

<p style="text-align:center">SAN BENITO COUNTY PLANNING COMMISSION Minutes of July 19, 2006</p>

PRESENT: Bettencourt, DeVries, Machado, Smith

ABSENT: Tognazzini

STAFF: Director of Planning (DoP) Art Henriques, Principal Planner (PP) Byron Turner, Senior Planner (SP) Chuck Ortwein, Planning Technician (PT) Chris Herrera, Deputy Director of Public Works (DDPW) Arman Nazemi; County Counsel (CC) Dennis LeClere, Deputy County Counsel (DCC) Shirley Murphy; Clerk Trish Maderis and Assistant Clerk Jessica Temperino and CAO Susan Thompson.

Chair DeVries called the meeting to order at 7:04 p.m. with the pledge of allegiance; then summarized the standing rules of order.

PUBLIC COMMENT:

Chair DeVries opened the floor to opportunity for public comment.

DCC Murphy introduced recently appointed County Counsel Dennis LeClere, who was warmly welcomed. DCC Murphy also called attention to the attendance of County Administrator Susan Thompson.

The public comment period was closed as there were no others to speak to items not on the agenda.

DIRECTOR'S REPORT:

DoP Henriques presented the report:

- o Board of Supervisors have accepted draft budget as presented

Commissioner Bettencourt inquired of the Paint Ball facility on Shore Road; PP Turner reported the necessary permits had been obtained and the matter will be reviewed in October, 2006.

CONSENT AGENDA:

COMMISSIONERS MACHADO/SMITH MOTIONED APPROVAL OF THE CONSENT AGENDA ITEMS:

- Roll Noted ~ Commissioners present: Bettencourt, DeVries, Machado, Smith; Tognazzini was absent
- Notice of Posting
- Notice of Public Hearing

Note: Minutes June 7 and June 21, 2006 will be presented and considered at a future meeting.

THE MOTION PASSED 4-0, TOGNAZZINI WAS ABSENT.

CONTINUED ITEM:

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: EIR

PP Turner presented the staff report saying that the matter had been before the Commissioners recently then continued for the purpose of completing the Initial Study. He said that no comments had been received regarding the Initial Study. PP Turner then explained there were some changes to the project:

- Condition 18E – Design Guidelines – requires part of the building process for the primary residence; all applications for the building dwellings will be required to have a design/review approval; Planning staff will look at location of structures within the building envelope to access landscaping; color palate; and heights to balance visual impacts with all applications then being returned to the Commission for approval (public notice required)
- Condition #27 - Restriction on commercial activity on lot 1: request for deletion has been withdrawn; consequently the Condition will remain
- Condition # 29 – amended to address lots 2 – 13 re: further subdivision of other areas: subject to Growth Management Ordinance and must be returned to the Planning Commission

Commissioners asked:

- ◇ EIR mitigation measure 30U [PP Turner advised that any changes to the EIR would require recirculation; there is not authority to change the EIR as this time]
 - Salamander issue: if found the developer must pay a mitigation fee (no monetary cap; DoP Henriques advised further discussion might be dependent on further Fish and Game review)
- ◇ Condition #27 Commissioners asked if such Conditioning to prohibit commercial is ‘legal’; DCC Murphy advised this is binding on property owners and can be a condition; she explained this is similar to a conservation/ag easement.

Chair DeVries opened the public hearing.

Jim Weaver said he was present to represent the applicant. He complimented staff on the work completed. Mr. Weaver said that although he had intended asking for variation on Condition 30U, in view of the statements by the Director, “We will just leave it the way it is and figure it out later.

Commissioner Smith referenced Condition #27, asking why it was being withdrawn? Mr. Weaver said it was due to the discussions held with the neighbors, noting it was ‘something the neighbors felt strongly about’, so ‘we acquiesced’.

Others who addressed the matter were:

1. Christine Kemp, Attorney for Elma Burke (a neighbor) who distributed a letter (previously received in June 2006) asking for traffic conditions [access to Mrs. Burke’s property] as part of the mitigation requirements for approval of the initial request. Ms. Kemp also referenced continuing concerns regarding drainage in the area of Mrs. Burke’s property. She said she did not see reason to delay the project, but wanted to ensure Mrs. Burke’s concerns were addressed and clearly identified.

Commissioners discussed the matter(s) with DDPW Arman Nazemi who provided information as studied by the Department of Public Works. Chair DeVries clarified that the applicant has indicated no objection to inclusion of the two restrictions requested by Mrs. Burke.

2. Richard Saxe said he lives in Aromas and asked several questions regarding:
 - vested map requirements
 - ‘clock start’ at time of approval and would be a new 3-year time period [DCC Murphy confirmed]
 - the removal of the square footage requirements
 - the potential for having the housing near the edge(s) of the ridge
 - if the application is subject to the 1% growth restriction? [yes]

Chair DeVries explained this is a difficult project with a redesign and now amendments to the conditions being considered cause this to be a ‘new project’.

Mr. Saxe asked to be notified as to permit application; it was clarified he is on the mailing list.

3. Stacey Bautista said that she was interested in ensuring that Condition #30 be ensured as a deed restriction (limitation of commercial). Ms. Bautista said that she not interested in notification regarding building permits; “I’ve been to enough of these, she declared.

4. Grant Brians told Commissioners a concern was that the project had never been ‘made clear’ and expressed concern that the developers had continually made changes which were not always clear. Mr. Brians suggested that the request be denied, in view of the original request for a vested map three years ago with now a re-application being made for an essentially new project.

With no others to be heard regarding the matter, the public hearing was closed.

