

SAN BENITO COUNTY PLANNING COMMISSION

Minutes of October 4, 2006

PRESENT: Bettencourt, DeVries, Machado, Smith, Tognazzini
ABSENT: None

STAFF: Director of Planning (DoP) Art Henriques, Principal Planner (PP) Byron Turner, Assistant Planner (AP) Lissette Knight, Assistant Planner (AP) Chris Herrera; Assistant Planner (AP) Michael Kelly; Senior Planner (SP) Chuck Ortwein; Deputy Director of Public Works (DDPW) Arman Nazemi, Deputy County Counsel (DCC) Shirley Murphy; Clerk Trish Maderis.

Chair DeVries called the meeting to order at 6:05 PM and led the Pledge of Allegiance and then summarized the standing rules of order, and reiterated that no new business would be heard after 9:30 p.m.

PUBLIC COMMENT:

Noting that no persons were present to address items not appearing on the agenda, Chair DeVries declared the opportunity for public comment ended.

DIRECTOR'S REPORT:

DoP Henriques detailed:

Board of Supervisor's meetings of

September 12, 2006

- discussion of Blueprint Planning Grant process (related to COG) [link between land use planning and transportation]
- discussion of establishing County Park Commission (County wide)
- Planning Department updated Board on Del Webb project – with copies to Commissioners

September 26, 2006

- idea exchange relating to Civil Grand Jury report ~ Farm Labor Camps in County
- Board approved Grant application for Blueprint Planning process
- approved position for GIS mapping analyst ~ to be assigned to Planning Department for General Plan work and also County-wide consortium on various GIS map programs
- discussion on one-stop permit system
- Planning Commission recommendations reviewed:
 - ♦ small slaughterhouse regulations – approved following testimony
 - ♦ discussion re: Grading Ordinance
 - ♦ well permit program (transferred from County Environmental Health Department to County Water District – Planning Department to work with various agencies for progressive implementation)

October 3, 2006

- Board requested update on General Plan Update (Consultant contract being developed – back to Board in couple of weeks; explained process before work commences)
- new County Librarian announced
- approval for City of Hollister application for River Parkway Grant ~ west side of Hollister/County to participate
- approved Planning Commission recommendations
 - ♦ Grading Ordinance
 - ♦ approved letter re: Hollister Wastewater Treatment Plant {EIR} and Wastewater Recycling Program

CONSENT AGENDA:

COMMISSIONERS BETTENCOURT/TOGNAZZINI MOTIONED TO APPROVE THE CONSENT AGENDA – CONSISTING OF ITEMS 1 – 6 AS FOLLOWS:

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of September 20, 2006
4. **CERTIFICATE OF COMPLIANCE NO. 04-51**–APPLICANT: San Justo Ranch, LLC. LOCATION: McConnell Road, Hollister. REQUEST: Recognition of six parcels. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Categorical Exemption.
Condition of Approval:
 1. Recordation: The Certificates of Compliance shall be recorded with the County Recorder. [PLANNING]
5. **CERTIFICATE OF COMPLIANCE NO. 06-61**–APPLICANT: Harold Bayly. LOCATION: Airline Highway, Paicines. REQUEST: Recognition of twelve parcels. ZONING: Agricultural Rangeland (AR). ENVIRONMENTAL EVALUATION: Categorical Exemption.
Condition of Approval:
 1. Recordation: The Certificates of Compliance shall be recorded with the County Recorder. [PLANNING]
6. **CERTIFICATE OF COMPLIANCE NO. 06-67** – APPLICANT: Karin Jacobson. LOCATION: New Idria Rd., Paicines. REQUEST: To recognize four parcels across an approximately 1,425-acre site. ZONING: Agricultural Rangeland (AR). ENVIRONMENTAL EVALUATION: Statutory Exemption.
Condition of Approval:
 1. Recordation: The Certificates of Compliance shall be recorded with the County Recorder. [Planning]

THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

PUBLIC HEARING ITEMS – CONSENT AGENDA

Having noted that there were audience attendees who wished to address this item, Chair DeVries declared it removed from the consent agenda.

7. **NON-CONFORMING PARCEL REVIEW/SCENIC CORRIDOR REVIEW**
NO. 06-109 APPLICANT: Aurelio Renteria. LOCATION: Chittenden Road (State Route 129). REQUEST: To construct a single-family dwelling on a nonconforming parcel containing Grade-1 soil and within the Route 129 scenic corridor. ZONING: Rural Residential. ENVIRONMENTAL EVALUATION: Categorical Exemption.

AP Kelly presented the staff report, reiterating the noticed agenda item.

Chair DeVries opened the public hearing.

Dale Orr, 1980 Chittenden Rd, San Juan Bautista, indicated concerns with:

- ◇ paved road
- ◇ building height
- ◇ building color (thinks should be neutral color)
- ◇ possible interference with water flow(s) volume from speaker's well

Commissioner Bettencourt brought up issues with the power poles and the distance between the poles and the dwelling. AP Kelly reported that there were no regulations regarding this matter.

