

<p style="text-align:center"><b>SAN BENITO COUNTY PLANNING COMMISSION</b> <b>Minutes of June 7, 2006</b></p>
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PRESENT: Bettencourt, DeVries, Machado, Tognazzini

ABSENT: Smith

STAFF: Director of Planning (DoP) Art Henriques, Principal Planner (PP) Byron Turner, Director of Public Works (DPW) Jerry Lo; Deputy Director of Public Works (DDPW) Nazemi; Deputy County Counsel (DCC) Murphy; Clerk Trish Maderis and Assistant Clerk Jessica Temperino.

Chair DeVries called the meeting to order at 7:08 p.m. as he led the pledge of allegiance, then reiterated 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 advised of the following:

- Board of Supervisors actions (May 23, 2006):
- Growth Ordinance – discussion centered on:
  - o point spread for affordable housing clarified
  - o transit: focus on school district; transit
  - o procedure for tie-breaking
- o Board of Supervisors meeting of June 6, 2006
  - ◇ Growth Ordinance passed with further discussion:
  - ◇ ‘retries of applications’
  - ◇ added: levels of priorities for points re: tie-breakers
  - ◇ With adoption of Growth Ordinance, staff is working to finalize application process and bring recommendations to Commission shortly

At the Board meeting of June 6, 2006, also saw the introduction of new personnel:

- County Counsel (who is expected to attend the Commission meeting on June 21)
- Assistant CAO
- Public Works Director

Surplus land from the Elementary School District at the Ladd Lane School site was offered as required and rejected by the Board for County use. Negotiations will commence with the YMCA for future facility construction.

Commissioner Bettencourt asked about the ranking notification for applicants, with DoP Henriques and PP Turner responding that staff would be meeting primarily with the Engineers. The allocations would be recommended by staff and awarded by the Commissioners at the July 19, 2006 meeting. Other clarification(s) regarding the process of meeting with the applicants regarding the ranking was discussed.

**CONSENT AGENDA:**

**COMMISSIONERS MACHADO/BETTENCOURT MOTIONED APPROVAL OF THE ITEMS WITHIN THE CONSENT AGENDA:**

- Roll Noted ~ Commissioners present: Bettencourt, DeVries, Machado, Tognazzini with Smith absent due to family obligations
- Acknowledge Public Hearing Notice
- Acknowledge Certificate of Posting
- Minutes May 17, 2006
- Certificate of Compliance #06-58: REQUEST: To recognize two parcels, that comprise 23.1 acres, as legal lots. Applicant: Greg Renz. LOCATION: 9356 Airline Highway, Tres Pinos. ZONING: Agricultural Rangeland. ENVIRONMENTAL REVIEW: Categorical Exemption.

**THE MOTION PASSED 4-0, WITH SMITH ABSENT.**

**PUBLIC HEARING ITEMS:**

**Minor Subdivision 1148-04**: APPLICANT: Gary Gonzales Location: Los Viboras Rd., Hollister REQUEST: To subdivide an approximately 60 acre parcel into four 5-acre parcels and a 40-acre remainder. ZONING: Ag Productive ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration

PP Turner presented the staff report.

Commissioner's questions concerned soils and the validity of engineer report which PP Turner addressed.

The public hearing was opened and closed as the Chair ascertained no one was present to speak to the matter.

Commissioners engaged in further discussion regarding the soils report. Gary and Patti Knoblich Gonzales, the applicants, were present and addressed the Commissioners regarding the soil(s) condition and prior use of the property (orchard crops).

*Commissioner Bettencourt indicated he had visited the site.*

Other discussion ensued regarding:

- property configuration
- marginal soils characteristics
- (building) clustering issues ~ need to consider modifications to policy in future
- 5-acre developments and remainder property available
- concerns of the protection of agriculture lands
- concern of changing policy following initial application (General Plan update discussion}
- protection of Grade 1 soils / development(s) under Policy 3 {exemptions}

**COMMISSIONERS TOGNAZZINI/BETTENCOURT MOTIONED TO APPROVE THE MITIGATED NEGATIVE DECLARATION AS PRESENTED AND APPROVE MINOR SUBDIVISION 1148-04 WITH THE MODIFICATION (ADDITION) OF A CONDITION: specification that downgrading of the Grade One (1) soils only pertain to the four (4) parcels *within the request (and clarifying that the soils downgrade does not pertain - nor is applicable - to* ~~of~~ the entire subject property) being subdivided, as indicated in the original request/staff report. THE MOTION PASSED WITH A 4-0 VOTE; SMITH WAS ABSENT.**

**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 recordation of 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 Parcel Map stating: "A Geologic and Geotechnical Investigation, dated February, 2004, was prepared for this property by Redwood Geotechnical Engineering (File No. 1681SBO) 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. 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 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, and the installation of NFPA 13D Residential Fire Sprinkler Systems." [Mitigation Measure 5]