For the record, DCC Murphy read portions of the Subdivision Ordinance (#1726) and clarified the regulations and requirements for allowing requesting amendment and changes to the vested map, as well as ‘re-starting the clock’, i.e., a project being considered a new subdivision.

Responding to a question from Commissioner Bettencourt, DCC Murphy clarified how a new EIR would be determined (staff recommendation).

DoP Henriques noted that during the comment period (for the negative declaration) staff did not find a basis for initiating a new EIR.

Commissioner Machado observed this project had begun in 1999 and been put ‘to bed’ three years ago and said that there has been a ‘whole new Board (of Supervisors) and Commission since the inception. He then proceeded to give an overview of the project history. Commissioner Machado questioned where the original map was which had been approved and sent to the Supervisors. “All these conditions which are being modified, there were reasons for putting those conditions on,” Commissioner Machado said. He elaborated on the discussions, meetings, and decisions made regarding the project. “To come in and have changes made in a short time, I just think this is wrong, and I would like to go through those issues again,” Commissioner Machado declared. He referenced the research he had done in working on – and understanding – the amount of data to be studied regarding the entire matter.

Commissioner Machado and Chair DeVries engaged in a discussion exchange regarding the conditions applied to the project request. Commissioner Machado said it appeared the developer was attempting to sway the prior commitment for the project with a new Commission and Board of Supervisors.

Commissioner Machado continued by listing his concerns of the project:

- map – status of the original map [will it be returned to the Commissioners for consideration] and how/why changes have occurred DoP Henriques said the developer has been asked to provide the map which will be turned over to the Commissioners
- change of application; DCC Murphy clarified the process of map amendment requests

- Condition #11H PP Turner addressed the encroachment permit from CalTrans (a requirement). DDPW Nazemi advised he had discussions with CalTrans with no receipt of adverse comment as the project was downsized; DDPW Nazemi said condition in this instance is the responsibility of Public Works, and recommended retention of the Condition as presented.
- Condition #11J (ungated requirement) has been eliminated by request of the applicant. DDPW Nazemi spoke on an opening in the fence versus the need for a vehicle access. DCC Murphy reminded if the project contains a public park, it must be ungated. DoP Henriques said a concern was protection of the habitat area.
- Condition # 16C [pump testing for water system] CA Department of Health Services – not the County - dictates type of test and system to be completed
- Condition #18E Design Guidelines’ concern with changing the map without the original – difficult to ascertain changes. PP Turner clarified that all of Condition 18 focused on visual effects. Commissioner Machado reminded that considerable discussion had previously taken place regarding ‘Granny Unit’ placement as well as maximum amount of square footage for the original dwelling.
- Condition #18K requested to eliminate the removal of additional trees since oak trees are existing and the location of the water tanks.
- Condition # 18L DoP Henriques and PP Turner explained there are building envelopes on all the lots which are consistent with the topography of the acreage
- Condition # 22C references the animals (dogs and cats) which can be kept and is restricted under the auspices of Animal Control to avoid conflicts within the habitat area.
- Condition #22E concern that the requirement for a grading permit not be tampered with [Staff advised that the engineering report is in place for the permit]
- Condition #30U it was clarified that staff cannot recommend changes to the EIR without re-circulating it.

Commissioner Smith, while thanking Commissioner Machado for his diligent work, said property owners have rights to amend, appeal and/or have grievances addressed. Commissioner Smith disclosed he had met with the applicant and did a site visit.

Commissioner Bettencourt stated he has done his job in studying the matter, and also noted a visit to the site.

Chair DeVries conducted a ‘straw vote’ of all the Commissioners regarding Conditions 11H and 11J with the result being retention of the two Conditions.

Agreement was reached for inclusion of the two Conditions requested by Mrs. Burke. (access and drainage).

DCC Murphy suggested all Conditions be reiterated in written form for the Planning Commission – due to the large number of documents in existence which deal with the matter and placed on the consent calendar for the next meeting.

Chair DeVries declared reluctance to have the matter unresolved at this time. And therefore **CHAIR DEVRIES MOTIONED TO APPROVE THE CURRENT APPLICATION, INCLUSIVE OF THE CONDITIONS OUTLINED DURING DISCUSSION, OF TENTATIVE SUBDIVISION MAP NO. 99-63. COMMISSIONER SMITH SECONDED THE MOTION. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVRIES, SMITH; NOES: MACHADO, WHO STATED THE FOLLOWING OBJECTION: HE HAD GONE INTO CONSIDERABLE STUDY OF THIS MATTER YEARS AGO WITH A LOT MORE DISCUSSION AND DEBATE THAN HAS BEEN PRESENTED DURING THE PAST COUPLE OF MONTHS; HE FURTHER STATED THAT HIS ORIGINAL DECISION HAD NOT CHANGED; ABSTAIN: NONE; ABSENT: TOGNAZZINI.**

Conditions of Approval:

- 1. Hold Harmless:** The applicant/developer/owner 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 Vesting Subdivision Map and applicable proceedings.[Planning]

- 2. Conformity with Plan:** The development and use of the site shall conform substantially to the vesting tentative map, conditions of approval, and mitigation monitoring program as approved by the Planning Commission. Any change in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. Any request to modify any conditions of approval or mitigation measures shall be subject to review and approval by the Planning Commission. [Planning]

- 3. Compliance Documentation:** Prior to final map approval, the applicant/developer/owner shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing and/or providing compliance documents or other evidence of compliance.[Planning]

- 4. Assessment:** Prior to recordation of the final map, the applicant/developer/owner shall pay applicable security for taxes and special assessments as required by sections 66492, 66493, and 66494 of the Subdivision Map Act. [Planning, Assessor]

- 5. Recordation:** The applicant/developer/owner shall submit a final map to the County; the final map shall be approved by the Board of Supervisors and the County Public Works Department and recorded with the County Recorder. The tentative subdivision will expire two (2) years from the date of final approval by the Board of Supervisors, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a final map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]

6. Conditions of Approval, Easements, and Restrictions: All conditions of approval, mitigation measures, easements, and deed restrictions shall be noted on a separate sheet(s) and recorded with the final map.