Other issues discussed were:

- current use of Mr. Orr's property [2 acres in grass and vegetable garden]along with horses and permanent pasture
- schedule of watering from well [2 – 3 days in summer]
- need for having Design Review Committee assigned to this project
- number of wells in use [2] ~ water provision is coordinated by the San Benito County Water District
- need for encroachment permit/damages to be paid by applicant [information from DDPW Nazemi]

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

COMMISSIONERS BETTENCOURT/SMITH MOTIONED TO APPROVE NON-CONFORMING PARCEL REVIEW/SCENIC CORRIDOR REVIEW 06-109, WITH THE ADDITION OF CONDITION #7, REQUIRING EVALUATION BY THE DESIGN/REVIEW COMMITTEE, INCLUSIVE OF THE FINDINGS AND CONDITIONS PRESENTED. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Conditions of Approval:

1. Conformity to Site Plan: The development and use of the site shall conform substantially to the site plan and Conditions of Approval as approved by Planning Department. Any increase in the nature or intensity of land use on the site shall be subject to further Planning review and approval. [Building, Planning]
2. Hold Harmless: The permittee shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against San Benito County or its agents, officers, or employees to attack, set aside, void, or annul the approval of this review and applicable proceedings. [Planning]
3. Fire Protection:
 - a. The project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, California Fire Code, Uniform Building Code, Public Resource Codes 4290 and 4291, and other related codes as they apply to a project of this type and size.
 - b. The applicant shall ensure adequate ingress and egress to any and all buildings are available. Roadways/driveways shall be all-weather surfaced and conform to applicable codes and standards. Driveways shall include turnouts and turnarounds as required. Addresses shall be posted to be visible to responding emergency personnel.
 - c. A final inspection will be required, and a mitigation fee of \$2,480.40 will be paid pursuant to the Aromas Tri-County Fire District. [Aromas Tri-County Fire]
 - d. No driveway on the property shall exceed a grade of 15 percent. [Public Works]
 - e. To provide defensible space for firefighting, the applicant shall obtain a vegetation clearance easement for any setback under 30 feet for main and accessory buildings per County Ordinance 692 §V. [Planning]
4. Impermeable Surfaces: The applicant shall mitigate for new impermeable surfaces by constructing either a detention pond or retention pond/trench. Engineer-signed and -stamped calculations shall be submitted to prove the efficacy of the chosen mitigation method. [Public Works]
5. Water: Prior to issuance of a building permit, the owner shall verify the number of connections to the proposed water system, demonstrate sufficient water quantity for the project, and submit evidence that the water quality meets relevant standards. [Environmental Health]
6. Landscaping: The site shall be maintained in a litter-free and weed-free condition. No trees of six-inch diameter at breast height (dwb) or larger shall be removed from the site without prior approval of the Planning Department. [Planning]
7. Building Design:
 - a. The building design shall substantially conform to the plans submitted by the applicant with this application. [Planning]

- b. As part of the building permit process for the dwelling and garage, the property owner shall submit to the County Planning Department a request for design review approval for the structures. The review shall be based on but not limited to the following criteria:
- i. Adequate landscaping is installed necessary to assist in mitigating the visual impact of structures.
 - ii. Colors proposed for structures are consistent with the requirements of these conditions.
 - iii. The height of structures should balance visual impacts and architectural design and ensure that structures are consistent with the surrounding landscape.
 - iv. In order for the Planning Department to make a determination on each proposed structure, Staff may require that applicants to submit information for review including but not limited to story pole analysis, landscaping plans, color palettes, grading plans, elevations, and photo representations of the proposed structure(s).
 - v. 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 the lot is developed in accordance with its unique location, topography, and vegetation and to incorporate reasonable 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.
 - vi. 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. [Planning Commission]

Chair DeVries conducted a straw vote of the audience and determined that the majority were present to address agenda item# 15. Consequently, in the interest of meeting facilitation, item 15 was called at this point.

PUBLIC HEARING ITEM – CONSENT ACTION

- 15. USE PERMIT NO. UP 936-05 – APPLICANT: Josh Watt. LOCATION: 9644 Betabel Rd., San Juan Bautista REQUEST: To obtain a Use Permit to operate an off-road, motocross race track and riding facility on a 30 acre site. The project will include two racing tracks, viewing stands, and parking facilities. ZONING: Agricultural Rangeland (AR) ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.**

SP Ortwein gave the staff report providing a brief background of the matter, including the proposed uses. The applicant asked for a final decision from the Commissioners based on the application as previously presented, including the Mitigated Negative Declaration, he said.

Chair DeVries explained that the Commissioners had considered the matter previously and it appeared that there was need for an EIR. DCC Murphy said is an unusual situation as there was not a vote on requiring an EIR, but that on the record there was sufficient evidence for a ‘fair argument’ standard for the EIR requirement.

Chair DeVries opened the public hearing.