**13. Septic Exclusion Zones:**

Septic exclusion zones shall be placed on around the detention ponds and depicted on the final map. Size and location of the septic exclusion zones shall be approved by the County Environmental Health Department. [Mitigation Measure 7]

**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 6]

**15. Water Quality:**

Prior to recordation of the parcel map, a deed notification shall be recorded for all lots that state that the concentrations of Iron, Manganese, and Total Dissolved Solids exceed the Maximum Containment Level outlined in the San Benito County Code. [Mitigation Measure 8]

**16. 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 9]

**17. Fair-share Contribution:**

Prior to recordation of the parcel map, the applicant shall make a fair-share contribution of \$30,035.52 (4 new lots at \$7,508.88/lot) to the Los Viboras @ Fairview Benefit Area, per the County Department of Public Works. [Mitigation Measure 10]

**18. Utilities:**

Prior to recordation of the parcel map, the applicant shall record a deed restriction that states: "Utility service systems to all parcels shall be placed underground". [Public Works, Subdivision Ordinance Section 17-65 (f)]

**19. 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]

**20. 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}

**21. Inclusionary Housing Regulations**

Prior to recordation of the Final Map, the applicant shall comply with the requirements of Ordinance 766 (Inclusionary Housing Regulations) by entering into an inclusionary housing agreement to pay an in-lieu fee of \$43,231.36. (Planning, Ordinance 766)

**22. Kit Fox Habitat:**

Prior to recordation of the Parcel Map, the applicant shall be required to pay the Kit Fox mitigation fees as required by Ordinance 541, and any amendments. (Planning)

**Tentative Subdivision Map No. 99-63** APPLICANT: San Juan Vista Estates  
LOCATION: Hwy 129 & Searle Rd, San Juan Bautista. REQUEST: To Amend  
Conditions of Approval. ZONING: Rural (R) Environmental Evaluation: EIR

PP Turner presented the staff report, explaining the proposal is to amend the original conditions of approval from the Board action in 2003. He described the original application and conditions therein, as well as the reconfiguration and changes now being asked for. PP Turner advised that the requirements of the CEQA section (under which the project had originally been reviewed and approved) had changed somewhat and now necessitated a new environmental study. Consequently, staff recommended the public hearing being opened with a continuation approved by the Commissioners so that the environmental document could be completed and circulated.

PP Turner, at the request of the Commissioners, reviewed the Conditions and/or being requested for change to amendments of those Conditions (**9, 11 E 1, 11, 11J, 13, 16C, 18A, 18E, 18F (2-7) 18 G, 18I, 18K, 18L, 19, 22, 22C, 22D, 22E, 23, 25, 27, 29**); other conditions pertaining to **EIR**. Staff from other Departments, e.g., Public Works, were called to comment on the various Conditions, as well.

Following statements and questions by the Commissioners, PP Turner and DoP Henriques reviewed the procedures for appeal/update of the requests. Commissioners expressed concerns that the Conditions would be revisited since so much time and effort had been put into the original work on the project. DCC Murphy advised that the applicants have the ability to file the requests so long as the application remains valid. Chair DeVries opened the public hearing.

Jim Weaver, consultant for San Juan Vista Estates, provided an overview of the project:

- original proposal: 32 unit single family unit, now resized to 18 lots, then subsequently to 14 lots, with a complicated set of conditions
- commercial development proposal has been eliminated at that time

and addressed the conditions referenced by staff. He explained that the owners were anxious to have reduction of the ‘onerous’ conditions in order to have the ability to build the project. Mr. Weaver said it is understood that the EIR must be revisited.

Greg Weiler, property owner, spoke at length on his concerns regarding the requests:

- ‘boogie man’ concept of commercial development; had hired lawyer to draw up agreement
- private agreement with deed restrictions put into Conditions
- unfairness of ‘locking in’ conditions: height restrictions, etc.

Bill Hunter, 430 School Road, spoke regarding:

- agreement with homeowner’s
- agreement founded on belief (or was supposed to be) a ‘done deal’ and not have changed

Christine Kemp, representing Elma Burke (a neighboring property owner), distributed a letter and explained concerns from Ms. Burke:

- access to her property [location of roads to project and ingress to Ms. Burke's property discussed]
- potential changes to Searle Road and responsibility of Public Works Department
- drainage / back-up to property with need to have drainage issues mitigated

*Staff was directed to review the letter and make recommendation for resolution of the issue.*

Richard Saxe, 2956 Anzar Road, San Juan Bautista, reviewed:

- the myriad of public meetings and opposition to the original project
- developers/homeowner's agreement on final project – surprise at having the substantive issues raised again with request for change
- seems all prior Conditions up for grabs
- appeal to Supervisors with the 20-some appellants not aware of this new proposal

*Chair DeVries directed staff to locate and provide the essential elements (Conditions) of the appeal to the speaker.*

- Need for notification to those appellants
- Conditions which have been asked to have changed and the desire that the Conditions not be altered (aesthetics concerns)

Stacey Bautista, 395 School Road, San Juan Bautista, expressed:

- frustration that the matter had been returned to the Commissioners
- concern with proposal to eliminate commercial prohibition
- thought agreement had been in place [“We’ve discovered now it was 6 years wasted efforts.”]
- should not be allowed re: lot and large building envelope
- said will be a long continuous fight
- not involved in appeal to Board of Supervisors

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

Staff announced plans to prepare initial study, ensuring that the project description hasn't changed enough to constitute changes to the EIR (CEQA requirements must be met).