7. Map Configuration: The final map shall indicate a maximum of fourteen (14) market rate residential lots and one (1) habitat/open space lot.

8. Water/Sewer: The applicant/developer/owner shall comply with the Regional Water Quality Control Board and County of San Benito criteria for issuance of individual or community sewage disposal systems and the separation requirements between sewage disposal systems, retention ponds, and domestic water systems. Prior to the recordation of the final map, the applicant/developer/owner shall apply to San Benito County Local Agency Formation Commission for approval of the formation of a County Service District/Area to operate and maintain the sequencing batch reactor wastewater treatment plant. In the event that a sequencing batch reactor is not utilized to treat on site wastewater, a geotechnical report shall be prepared by the applicant/developer/owner that shall address the suitability of on site soils for use of septic systems for each residential lot. In the event that it is determined by the County Environmental Health Department or by geotechnical evaluation that any lot within the subdivision cannot accommodate the installation and operation of a septic waste disposal system leach field no building permit for a habitable structure, or any other structure with 2 kitchen or bathroom facilities shall be issued for said lot(s) unless and until an alternative wastewater disposal system is approved by the County Environmental Health Department. The estimated annual operating cost of the sequencing batch reactor shall be note on the final map information sheet. [Building, Planning, Health]

9. Reclaimed Wastewater: In accordance with the County Water Conservation Plan (Resolution 92-82) any waste water from the sequencing batch reactor to be used above ground shall be treated to "unrestricted use" standards. Applicant shall not be required to use reclaimed water but in the event of such use, all areas of use shall be posted with signs indicating the use of reclaimed water.

10. Fire Protection: The applicant/developer/owner shall, prior to recordation of the final map, verify with documentation from the Aromas Tri-County Fire Protection District, County Fire Department, and County Public Works Department that all County fire standards have been met or bonded. A copy of said verification shall be provided to the Planning Department. Required improvements shall include and shall be shown on the final map or indicated on the final map information sheet.[Planning, Fire]

- a. Road design and length to District, County, and State standards.
- b. Fuel modification zones.
- c. Interior fire sprinkler system for each residential dwelling.
- d. Independent water fire flows to each residential lot and structure.
- e. Fire resistant roofing material for all residential structures.
- f. Loop road system enhancing fire access.

11. Public Works: Prior to the recordation of the final map, the applicant/developer/owner shall provide the following improvements in a manner acceptable to the County Public Works Department:

a. Prior to recordation of the final map, applicant/developer/owner shall make irrevocable offers of dedication to San Benito County for:

- 1.** A minimum half sixty (60) foot right-of-way for Searle Road.
- 2.** Full sixty (60) foot right-of-way, plus county standard slope easements, for roads within the project in accordance with the County Subdivision Ordinance section 17-A-9, Appendix C.
- 3.** Full thirty (30) foot right-of-way, plus county standard slope easements for common driveways with the project in accordance with County Subdivision Ordinance section 17-A-9, Appendix C.
- 4.** Fifty (50) foot right-of-way radius for the cul-de-sac bulb turnaround facilities where the roads terminated in accordance with County Subdivision Ordinance section 17-A-9(f).
- 5.** For all private roads and drives located within the subdivision, the applicant/developer/owner shall provide a legally binding instrument for the maintenance of such private roads and drives. Said instrument shall be reviewed and approved by County Counsel and the County Public Works Department prior to the recordation of the final map.

b. Prior to recordation of the final map for this project, applicant/developer/owner shall either install or bond for all road improvements, as follows:

- 1.** Searle Road (1/2 of 32 feet AC on 42 feet AB, rural standard)
- 2.** Roads in the project (full 24 feet AC on 34 feet AB, rural standard)
- 3.** Common driveways within the project (full 16 feet AC on 18 Feet AB, rural 2 standard)
- 4.** Forty (40) feet paved radius at cul-de-sac area for turnaround facilities where the roads terminate.

c. Prior to commencement of any improvements associated with the project, applicant/developer/owner shall obtain a County Public Works Encroachment Permit for any work being performed within the County road right-of-way.

d. Prior to commencement of any improvements associated with this project, applicant/developer/owner shall obtain a CalTrans Encroachment Permit for any work being performed within the State highway right-of-way. A copy of the full encroachment permit application package to the State, including any plans and studies, shall also be submitted to County Public Works Department at the time of application to the State.

e. Prior to recordation of the final map for this project, applicant/developer/owner shall make the following off-site road improvements:

- 1.** Pay fair-share contribution to signalize the US 101 southbound ramps/Highway 129 intersection.
- 2.** Pay fair-share contribution to signalize the Searle Road/Highway 129 intersection.

f. As part of the submission of engineered improvement plans for the project, applicant/developer/owner shall comply with County Drainage Standards and provide erosion and drainage control details for the project sheets. Any drainage calculations submitted shall be signed and stamped by a registered engineer. Applicant/developer/owner 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. The final drainage plan prepared for the project site shall address drainage flowing onto the project from the Burke property. The project drainage facilities shall be sized with sufficient capacity to accept drainage from the Burke property. The owner(s) of the adjacent Burke property (APN: 12-03-19) shall be given the opportunity to review the adequacy of the drainage plan and provide comment to the County Planning Department prior to final map approval.

g. Prior to recordation of the final map, applicant/developer/owner shall ensure that this subdivision complies with the County Water, Sewer, Roads, Fire, and General Improvement Standards.

h. Roads and driveways within the subdivision shall be privately owned and maintained.

i. Any project improvements made to Searle Road to accommodate project traffic shall not prevent or otherwise impede access to the Burke property.