The applicant, Josh Watt presented the following:

- ♦ asked support for the project as being beneficial to the area
- ♦ opposition should not be considered; RV Park is for temporary, not permanent, residents
- ♦ RV Park is for recreation only ~ not retirement homes
- ♦ red / green stickers ~ State use only; not private projects (applicant explained uses)
- ♦ noise levels within regulations for San Benito County
- ♦ no occupancy requirement on vacant land (per Fire regulations)
- ♦ numbers of traffic trips [week days and weekends differ]
- ♦ noise assessment study from Higgins and Associates; sound berms not present when study completed
- ♦ promise to limit hours; willingness to compromise by having closing time at sundown
- ♦ substantial monies invested in project; location recommended by County Planning Department

The following speakers indicated opposition to the project:

- ☐ Don Larson, Betabel RV Resort resident
- ☐ Fernando Jimenez, 91 Fred's Way, Hollister
- ☐ Pat Machler, 9664 Betabel Rd., San Juan Bautista
- ☐ Lota Bentz, 9664 Betabel Rd., San Juan Bautista
- ☐ Larry A. LaBas, 9664 Beta Bell Rd, San Juan Bautista
- ☐ Terry McGrath, 1231 School Rd., San Juan Bautista
- ☐ Barbara Warner, 9664 Betabel Rd., San Juan Bautista
- ☐ Dee Dee Frankhouser, 9664 Betabel Rd., San Juan Bautista
- ☐ William Gil, 17480, Blue Jay Dr., Morgan Hill, (partner in Betabel RV Park, 9664 Betabel Rd., San Juan Bautista)
- ☐ Mirreo Nelson, 9664 Betabel Rd., San Juan Bautista
- ☐ Brad Sullivan, Attorney-Lombardo & Gilles, Hollister
- ☐ Mel Hand, resident of RV Park
- ☐ Bill Hunter, 430 School Rd., San Juan Bautista

These speakers spoke *in favor of* the proposal:

Joey Avila, 118 Willow Creek St., Watsonville
Mario Galasso, 850 Clubhouse Dr., Aptos
Mike Marquez, 236 Goss Ave., Santa Cruz

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

Chair DeVries explained that the applicant is asking for a decision on the Negative Declaration prepared by staff or a requirement of an EIR. DCC Murphy reiterated the information consider as a 'fair argument' standard.

During discussion, Commissioner Smith specified support for the project, but at a different location. Other Commissioners indicated that might be feasible.

COMMISSIONER MACHADO OFFERED A MOTION CONTINUING THE MATTER OF USE PERMIT NO. UP 936-05 TO THE METING OF OCTOBER 18, 2006 AND DIRECTING STAFF TO PREPARE FINDINGS FOR DENIAL OF THE REQUEST, BASED ON THE INAPPROPRIATENESS OF THE LOCATION. COMMISSIONER TOGNAZZINI SECONDED THE MOTION WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

CONTINUED CONSENT ITEM – COMMISSION ACTION

8. **M-DISTRICT REVIEW NO. 83-06** – APPLICANT: Jeff Akins.
LOCATION: 2740 San Juan Highway, San Juan Bautista. REQUEST: To establish the business California Custom Sheds which sells portable wood storage sheds and gazebos, the project will have a display yard, a gazebo and storage shed displays and lumber storage. ZONING: Heavy Industrial (M-2). ENVIRONMENTAL EVALUATION: Categorical Exemption.

AP Knight presented the staff report, and calling attention to Condition #4, which requires that vegetation and trees be an addition but not removed. Furthermore, a landscaping plan – which requires Planning Department approval - is to be added. AP Knight stressed that trees and shrubs may be pruned but not removed.

The public hearing was opened with the applicant, Jeff Akins, 1878 Rea Ave, Aromas, speaking to the Commissioners. Mr. Atkins explained his plans for foliage care and clean-up on the site and around the sheds. He also spoke of the intent to incorporate the existing trees, etc. into the landscaping plan for the County.

The public hearing was closed, followed by discussion.

COMMISSIONERS BETTENCOURT/TOGNAZZINI MOTIONED TO APPROVE THE M-DISTRICT REVIEW NO. 83-06 WITH THE MODIFICATIONS TO CONDITION #4, TO BE COMPLETED PRIOR TO OCCUPANCY, AS OUTLINED BY STAFF, AND INCLUSIVE OF THE FINDINGS AND CONDITIONS STATED THEREIN. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Conditions of Approval:

1. Hold Harmless: The permittee shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against San Benito County or its agents, officers, or employees to attack, set aside, void, or annul the approval of this M-District Review and applicable proceedings. [Planning]
2. Compliance Documentation: The applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
3. Conformity to Plan: The development and use of the site shall conform substantially to the application site plan and Conditions of Approval as approved by the Planning Commission and filed with the Planning Department. Any increase in the nature or intensity of land use on the site shall be subject to further Planning Commission review and approval. [Building, Planning]
4. Scenic Highway: Prior to obtaining a certificate of occupancy, the applicant must show a landscaping plan for improvements along the scenic corridor Highway 101 to the Planning Department for review and administrative approval by Planning Staff. 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 agenda for final approval, with standard notice to neighboring property owners.
 - a. Any new landscaping of plants and trees should be native to the surrounding area.
 - b. This landscaping plan must then be implemented and added to the Compliance Documentation.
 - c. Vegetation and trees can not be removed from the property unless it is in violation of the Uniform Fire Code, Uniform Building Code and The San Benito County Code. [Planning]
 - d. Adequate landscaping is installed necessary to assist in mitigating the visual impact of structures to help them blend into designated Scenic highway (101).
5. Periodic Review: An annual/periodic review of the use of the M-District review will be made administratively by the Planning Department to determine conformance with the Conditions of Approval. Failure to comply with conditions may result in revocation of the Use by the Planning Commission. [Planning]
6. Address: Addressing shall be posted at the gate and be clearly visible from the roadway. Address numbers shall conform to or exceed County standards for size and contrasting color. Each building on the premises shall be individually marked with either a letter or number to identify it from other buildings. [County Fire]
7. Fire: The property shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, Uniform Building Code, Public Resource Codes 4290 and 4291 and other related codes as they apply to a project of this type and size. [County Fire]

8. Ingress and Egress: The applicant shall ensure there is adequate ingress and egress to any and all buildings. Roadways / driveways shall be an all weather surface conforming to applicable codes and standards. Driveway(s) shall be a minimum of 20 feet in width. The required width of fire apparatus access roads shall not be obstructed in any manner; including the parking of vehicles. [County Fire]
9. Fire Protection:
 - a. Welding/ Fabricating/ Wood storage buildings shall be equipped with a NFPA 13 fire Sprinkler System. Plans and calculations shall be submitted to this fire department for review prior to any construction. [County Fire]
 - b. A minimum of one 2A 10BC Fire Extinguisher shall be provided for each 3,000sqft of floor area. Fire Extinguishers shall be serviced annually and shall have a current service tag attached.
 - c. Obstructions to exits shall not be placed in the required width of the exit. Exits shall not be obstructed in any manner or at any time.
 - d. Exit doors shall be maintained in an operable condition at all times.
 - e. Exit paths shall be illuminated when the building or structure is occupied.
 - f. Exit signs shall be installed when two or more exits are required.
 - g. Exit signs shall be internally or externally illuminated by two lamps or shall be of the self-luminous type.
 - h. Exit signs shall be illuminated at all times. Illumination shall be provided by a primary power source and from an emergency source.
 - i. Clearance between ignition sources, such as light fixtures, heaters, etc. and combustible storage shall be maintained in an approved manner.
 - j. Extension cords shall not be used as a substitute for permanent wiring.
 - k. A clear width of 30 inches and a minimum height of 72 inches shall be maintained from the face of electrical panel boards to an aisle corridor.
10. Lighting: All exterior lighting for parcel 13-15-21 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.

9. **CERTIFICATE OF COMPLIANCE NO. 06-63** – APPLICANT: Ted Stephens
LOCATION: Stephens Drive, San Juan Bautista. REQUEST: Recognition of
remainder lot (APN 12-16-27) as a legal parcel. ZONING: Agricultural Productive
(AP). ENVIRONMENTAL EVALUATION: Categorical Exemption.

AP Knight gave the staff report, noting the matter had been agendaized and discussed at the meetings of September 6 and 20, 2006.

Chair DeVries opened and closed the public hearing, having noted that no persons were present to speak to the matter.

Following discussion of the matter, **COMMISSIONERS MACHADO/BETTENCOURT MOTIONED TO APPROVE CERTIFICATE OF COMPLIANCE NO. 06-63 AS OUTLINED BY STAFF. THE MOTION PASSED WITH NO DISSENTION; ALL COMMISSIONERS WERE PRESENT.**

Conditions of Approval:

1. Hold Harmless: The permittee shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against San Benito County or its agents, officers, or employees to attack, set aside, void, or annul the approval of this Certificate of Compliance and applicable proceedings. [Planning]
2. Recordation: The Certificates of Compliance shall be recorded with the County Recorder, which shall include a statement that reads:
This certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and the San Benito County Subdivision Ordinance. This is also to evidence the fact that the remainder parcel described ... may be sold, leased or financed without further compliance with the Subdivision Map Act or the San Benito County Subdivision Ordinance. Deferred roadway, septic improvements and design review will be made if parcel is subdivided, development occurs or with the issuance of a building permit. Development of the parcel may require issuance of a permit or permits, or other grant or grants of approval. [PLANNING]
3. Conformity to Plan: The development and use of the site shall conform substantially to the application site plan and Conditions of Approval as approved by the Planning Commission and filed with the Planning Department. The COC 06-63, APN number 12-16-27 must adhere to conditions of approval and deferred comments to when development occurs, subdivision, or issuance of a building permit. Any increase in the nature or intensity of land use on the site shall be subject to further Planning Commission review and approval. [Building, Planning]
4. Planning: The permittee shall continue compliance with all existing approval notices issued for this parcel. [Planning]

