- DMB Associates has asked for a series of workshops to be presented during the summer.
- Del Webb initiative discussion and a report from DCC Murphy on the June 7, 2006 agenda
- Report on the Gavilan College site placement up-coming/meetings.
- Discussion of Brown Act regulations pertaining to Planning Commission.

With no other business to be presented the meeting was adjourned at 8:09 PM

*Minutes transcribed by:*

*Judi Johnson*

*Attest:*

*Byron Turner, Principal Planner*