12. Utilities: New utility service systems, including but not limited to, water, electric, telephone, and gas shall be provided to the newly created lots, placed underground, in conformance with the rules of the California Public Utilities Commission and coordinated where necessary with the location of other existing public utilities. This requirement will be noted on a separate sheet(s) of the final map, in compliance with section 66434.2 of the Subdivision Map Act. [Building, Planning]

13. Parks: The applicant/developer shall participate in the County parks mitigation program and pay all fees established there under by County ordinance consistent with the Quimby Act (Government Code section 66477). The Applicant shall receive credit for open space/park dedications for any park lands/open space/habitat area contained within the boundaries of the Project, as provided under applicable state law.

14. Schools: Prior to issuance of building permits, the applicant/developer/owner shall pay the statutory school fee authorized by Government Code section 65996.

15. Geology:

a. In order to implement earthquake-resistant design of the project infrastructure and residential structures, such improvements and structures shall be constructed in accordance with the latest editions of the Uniform Building Code and California Building Code.

b. The grading plans for the project, including improvements and lots, shall be specifically designed to prevent runoff from flowing across steep slopes and from entering into existing erosion gullies. Grading and drainage plans shall be submitted to the county addressing such issues as part of the applicant-developer/owner's application for a grading permit and specific recommendations set forth in such plan shall be incorporated into such permit.

c. Prior to recordation of the final map, the applicant/developer/owner shall submit two (2) copies of a soils/geotechnical report to the County Public Works Department for review and approval. The report shall be prepared by a civil engineer, soil engineer, or soil scientist and shall include "R" values for roadways as well as analyze building locations. The report shall include appropriate recommendations for road and foundation designs.

16. Hydrology:

a. All landscaping plans submitted by the applicant/developer/owner shall employ current water conservation measures through use of drought tolerant landscaping in accordance with the County Code Chapter 17D — Water Conservation, County Ordinance No. 594, and the County Water Conservation Plan.

b. In the event that the water supply for the project is classified as "very hard", the project applicant/developer/owner shall be required to comply with California Water Code Title 19 22, Article 16, section (f)(1), (2), and (3) or to provide a dual water system with demineralization of the drinking water to levels meeting secondary standards. In the event that the water supply is "very hard," the applicant/developer/owner shall place a deed restriction on the property to prohibit the use of self-regenerating water softening systems and/or require the use of cartridge water softening systems that do not introduce additional salt into the water system or provide another means satisfactory to the County and the San Benito County Water District.

c. Prior to recordation of the final map, the applicant/developer/owner shall submit to the County Planning Department, written confirmation from the County Health Department that all water quantity and quality standards for a water system can be met. Water quality shall meet the primary drinking water standards of Title of the California Health and Safety Code. The water system shall be built or the construction of the system secured prior to recordation of the final map. In addition, a private or mutual water company shall be established by the applicant/developer/owner prior to recordation of the final map pursuant to the requirements of the County Environmental Health Department. This includes a copy of the well driller's report, a 48-hour pump test, a layout of the 28 distribution system, required monitoring, and an application for a water purveyor's permit. The 48-hour pump test may be performed at 150% of the maximum projected water usage of the Project, or its hydrological equivalent with the approval of the State Department of Health Services Office of Drinking Water.

d. Metered service to each individual lot shall be required as part of the private or mutual water company formation.

e. Prior to recordation of the final map, the applicant/developer/owner shall submit a detailed grading, erosion control, and drainage plan for all project improvements and lots, prepared by a registered civil engineer for review and approval by the County Planning and Public Works Departments. Improvements shall be installed or bonded prior to recordation of the final map. Detention facilities shall be designed to retain a 100-year flood event for all additional runoff due to development. The plan shall limit outflow of the detention facility to the 10-year pre-development level. Any retention detention pond with a depth greater than eighteen (18) inches shall be adequately fenced with a six-foot high fence. The fence shall be sufficient to exclude children and shall be constructed of chain link with wood slats or other design approved by County Public Works and Planning Departments. Recommendations for the grading, erosion control, and drainage plan shall be included on the improvement plans and implemented by the applicant/developer/owner.

f. A mechanism shall be provided to maintain and clean the detention facility to ensure ongoing provision of adequate capacity. This shall be in place prior to recordation of the final map.

g. There shall be a drainage analysis prepared by a registered engineer, which addresses all areas contributing to the natural drainage channels originating in or running through the project to be reviewed and approved by the County Public Works Department. Design shall be consistent with the drainage analysis and of sufficient capacity to accommodate, and shall accommodate, all off site surface run off.

17. Air Quality:

a. Construction Best Management Practices (BMP) shall be employed to reduce dust emissions during the construction phase of the project. These BMP include: (1) water — all active construction sites at least twice daily, preferably using reclaimed water. Frequency shall be based upon the type of recommendations of the project engineer; (2) prohibit all grading activities during period of high wind (greater than 15 mph); (3) plant vegetative groundcover in disturbed areas as soon as possible; (4) pave all roads on construction sites; (5) sweep streets if visible soil materials are carried onto adjacent public roads.