5. Public Works:
 - a. Prior to recordation of the certificate of compliance, the applicant shall make an irrevocable offer of dedication of 60 feet road right-of-way/easement for the driveway "Stephens Drive."
 - b. Prior to recordation, the applicant shall comply with County Drainage Standards and provide erosion and drainage control details for this project. Drainage calculations shall be submitted, and shall be engineer signed and stamped.
 - c. Prior to commencement of any improvements associated with this project, the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County road right-of-ways.
 - d. Prior to any subdivision, development or issuance of a permit on this remainder parcel, as shown on Page 73 of PM Book 8, the owner/applicant shall improve the project driveway per the following requirements:
 - i. Full-width 24 feet AC on 34 feet road bed where the driveway serves 5 or more dwellings;
 - ii. Full width of 16 feet AC on 18 feet road bed where the driveway serves 2-4 dwellings.
 - e. Prior to any subdivision, development or issuance of a permit on this remainder parcel, as shown on Page 73 of PM Book 8, the owner/applicant shall insure that the subject property complies with the County Fire Standard. Specifically, but not limited to, the applicant shall insure that there are proper turnaround and turnout facilities, that the water system for the proposed project has adequate capacity and that the grade for the proposed/existing driveway is less than 15%.
[Public Works]
6. Environmental Health: Prior to any subdivision, development or issuance of a permit on this property, the owner/applicant must conduct additional soils tests if multiple dwellings are to be constructed on the property.
7. Design Review: 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 on but not limited to the following criteria:
 - a. Adequate landscaping is installed necessary to assist in mitigating the visual impact of structures.
 - b. Colors proposed for structures are consistent with the requirements of these conditions;
 - c. The height of structures should balance visual impacts, architectural design, and ensure that structures are consistent with the surrounding landscape.
 - d. In order for the Planning Department to make a determination on each proposed structure, Staff may require that applicants submit information for review including but not limited to: story pole analysis, landscaping plans, color palettes, grading plans, elevations, and photo representations of the proposed structure(s)

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 the lot(s) is developed in accordance with its unique location, topography, and vegetation, and to incorporate reasonable hillside 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 agenda for final approval, with standard notice to neighboring property owners.

CONTINUED PUBLIC HEARING ITEM – COMMISSION ACTION

10. **ZONE CHANGE NO. ZC 05-147** – APPLICANT: Juventino Rodriquez.
LOCATION: 380 Flora Avenue, Hollister. REQUEST: To change the zoning of the property from Agricultural Productive (AP) to Light Industrial District (M-1)
ZONING: Agricultural Productive (AP) ENVIRONMENTAL REVIEW: Mitigated Negative Declaration.

SP Ortwein presented the staff report noting the intent to continue the matter.

Chair DeVries opened, then closed the public hearing, as no persons were present to address the matter.

COMMISSIONERS BETTENCOURT/SMITH MOTIONED TO CONTINUE THE MATTER OF A REQUESTED ZONE CHANGE (NO. ZC 05-147) TO BE HEARD WITHIN SIX MONTHS; THE DATE OF THE HEARING TO BE DETERMINED. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

11. **MINOR SUBDIVISION NO. 1123-02** – APPLICANT: Dave Grimsley
LOCATION: Thomas Road, Hollister REQUEST: To subdivide 1, 20-acre lot into four 5-acre parcels. ZONING: Agricultural Productive (AP)
ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

PP Turner gave the staff report, calling attention to Condition #35, which will require compliance as indicated in Resolution 2003-15.

Chair DeVries opened the public hearing.

Roger Grimsley, Engineer, was present to represent the applicant.

Attorney James M. Paxton, 72 California St., spoke on behalf of a neighbor, Mr. Renshaw. Mr. Paxton distributed data generated on September 12, 2006 which highlighted Condition #5, and indicated that approval had not been given by US Fish and Wildlife. Mr. Paxton explained that progress should not be granted without knowledge of what the mitigation measures would be. He stressed that there was no record of compliance. It was pointed out that Conditions 4, 8, and 12 were designated for grading issues.

Doug Marshall, attorney for the applicant, addressed the Commissioners. He disagreed with Mr. Paxton, and said that the determination should be by the Board of Supervisors as he spoke on Condition #35. Mr. Marshall spoke at length on compliance with CEQA regulations. He explained that a study had been conducted with trapping occurring during the winter season.

Considerable discussion ensued with Staff, DCC Murphy, Mr. Grimsley, and the Attorneys going over the many legalities within the matter. DCC Murphy indicated she could review these matters in further detail and report back to the Planning Commission.

COMMISSIONERS SMITH/MACHADO MOTIONED TO CONTINUE THE MATTER OF MINOR SUBDIVISION NO. 1123-02 TO THE MEETING OF NOVEMBER 1, 2006 FOR REPORT FROM STAFF REGARDING RESOLUTION OF THE ISSUES RAISED. THE MOTION PASSED WITH UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

- 12. TENTATIVE SUBDIVISION MAP NO. 03-68 and ZONE CHANGE NO. 03-134**
APPLICANT: Frank Benevento LOCATION: Orchard Road at Fairview Road and Hwy 156 REQUEST: 8 new 1-acre single-family residential lots clustered in a Planned Unit Development with a 37-acre agricultural lot with building envelope. ZONING: Agricultural Productive (AP) ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

PP Turner presented the staff report, noting that questions regarding PG&E service issues and soil concerns had been raised during the meeting of September 20, 2006 and presented responses to those questions including a local contact phone number for PG &E.