Chair DeVries suggested to the Commission reviewing and perhaps working on Conditions where changes were requested.

Response to Lot 1 size question (Weiler responded: not focus on size but on flat areas as staff had insisted). DoP Henriques advised if restrictions, could limit amount of lot coverage (range of square footage). Discussion ensued regarding:

- deed restriction re: commercial – why request for modification? Previous agreement should stand
- no justification for change on Conditions (restriction by law/Condition no different)
- reason for requested changes (applicant and residents appeared satisfied with prior agreements and Conditions)
- whether map has different configuration/aspects of requirements now versus previous
- applicant's version request to have the removal of base requirements to provide more flexibility for development
- key aspects of Hillside Ordinance
- heights of proposed buildings
- proposed three (3) parcels on Highway 129
- need to review photographs used in prior appeal

DoP Henriques noted the Commission could have a 'field trip' which could be valuable in the decision making hearing following the Initial Study completion.

Mr. Weiler said the heights and placements of the dwellings was not a 'big deal' as the developer is fine with the Condition of limiting to a one story building for all lots. He also indicated that the proposed revisions to the Conditions have sound basis.

Further discussion followed with Commissioners and staff commenting:

- the importance of retaining deed restrictions (solidifies validity)
- retention of heights as agreed previously
- need for applicant to continue dialogue with residents in area
- prior work by Commission and Board; concern that the work plan is to be scrapped
- potential for removing some of the agreed-upon Conditions
- possibility of need to levy further fees
- Commercial Deed Restriction: height
- necessity of having the matter back to the Board of Supervisors for final resolution (with recommendation from the Commissioners)

**BY CONSENSUS (SMITH WAS ABSENT), THE COMMISSIONERS AGREED THAT THE HEIGHT RESTRICTIONS AND COMMERCIAL DEED RESTRICTIONS WOULD NOT BE MODIFIED.**

**ON A MOTION BY COMMISSIONERS BETTENCOURT AND TOGNAZZINI, THE PUBLIC HEARING ON THE MATTER OF TENTATIVE SUBDIVISION MAP NO. 99-63 WAS CONTINUED TO THE JULY 19, 2006 COMMISSION MEETING, PENDING THE COMPLETION OF THE REQUIRED ENVIRONMENTAL EVALUATION. THE MOTION WAS PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; SMITH WAS ABSENT.**

**DISCUSSION ITEMS:**

With consideration of the time, agenda items were moved to facilitate discussion and action.

**Commissioner Action**

**Cancellation of July 5, 2006 meeting**

Following brief discussion regarding the meeting date in relation to the Independence Day Holiday, **COMMISSIONERS BETTENCOURT/MACHADO MOTIONED TO CANCEL THE JULY 5, 2006 PLANNING COMMISSION MEETING. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; SMITH WAS ABSENT.**

**Consider time change for Planning Commission regular meetings**

**Rules for the Transaction of Business – Annual Review**

**THE above two (2) AGENDA ITEMS WERE CONTINUED (BY CONSENSUS, WITH SMITH ABSENT) TO THE JUNE 21, 2006 MEETING TO AFFORD AMPLE TIME FOR DISCUSSION; THEN PROVIDE GUIDANCE TO STAFF FOR FURTHER ACTION AS NEEDED.**

## **Workshop on processing large development projects.**

*It was suggested there would be merit to limiting this matter, with staff to provide data to the Commissioners. DoP Henriques presented the staff report including powerpoint slides (overview of):*

- Land Planning / Entitlement Processing
  - o Planning criteria
  - o General Plan
  - o Zoning Ordinance
  - o Subdivision criteria
  - o Environmental Criteria Review
  - o Development Agreements
  - o Final Approvals

Members of the audience were invited to participate.

On speaker, Richard Saxe asked about developers' entitlements

Ray Becker (DMB/ERSB; 615 San Benito Street #101) questioned whether the public could have a voice in the process. Mr. Becker stressed the importance of having 'shared pit falls'.

The Phases of projects (contents, issues, etc.) were discussed.

Public voting regarding proposed projects was discussed, including data dissemination to voters.

Announcement was made by Mr. Becker of the next DMB workshop [August 8 and 9]

With no other issues to be investigated on the matter at this time, the subject was closed.

With a reminder of the Commission's Standing Rules of Order (no new business to be considered after 10:30 p.m.) Chair DeVries declared the meeting adjourned at 11:11 PM.

***Transcription by:***

***Judi H Johnson***

***Attest:***

***Art Henriques, Director of Planning  
San Benito County***