18. Visual Quality:

a. The residential access roads shall be screened from views along the SR 129 scenic corridor and US 101. A landscape tree plan shall be submitted to the County for review in conjunction with the grading plans submitted for the access roads to the residential areas. The landscape plan shall be submitted in accordance with County standards. The tree plan shall specify oak woodland tree species, or other as specified in the landscape tree plan, and a minimum size of 24" box.

b. The landscape plans shall be approved prior to recordation of the final map and incorporated within the project-grading permit.

c. Landscaping required on individual lots shall be installed prior to the issuance of a final certificate of occupancy.

d. A deed restriction shall be placed on all subdivision lots, limiting the development of the lots to the specified building envelope on each lot, including accessory or other outbuildings, hardscape yard improvements, and grading improvements except as otherwise approved by the County. Solid fences and walls, or other solid visual barriers along property lines shall be prohibited.

e. As provided under Condition 18 f. below, development within each lot shall occur within the approved building envelopes. As part of the building permit process for the primary residence and any structure greater than 600 square feet, the property owner shall submit to the County Planning Department a request for design review approval for each structure(s) which shall be based upon the following criteria:

1. The location of structure(s) within the building envelope to reasonably balance the need for grading, visual impact of such structures and the views from such structures (which may be further mitigated by measures described in b, c, and d, below);

2. Adequate landscaping is installed necessary to assist in mitigating the visual impact of structures within the building envelope;

3. Colors proposed for structures within the building envelope are consistent with the requirements of these conditions;
4. The height of structures within building envelopes balance visual impacts, architectural design, and to ensure that structures are consistent with the mitigation measures set forth in the Final Environmental Impact Report for the Project.

The above conditions shall be reasonably interpreted to balance the interests of the community and property owner, and should be interpreted without imposing arbitrary limits on height, size or other design characteristics, but rather to ensure that each lot is developed in accordance with its unique location, topography, and vegetation, and to incorporate reasonable hillside mitigation measures, such as landscaping, building material(s) and color palettes and which ensure the property owner(s) of the reasonable use and enjoyment of their property.

Once the Applicant has obtained administrative approval from the San Benito County Planning Department, the Application shall be placed on the San Benito County Planning Commission consent agenda for final approval, with standard notice to neighboring property owners.

- f. The proposed building envelope for each residence has been identified on the tentative map and such areas shall be staked during construction and graphically depicted and identified on the grant deed to each lot to prevent development outside such envelope.
- g. Any senior (granny) units within the Project shall be architecturally compatible with the primary residence on the lot and within the specified building envelope.
- h. Color palettes shall be submitted to and approved by the Planning Commission prior to recordation of the final map.
- i. The onsite water storage tank reservoir will be painted a non-reflective earth tone color and shall be screened from view through the use of native shrubs and trees.

19. Affordable Housing: The Applicant/developer/owner shall either pay the County mandated in lieu fee as per County ordinance for affordable housing incident to the development of 14 residential structures, or shall provide, onsite, the affordable housing suggested by the County General Plan incident to development of the Project.

20. Notice of Determination: The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval of the tentative map. Department of Fish and Game fee (\$850 — Fish & Game Code section 711.4(d)) must be submitted with the filing. A copy of the filed notice shall be submitted to the County Planning Department. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section

21089(b)).

21. Easements: The final map shall show all easements for access, utilities, and drainage. Any development shall maintain a minimum ten (10) foot setback from the noted easements unless a greater distance is required as a condition of the final map or by law. [Public Works, Planning]

22. Conditions, Covenants, and Restrictions (CC&Rs): Conditions, Covenants and Restrictions: The Applicant/developer/owner shall include in each deed for a residence on the Project, or in covenants, conditions and restrictions applying to all residential lots within the Project, that all residences shall be subject to the use limitations set forth in these Conditions and as otherwise provided in applicable County ordinances

23. Phasing: Recordation of Final Maps and phasing shall take place in accordance with phasing plans shown on the Vesting Tentative Tract Map. Applicant/developer/owner may, however, submit a phase final map for Lot 14 and shall only be required to provide subdivision security for improvements to lot 14 as a condition to Final Map recordation.

24. Solar Energy: To the extent feasible, all residential dwelling units shall be constructed to maximize solar passive heating and cooling in accordance with Government Code section 66473.1.

25. Grading: Grading shall not be permitted on any area of the project site having a slope equal to or greater than 30 percent, or consistent with the grading ordinance, outside of any approved building envelopes (except for grading of driveways), nor any area within Lot A (habitat/open space). The grading plans for the subdivision shall be submitted to the County Public Works and Planning Departments prior to recordation of the final map. Grading plans for individual lots shall be reviewed and approved by the Planning Commission prior to issuance of a building permit. Applicant/developer/owner shall pay a grading review fee to the County Planning Department for processing and evaluation of said grading permit. All buildings and building pads shall be located within the proposed building envelopes. The building envelopes shall be shown on the final map. No grading for building pads will be allowed outside the building envelope except to allow the cut and fill from the building pad to daylight into the natural grade. The intersection of cut slopes into the natural grade shall be rounded off to blend into the natural topography of the lot. The grading of driveways and building pads shall follow landforms and elevation contour lines and shall not be placed perpendicular to the contour of the land.

26. Lighting: All exterior lighting shall be installed and maintained in accordance with the County Dark Sky Ordinance No. 748.

27. Development Restriction: Prior to the recordation of the final map, the applicant/developer/owner shall grant to the County a legally binding instrument prohibiting commercial and industrial use on the entire project site (195 acres — Lots 1 through 14 and Lot A). Said instrument shall be reviewed and approved by County Counsel prior to the recordation of the final map.

28. Landscape Maintenance: Prior to the recordation of the final map, the applicant/developer/owner shall provide to the County a legally binding instrument for the maintenance of common area for a period of three (3) years from the installation of said common area landscaping. Said instrument shall be reviewed and approved by County Counsel prior to the recordation of the final map.