Chair DeVries opened, then closed the public hearing as no persons were present to address the matter.

COMMISSIONERS MACHADO/BETTENCOURT MOTIONED TO APPROVE THE MITIGATED NEGATIVE DECLARATION, TENTATIVE SUBDIVISION MAP NO. 03-68 AND ZONE CHANGE NO. 03-134 INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN TOGETHER WITH STAFF RECOMMENDATIONS (ITEMS 1, 2, 3, 4). THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Conditions of Approval:

1. Recordation--Section 66426 of the Subdivision Map Act (SMA); Section 17-36 of Ordinance 617. A final map conforming substantially to the approved tentative map shall be approved by the Board of Supervisors and recorded with the County Recorder. The tentative subdivision will expire two years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a final map within the period of the approval or a period of extension shall terminate all subdivision proceedings. (PLANNING, PUBLIC WORKS)
2. Hold Harmless--Section 66474.9 of the SMA. 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 proceedings against San Benito 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). San Benito County reserves its right to prepare its own defense, pursuant to Section 66474.9 Government Code. (PLANNING, PUBLIC WORKS)
3. Mitigation Monitoring. Prior to recordation of the final map or Planning Department approval of the improvement plans, whichever comes first, the applicant shall enter into a mitigation monitoring agreement with San Benito County. (PLANNING)
4. Compliance Documentation. Prior to recordation of the final map, the applicant 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 applicant shall also submit a response as to how this project complies with impact fees applicable to the following ordinances: Drainage, Benefit Areas, Park, and other applicable ordinances. (PLANNING, PUBLIC WORKS)
5. Assessment--Section 17-32(d) of Ordinance 617. Prior to recordation of the Final Map, the applicant shall pay applicable security for taxes and special assessment as required by Section 66492, 66493 and 66494. (PUBLIC WORKS)
6. Easements and Dedications --Section 17-31(j) of Ordinance 617. The Final Map shall include all easements and dedications for roads, utilities, and drainage or other public uses. [PUBLIC WORKS]
7. Encroachment. Prior to any road construction within a County right-of-way, the applicant shall obtain an encroachment permit from the Public Works Department. (PUBLIC WORKS)
8. Street lighting--Appendix C of Ordinance 617. Prior to recordation of a final map, the applicant shall submit to the County a street lighting plan for lighting of the project entry and the internal roads. Internal street lighting shall be minimized and shall comply with County Ordinance 748. The street lighting plan shall be subject to the review and approval of the County Public Works Department, and improvements specified in the plan shall be completed or bonded prior to filing of the final map. (PUBLIC WORKS, PLANNING)

9. Underground utilities--Section 17-65(f) of Ordinance 617. All utility service and distribution equipment shall be placed underground in conformance with the rules of the California Public Utilities Commission. Prior to recordation of a final map, the County Public Works Director shall ensure that the requirement for underground utilities is noted on subdivision improvement plans and that the subdivider has installed or bonded for installation of all applicable utility services to each lot, including sewer, water, electric power, gas, telephone, and cable service. (PUBLIC WORKS, PLANNING)

10. Fire Service--Sections 17-58, 17-59, and 17-B of Ordinance 617. Prior to recordation of a final map, the applicant shall submit written documentation to the Planning and Public Works Departments from the California Department of Forestry that all CDF Fire Safety Guidelines can be met, that a detailed plan for providing water for fire protection has been reviewed and approved by them, and that CDF has approved the proposed size and location of fire hydrants. (PUBLIC WORKS, PLANNING, CDF)

11. Maintenance--Section 17-68(d) of Ordinance 617. Prior to or concurrent with Board of Supervisors approval of a final map, a County Service Area shall be formed for the purposes of street lighting, street sweeping, and maintenance of road, drainage, open-space and landscape improvements. As an alternative, the subdivision may be annexed into an existing County Service Area providing similar services. The applicant shall be responsible to initiate the formation of the County Service Area through LAFCO, and the County Planning Department shall ensure that the service area is formed concurrently with the approval of the final map. (PLANNING, PUBLIC WORKS)

12. County Service Area – Ordinance 541. Prior to recordation of the final map, the applicant shall annex to a CSA for fire and sheriff protection. (LAFCO, PLANNING)

13. Fish and Game Fees--Section 711.4 of the Fish and Game Code and Section 21089 (b) of CEQA. Department of Fish and Game fees (Fish and Game Code Section 711.4 (d)) must be submitted to the County Planning Department within five days of the decision unless a De Minimis Finding has been made for the project. Should the fees not be paid within five days, the application is subject to actions described in Section 21167 of CEQA and the project is not operative, vested, or final until the fee is paid (21089 (b) of CEQA). [PLANNING]

14. Lighting: A note shall be placed on an additional sheet to the Final Map that states: "All exterior lighting for new development 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 (MM1))

15. Aesthetics: A note shall be placed on an additional sheet to the Final Map that states: "Future building shall be finished in earth tones that blend with the existing vegetation in the area and minimize the visibility of the home from public views. Prior to the issuance of the building permit, the applicant shall provide color samples for roof materials and all exterior wall finishes to the Planning Director for review and approval. The Building Inspector shall verify that the house has been finished in the approved materials and colors prior to the final occupancy of the home." (MM2)

16. Open Space Parcel: Prior to recordation of the Final Map, the applicant shall grant the 37.91-acre Parcel A to a Land Trust to ensure the property remains undeveloped (not including the residence proposed for the caretaker) and remain in agricultural production. (MM3)
17. Air Quality: A note shall be placed on the subdivision improvement plans and on an additional note on the Final Map that states: "All grading and building permits for new construction shall be conditioned to require that disturbed soils be watered during site grading and construction activities to minimize dust." (MM4)
18. Biological Resources: Prior to recordation of the final map, the applicant shall be required to pay the Kit Fox mitigation fees as required by Ordinance 541, and any amendments. (MM5)
19. Geology: A note shall be placed on the Final Map and the improvement plans stating: "A Soils Engineering Report, dated July 29, 2003, was prepared for this property by Earth Systems Pacific Consultants (File No. SH-10031-SA) 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." (MM6)
20. Improvements: Prior to completion of site improvements associated with this project, the applicant shall submit a letter of compliance, from a licensed geotechnical engineer, to the County Public Works and Building Departments, The certificate shall be required to prove compliance with the grading fill recommendations made in the soils engineering report # SH-10031-SA by Earth Systems Pacific.(MM7)
21. Underground Water System: Prior to recordation of the Final Map, the applicant shall install an 8" diameter underground water system is required to be installed as shown on the tentative map and subject to review by County Fire. (MM10)
22. Fire Sprinklers: A note shall be placed on the Final Map stating: " All structures placed on these properties shall be equipped with residential fire sprinkler systems, complying with NFPA 13D and any other applicable codes and standards." (MM11)
23. Supplemental Fire Protection: Prior to recordation of the Final Map, the applicant shall complete an "Agreement for Supplemental Fire Protection" with the San Benito County Water District for each parcel. (MM12)
24. Engineered Plans: Prior to recordation of the Final Map, the applicant shall submit engineered improvement plans for review and approval to the Planning and Public Works Departments. 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 or existing drainage courses to the proposed pond, the proposed pond, and any discharge lines for the proposed pond. (MM13)
25. RWQCB: Prior to recordation of the Final Map, the applicant shall submit to the Regional Water Quality Control Board a "notice of intent" associated with construction activity (including clearing, grading, and disturbances to the ground). A Storm Water Pollution Prevention Plan listing Best Management Practices shall be developed and implemented. (MM14)

26. Grading: A note shall be placed on the improvement plans for the subdivision and an additional note on the Final Map stating the following: "As required by County Ordinance, subdivision construction and grading shall be limited to the hours of 7am and 7pm Monday through Saturday. No subdivision construction activities shall be allowed on Sundays or Federal holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans." (MM15)
27. Dedication: Prior to recordation of the Final Map, applicant shall make an irrevocable offer of dedication for:
- half of 60 feet road right-of-way along Orchard Road, to San Benito County, along eastern property frontages of proposed parcels 1, 8, and parcel A;
 - 60 feet full road right-of-way along the proposed Benevento Court plus 50 feet radius right of way for the turnaround facility, to San Benito County, within the proposed subdivision;
 - half of 110 feet road right-of-way along Fairview Road, to San Benito County, along southern property frontage of proposed parcel A. (MM16)
28. Frontage Improvements: Prior to recordation of the Final Map, applicant shall make roadway frontage improvements for:
- Orchard Road (i.e. 1/2-width of 28 feet AC on 38 feet road bed);
 - Proposed Benevento Court (full-width 24 feet AC on 34 feet road bed plus turn-around). (MM17)
29. Deferred Improvements: Prior to recordation of the Final Map, applicant shall enter into a deferred improvement agreement to improve Fairview Road (half-width on 94 feet AC on 96 feet road bed) along the project frontage. (MM18)
30. Non-Access Strip: Prior to recordation of the Final Map, applicant shall dedicate a non-access strip along the property frontage of both Fairview Road and Orchard Road to limit access to the proposed Benevento Court. (MM19)
31. Water Source: Prior to recordation of the Final Map, the applicant shall provide evidence to the Environmental Health and Public Works Departments that the water source utilized for the proposed project must meet the construction standards outlined in the Department of Water Resources Bulletins 74-81 and 74-90. (MM20)
32. Deed Restriction: If the existing well is used for this project, prior to recordation of the Final Map, the applicant shall record a deed note stating that the concentration of manganese in the water exceeds the maximum containment level. (MM21)
33. Water System: Prior to recordation of the Final Map, the applicant shall obtain a water system permit from the State of California Department of Health Services, Drinking Water Program. (MM22)
34. San Felipe Water System: Pursuant to San Benito Water District Resolution 98-14, a deferred improvement agreement has been recorded (#9510281) for Assessor's Parcels 16-10-32,33, and 34. This recorded document requires the applicant to construct additional San Felipe water delivery facilities (to serve parcels 32 and 33) upon further subdivision of the property and/or change in ownership. The applicant shall submit evidence of compliance with the deferred improvement agreement with SBCWD prior to recordation of the Final Map. (MM23)