29. Subsequent Division of Lots: None of Lots 2 through 13 created by the recording of the Vesting Final Map may be further subdivided.

30. EIR Mitigation Measures:

a. The effects of ground shaking on future planned structures and other improvements shall be reduced by earthquake-resistant design in accordance with the latest editions of the Uniform Building Code and California Building Code.

b. Large appliances (i.e., refrigerators, freezers, pianos, wall units, water heaters, etc.) shall be firmly attached to the floor or to structural members of walls.

c. A thorough review of liquefaction susceptibility shall be performed by a licensed engineer. Should liquefiable layers be identified, the potential for lateral spreading shall be evaluated according to geotechnical review recommendations (Donald Tharp Associates). Engineering design may be required to reduce potential impacts to a less than significant level.

d. A quantitative slope stability analysis shall be performed by a licensed engineer for the private drive accessing Lots 8-10 and for building sites that verge on the slopes greater than 30%. Adequate building setbacks from steep slopes shall be identified based on the results of the stability analysis.

e. Slope stability analysis shall be evaluated for slopes adjacent to lots 3, 4, and 5. If warranted by the results of the analysis, specific mitigation recommendations to arrest head ward erosion in this area shall be incorporated as part of the final project development plans.

f. A quantitative slope analysis shall be performed by a licensed engineer at the location of the batch plant septic leach field.

g. Project grading and drainage plans shall be submitted to the County Planning and Public Works Departments for review and approval prior to issuance of a grading permit. Recommendations shall be incorporated into final development plans.

h. During construction, prevent water from flowing onto the slope from developed areas. All lots shall be graded to direct surface water away from slopes and into gutters and/or lined ditches that flow into properly designed catchments structures. During construction, efforts shall be made to keep soil disturbance to a minimum. Machinery shall be kept off established vegetation as much as possible. Specific access routes shall be established during the planning stages of the project. After construction, disturbed areas shall be immediately re-vegetated or stabilized through the use of temporary stabilizing sprays in order to keep soil movement to a minimum.

i. The project applicant/developer/owner shall comply with conditions of the General Permit for Storm Water Discharges Associated with Construction Activity issued by the Regional Water Quality Control Board to mitigate soil erosion impacts.

j. A second, 100% sized replacement leach field shall be set aside and identified on the final map. The applicant/developer/owner shall submit supporting documentation from a qualified geologist that the site is suitable for septic use and would not result in surfacing effluent.

k. The storm water detention pond shall be constructed in a way to allow for percolation of water into the aquifer to offset the loss of groundwater. The applicant/developer/owner shall participate in funding of water conservation/recharge projects in the San Juan basin as recommended by the San Benito County Water District. Said projects and funding amount shall be determined by the Water District and necessary funding shall be paid to the appropriate agency prior to the recordation of the final map.

l. Project applicant/developer/owner shall employ water conservation measures on the project site through use of drought tolerant landscaping and low flow plumbing fixtures.

m. Impervious surfaces shall be minimized through project design. Pavement width of access roads shall be minimized to the extent accepted by County road standards.

n. Runoff from roads shall be directed to storm drains equipped with sediment and grease traps. Grease traps shall be maintained in good operating condition. The project developer shall use native vegetation for landscaping to reduce the amount of pesticide and fertilizer that might otherwise be required to maintain the landscaping, and use approved erosion control measures and landscaping to reduce sediment load in the runoff.

o. The project applicant/developer/owner shall provide a water supply of no more than 500 TDS unless it is infeasible to do so. The use of self-generating water softening systems shall be prohibited. The use of cartridge water softening systems that do not introduce additional salt into the water system are permissible.

p. Project wells shall meet state standards for well design and demonstrate adequate water supply with a minimum 48-hour pump testing prior to formation of mutual water company. If warranted, a 72-hour pump test shall be used. The effect of project wells, both production and back up, on nearby wells shall be evaluated. The analysis shall determine that adjacent well will not be affected in order for the project wells to be approved.

q. The final drainage plan prepared for the project site shall address drainage flowing onto the project from the Burke property. The project drainage facilities shall be sized with sufficient capacity to accept drainage from the Burke property. The owner(s) of the adjacent Burke Property (APN: 12-03-19) shall be given the opportunity to review the adequacy of the drainage plan and provide comment to the County Planning Department prior to final map approval.

r. Project plans shall designate and establish through an appropriate legally binding instrument such as a conservation easement, a non-developable habitat reserve area of no less than areas around the large stock pond on the property. The entire habitat/open space area (Lot A) shall not be divided into residential lots but shall be held as one parcel in ownership. The habitat/open space area shall be managed as a unit by a suitable entity experienced with habitat management (e.g., contract habitat management organization, open space district) approved by the County Planning Department. Runoff from roads, building pads, lots, and other developed areas of the site shall be directed away from the watershed of the stock pond.

s. A conservation easement shall be established across the non-developable, habitat/open space area of Lot A. Grading, buildings, fences, and other hardscape lot improvements shall be prohibited with the conservation easement. The grazing by livestock in the habitat/open space shall be permitted.

t. Any roadway or driveway constructed coterminous with Lot A shall have rolled curbs.

u. The applicant/developer/owner shall provide a Habitat Management Plan for the habitat/open space reserve area and all other designed open space areas within the project site. The plan shall include, but not be limited to, a discussion of managed grazing, fencing, and other physical measures to be allowed or implemented to preserve CTS habitat; a runoff and drainage plan for the preserve; a discussion of the restrictions on domestic pets, the use of pesticides and herbicides and other activities typically associated with residential use of the area; a description and map of locations where permanent exclusion fencing and/or curbs will be installed/designed at habitat edges where CTS would be at risk if they entered the area, and other measures that will be implemented to manage, monitor, and maintain the preserve area in perpetuity. These other measures may include measures (1) to prevent introduction of non-native species - such as bullfrogs and mosquito fish and the non-native tiger salamander; (2) to control and eradicate, if possible, any future inadvertent introduction of these non-native species, and (3) to evaluate and manage the potential problem of genetic hybridization of the native and non-native tiger salamanders.

The Plan shall present a cost estimate and funding mechanism, including contingencies, for ongoing management of the habitat/open space area. Said habitat management funds shall be deposited with the County prior to the recordation of the final map. The Habitat Management Plan shall provide for monitoring the population of CTS on the site for a period of five (5) years after project completion to determine if CTS are successfully reproducing in the pond during that period. If CTS larvae are not found in the pond in the appropriate season throughout the monitoring period, the applicant/developer will be obligated to provide replacement of both breeding and upland habitat offsite or provide equivalent contingency mitigation and/or compensation as determined adequate by the County.

v. Any ground-disturbing activity within the potential CTS aestivation habitat shall be preceded by a CTS salvage program conducted by a qualified biologist, including excavation of all ground squirrel burrows or other potential aestivation sites. Recovered CTS will be returned to appropriate undisturbed habitat on the project site.

w. The applicant/developer/owner shall conduct a pre-construction survey, following accepted protocol, no more than 30 days prior to grading plan approval to assure that no burrowing owls will be affected by project construction. In the event that burrowing owls are found, any nesting areas shall be avoided until after the nesting season (after September 1 and before January 31st) and a minimum set aside of 6.5 acres per pair (or individual) shall be incorporated into the open space program for the nesting site.

x. Any native tree larger than six (6) inches in diameter at breast height that is removed shall be replaced at a 3:1 ratio in a suitable location in the designated habitat/open space area (Lot A). Monitoring of these replacement trees shall occur over a period of five (5) years to insure successful establishment and growth. Additional replacement trees will be installed/planted if necessary until all required ratios have been met by planted trees surviving without irrigation for a period of two years after irrigation removal.

y. Tree removal shall be limited to periods outside of the breeding season for sensitive bat species and raptors (typically spring and summer). If this is not possible as determined by the County Planning Department, the applicant/developer/owner shall conduct preconstruction surveys, following accepted protocol, of specific trees scheduled for removal to determine whether they may be occupied by nesting bats and/or raptors. In the event that they are, tree removal shall be delayed until the young of the year have fledged as determined by a qualified biologist.

z. In the event red-legged frogs are discovered during pre-construction surveys or at other times during project construction, the US Fish and Wildlife Service shall be immediately consulted and all federal legal and regulatory requirements shall be met.

aa. Any project improvements made to Searle Road to accommodate project traffic shall not prevent or otherwise impede access to the Burke property.

bb. The applicant/developer/owner shall enter into an agreement with the Aromas Tri-County Fire Protection District to mitigate service impacts upon the District. The applicant/developer shall contribute a fair share of funding toward the purchase of land for a new fire station. Said agreement shall be approved by the Aromas Tri-County Fire Protection District Board prior to recordation of the final map and evidence of approval of said agreement shall be provided to the County Planning Department prior to the recordation of the final map.

cc. All homes and home sites shall establish an area of defensible space around structures in accordance with vegetation and slope. The defensible space can initially be monitored by site inspections by the Aromas Tri-County Fire District prior to occupancy of homes. The subsequent maintaining of defensible space shall be the responsibility of the homeowners and the homeowner's association.

dd. Construction Best Management Practices (BMP) shall be employed to reduce dust emissions during the construction phases.

ee. The residential access roads shall be screened from views along the Highway 129 scenic corridor and US 101. A landscape tree plan shall be submitted to the County for review in conjunction with the grading plans submitted for the access roads to the residential areas. The landscape plan shall be submitted in accordance with County standards. The screening plan shall specify tree plantings near the project entrance at "A" street and Highway 129. Screening shall also occur along the private drive accessing Lots 11-13 and the private drive accessing Lots 8-10. The tree plan shall specify oak woodland tree species (no Monterey pine or eucalyptus), as specified in the landscape tree plan, and a minimum size of twenty-four (24) inch box.

ff. Landscaping shall be installed on Lots 7-8 and 11-13 to provide screening of residences from affected view shed. Screening trees shall be oak woodland species (no Monterey pine or eucalyptus), as specified in the landscape tree plan, and a minimum of 15 gallon in size.

Residential building envelopes shall be placed so as to balance the impact on landform alteration and ridgeline preservation. All building envelopes must be located on the backside of the lot away from the view shed corridor. Building elevations shall be designed and constructed to avoid rising above the crest of ridgelines.

PUBLIC HEARING ITEMS:

Preliminary Allocation Applications for Fiscal Year 2005-2006;

Remainder of Preliminary Allocation Applications for Fiscal Year 2004-2005

Chair DeVries gave an overview of the issues raised by the Commissioners regarding the need for subjectivity in ranking the applications. He told of the work done by the Commissioners and the staff together with the Engineers for the applicants. Chair DeVries called attention to the handout of 'rank order' which had been made available to applicants and the public. He reminded that there would be no 're-ranking' of the applications at this meeting. Chair DeVries cautioned that speakers (with emphasis on having the Engineers address the Commissioners) should speak only to any possible mistakes/miscues by staff which could be rapidly addressed.