35. Inclusionary Housing: 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 a minimum of \$27,019.60 per lot (7 new lots), or as otherwise required by Ordinance 766. (Planning, Ordinance 766)
36. Leachfield Maintenance: Prior to recordation of the Final Map, the applicant shall enter into an agreement with the County to create a County Service Area for the operation and maintenance of the sewage disposal system. (Environmental Health)
37. Leachfield Design: A minimum 20-foot vertical setback between the bottom of the proposed leachfield trench and the seasonally high groundwater table shall be shown on the final map. The Regional Water quality Control Board shall concurrently approve the leachfield design with County Environmental Health prior to recordation of the Final Map. (Environmental Health)
38. Leachfield Location: All trees shall be removed within the primary and secondary leachfield area to prevent root intrusion into leachlines. Location of the leachfield shall be shown on the final map. Orchards shall not be permitted within the septic area. (Environmental Health)
39. Filters: Filters shall be installed on the outlets of all septic tanks to prevent solids from escaping into drainfields. (Environmental Health)
40. Building Permits: All development on the property shall require approved building permits. Applicant shall pay all associated fees for said building permits. (Planning, Building)
41. Zone Change: Prior to recordation of the Final Map, the zone change from AP to AP-PUD shall be approved and finalized by the Board of Supervisors. Should the zone change not be approved, conditional approval of the tentative map shall be nullified. (Planning)
42. Modification: In the event the Board of Supervisors make changes to the PUD design, the project shall return to the Planning Commission for further review and possible revision of the conditions of approval. (Planning)
43. Legal Requirements: Pursuant to Section 18-131, the applicant shall:
- a. Legally create an automatic membership in a nonprofit homeowners association or another approved entity for the purpose of maintaining common improvements for which the title is held by the homeowner's association or other approved entity which is legally obligated to provide designated services to the owners of the lots created by the PUD.
 - b. Place title to the common improvement areas in the homeowner's association or other approved entity, which gives each owner of the lots created by the PUD the right to use and enjoyment of the common improvements.
 - c. Appropriately and permanently govern the use of common open space and improvements.
 - d. Give each owner of the lots created by the PUD the right to use and enjoyment of the common improvements subject to subsection (f) of this condition.
 - e. Give the homeowner's association or other approved entity responsibility for operation and maintenance of the common property.

- f. Place Association charges on each lot created by the PUD so that sufficient funds are assured for maintenance and operation of common improvements and which charges shall be a lien on the property and provide adequate safeguards for the owners of lots created by the PUD against undesirable high charges. Where title to common open space is held by an approved entity other than the homeowner's association, each owner of lots created by the PUD may elect to use and enjoy such common property subject to the charges levied by the approved entity responsible for the ownership, maintenance and operation of the common property.
44. Caretakers Unit: The caretakers unit shall be located within the designated building envelope and located away from Grade 1 soils. Said unit shall not exceed 3,000 square feet of building area. (Planning, Planning Commission)

Chair DeVries noted the hour and announced that the following items would not be considered at this meeting and would be continued to the meeting for October 18, 2006:

PUBLIC HEARING ITEM – COMMISSION ACTION

13. **MINOR SUBDIVISION NO. MS 1185-06-** APPLICANT: Phil Pearce. LOCATION: 6375 San Juan Canyon Road, San Juan Bautista. REQUEST: To subdivide 819.16 acres into two parcels. The project will create a 21.61 acre parcel for a single family dwelling. The remaining 797.55 acre parcel will remain as grazing land. ZONING: Agricultural Rangeland (AR) ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.
14. **USE PERMIT NO. 830-01** – APPLICANT: Max Ornelas. LOCATION: 351 Hospital Road., Hollister REQUEST: To obtain a Use Permit to operate a stable and riding area for horse boarding and exercise. ZONING: Agricultural Productive (AP) ENVIRONMENTAL EVALUATION: Negative Declaration

DISCUSSION ITEM- INFORMATION ONLY; NON-ACTION

16. Del Webb Senior Living Project Development 'Process', other large project information.

FOLLOWING A MOTION BY COMMISSIONERS MACHADO/SMITH, WHICH WAS UNANIMOUSLY APPROVED BY ALL COMMISSIONERS PRESENT – AND NONE WERE ABSENT – CHAIR DeVRIES ADJOURNED THE MEETING AT 9:53 PM

Minutes by:
Judi Johnson

Attest:
Art Henriques, Director
San Benito County
Planning & Building Inspection