PP Turner and SP Ortwein gave a PowerPoint presentation outlining the process of staff utilizing the Growth Management Ordinance and how the rankings had been determined. They told of the applications – current and previously received – and working with the Engineers and developers to ensure viable applications which could be ranked. PP Turner detailed the total number of allocations available (73) and the ranking process. 25% of the allocations are reserved for minor subdivision, he said, which meant 18 allocations which must be given to minor subdivisions, with no single project receiving 50% of that number (maximum of 31). PP Turner also provided data as to completion of the process by the applicants, emphasizing that an allocation granted at this meeting in no way guaranteed attainment of a successful project.

PP Turner also spoke to:

- > Number of applications received and evaluated: 21 for Minor Subdivisions (total: 48 lots); and 7 for Major Subdivisions which add up to 59 lots; The appeal process (to the Board of Supervisors) was explained
- > Details of the ranking system were provided.
- > Number of allocations available: 73; this number is inclusive of applications/projects in process (partially allocated); San Juan Oaks automatically received 27 allocations due to the previous year allocations with **46** to be awarded this evening.
- > Percentage which must be allocated to Minor Subdivisions: 25% (18 allocations)
- > The next allocation hearing process is anticipated to occur in October, 2006.

Following a brief block of questions from Commissioners, staff gave the recommendations for allocations:

Minor Applications:

Rank	File No.	Applicant	Allocations recommended
1	PA 06-17	MATTHEWS, Esther	3
1	PA 05-06	SILVA, Alfred Jr.	2
3	PA 06-02	BROWN, Lee	3
4	PA 06-09	DALY-SANCHEZ	3
5	PA 06-14	LIMA, Dan	1
2	PA 05-08	YOUNG, William	2
5	PA 06-05	GARBINI, Jon	1
8	PA 06-08	KAMBOJ	3

Total 18

Chair DeVries noted that the Commissioners had the discretion of continuing to allocate to the minors since the statutory requirement for allocation to minor subdivisions had been fulfilled.

PP Turner was asked to outline staff recommendations for the major subdivisions.

Rank	File No.	Applicant	Allocations recommended
1	PA 05-10	HILDEN, Lyn	11
4	PA 05-21	INTRAVIA, Ted	3

Total 14

PP Turner recommended returning to the Minor Subdivisions for the remaining allocations.

Rank	File No.	Applicant	Allocations recommended
9	PA 06-03	McALISTER, Drew	3
10	PA 05-09	MUNOZ	2
11	PA 05-03	SANCHEZ, Robert	2
11	PA 06-19	TYLER, Jack	2
13	PA 06-06	MELO	3
14	PA 06-20	GRAY, Tim	2

TOTAL 14

Total number of allocations recommended by staff for allocation: 46

Following questions and comments from the Commissioners, Chair DeVries reiterated the process which insured no favoritism occurred.

Chair DeVries opened the public hearing.

Ruben Rodriquez, 2324 Union Road, told Commissioners he needs three allocations to record a map.

Tony Leonardini, 6803 Lakeview Dr., asked if the soil study which was completed had been considered, stating the number of points should have been increased. He asked if breaking his request (for 18 allocations) into smaller numbers would be beneficial? PP Turner called attention to 31-13.2B2b, in relation to the rating scale, noted that points differential would not come into play during the allocation process.

Relating to the speaker's comments, Commissioners discussed the concept of phasing.

Tony Stafford, Chateau Road, San Juan Bautista, spoke on behalf of applicant Ken May who in turn spoke of lack of clarity in the Ordinance. Engineer Roger Grimsley also spoke to the issue of percolation testing for this project.

The public hearing was closed at 9:32 p.m.

Commissioners engaged in brief discussion about partial points which had been awarded in the past with several members indicting the need to have the matter addressed.

COMMISSIONER MACHADO OFFERED RESOLUTION 2006-08 APPROVING THE ALLOCATIONS AS OUTLINED BY STAFF WITH 46 ALLOCATIONS BEING AWARDED, WITH 32 ALLOCATIONS TO MINOR SUBDIVISIONS AND 14 TO MAJOR SUBDIVISIONS AND THE 27 PREVIOUSLY AWARDED TO SAN JUAN OAKS, INCLUSIVE OF THE FINDINGS AND CONDITIONS STATED WITHIN THE RESOLUTION. COMMISSIONER SMITH SECONDED THE MOTION AND WAS PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVRIES, MACHADO; SMITH; NOES: NONE; ABSTAIN: NONE; ABSENT: TOGNAZZINI.

DCC Murphy reminded all of the appeal process.

Applications **NOT** receiving allocations are as follows:

PA 06-13	CASILLAS, Frank Jr.	Santa Ana Vly-John Smith Rds.
PA 06-10	MAY, Kenneth	Chateau Drive
PA 06-07	ADAMIAN-SURACE	Los Viboras Rd
PA 05-23	VALLES - PERRY	Shore Rd-Perry Ct.
PA 05-25	STOWELL	Fairview Rd- Montgomery Ln.
PA 06-04	ANDERSON, Ray	3220 Fairview Rd.
PA 06-12	FRIEBEL, James	Orchard Rd.
PA 06-01	AMES, David	1787 San Juan Canyon Rd.
PA 06-15	ANDERSON, Larry	Cypress Street
PA 06-16	ANDERSON, Larry	Los Altos & Sunnyslope Rd
PA 05-22	RODRIGUEZ, Ruben	Jarvis Lane
PA 06-18	SANCHEZ, John	Union Road
PA 05-18	LEONARDINI, Tony	Cowden Road

As there was no further business to be considered at the evening's meeting, Chair DeVries adjourned the meeting at 9:42 PM.

Transcription by:
Judi H Johnson

Attest:
Art Henriques, Director
Planning & Building Inspection Services