

SAN BENITO COUNTY PLANNING COMMISSION

July 16, 2008

Minutes

PRESENT: Bettencourt, DeVries, Machado, Scattini, Tognazzini

STAFF: Director of Planning (DOP) Art Henriques; Assistant Planner (AP) Michael Kelly; Assistant Planner (AP) Ann Dolmage; Public Works Engineer (PWE) Art Bliss; Deputy County Counsel (DCC) Shirley Murphy (arrived at 6:05 PM) and Clerk Trish Maderis.

Chair Machado called the regular meeting of the San Benito County Planning Commission to order at 6:01 p.m. as he led the pledge of allegiance to the flag. Clerk Maderis noted all Commissioner's present.

DIRECTOR'S REPORT

DOP Henriques reported the following information:

- Upcoming Board meetings in August and September will include review of proposed Planning and Building permit fee increases and various Consultant contracts
- Affordable Housing workshops are being planned for community
- Board Sub-committee meetings on review of the Growth Management System and Affordable Housing Program are being scheduled

PUBLIC COMMENT

Chair Machado opened the opportunity for public comment.

There were no persons wishing to address the Commission on items not appearing on the Agenda and Chair Machado closed the Public Comment period.

CONSENT AGENDA

- These items will be considered as a whole without discussion unless a particular item is requested by a member of the Commission, Staff or the public to be removed from the Consent Agenda. Approval of a consent item means approval of the recommended action as specified in the Staff Report.
- If any member of the public wishes to comment on a Consent Agenda Item please fill out a speaker card present it to the Clerk prior to consideration of the Consent Agenda and request the item be removed and considered separately.

- 1.** Acknowledge Public Hearing Notice
- 2.** Acknowledge Certificate of Posting
- 3.** Minutes of July 2, 2008

Commissioner Bettencourt moved to approve Consent Agenda Items 1, 2 and 3 Commissioner Scattini offered a second to the motion which passed 4-0-1; Commissioner DeVries abstained.

PRESENTATION

4. Presentation by Green Building Council, Monterey Bay branch and AMBAG on green buildings and energy reduction.

Sharon Sarris and Joe Piedimonte both LEED Accredited Professionals provided a power point presentation and background information on the US Green Building Council and how other jurisdictions are adopting policies for construction of green buildings.

After the presentation, Trisha Bury, Marketing & Outreach Coordinator for AMBAG, added information including that Federal funding is available.

After some questions and answers, both Chair Machado and Commissioner DeVries commented that green building criteria could potentially be added to the Preliminary Allocation process.

The Commission also recommended that this presentation be given to the Board of Supervisors.

PUBLIC HEARING ITEMS ~ COMMISSION ACTION

5. **USE PERMIT NO. 973-07** REQUEST: To re-designate an existing residence as an accessory senior second dwelling and construct a new single-family dwelling approximately 185 feet from the existing residence on a 5.83-acre parcel. APPLICANT/OWNER: Ron Moritz. LOCATION: 41 Seely Avenue, Aromas. ZONING: Rural Transitional (RT).

AP Kelly presented his staff report and explained the application aided by power point slides. Commissioners DeVries and Commissioner Tognazzini both commented on their concern of the scenic/conservation easement removal.

Commissioner Bettencourt stated he didn't observe any issues when he conducted a site visit. Commissioner Scattini concurred with Commissioners DeVries and Tognazzini stating that removal of the existing easement may set a precedence. DCC Murphy added that every parcel is unique in land use law.

Commissioner DeVries acknowledged that the Board of Supervisors are the final decision makers on the removal of any easements.

Chair Machado then opened the public hearing. There was no one wishing to address the Commission and the public hearing was closed.

Commissioner Tognazzini moved to approve Use Permit No. 973-07 with a recommendation to provide concerns of the removal of the conservation/scenic easement to the Board of Supervisors, Commissioner Scattini offered a second to the motion which passed unanimously.

USE PERMIT 973-07 FINDINGS AND CONDITIONS OF APPROVAL

Accessory Senior Dwelling Unit Findings:

Finding 1: The accessory senior dwelling unit is located on a parcel in a district that allows residences as a permitted use, which either contains one existing single-family dwelling or on a parcel upon which one attached or detached single-family dwelling will be constructed concurrently with the proposed accessory senior dwelling unit.

Evidence: The zoning designation for this parcel is Rural Transitional (RT). A single-family dwelling is a permitted use in the RT zoning district per the County Zoning Ordinance. An existing single-family dwelling is located on the property and shall serve as the accessory senior dwelling unit residence for this property. The parcel upon which the accessory dwelling is proposed conforms to §8 of the County Zoning Ordinance, which provides for accessory senior dwelling units in the RT zoning district on parcels exceeding forty thousand square feet that have been legally created. The parcel was legally created by a parcel map recorded December 18, 1975, in Book 2 of San Benito County Parcel Maps, Page 89.

Finding 2: All development standards for the applicable zoning district have been met, and the development is free of environmental hazards and consistent with all County policies and ordinances.

Evidence: The proposed primary unit meets all height and setback requirements for the RT district per §8 of the Zoning Ordinance. The existing residence proposed to become an accessory senior dwelling unit is nonconforming as to side-yard setback, and no further expansion into the side yard is proposed nor will be permitted. No hazards were identified during project review.

Finding 3: The establishment of the accessory senior dwelling unit, under the circumstances of the particular application will not be detrimental to health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.

Evidence: Regulations and mandatory conditions of approval specified in §52 of the County Zoning Ordinance will ensure that the establishment of an accessory senior dwelling unit on this site will not be detrimental to the persons residing or working in this neighborhood. Construction upon this parcel of a new primary unit in addition to the existing residence shall not have a significant impact on the surrounding area. County departments have reviewed the proposal and have not identified any potential factors that could lead to problems with public health, safety, comfort, and general neighborhood welfare. Review by the departments can be found in the file for Use Permit 973-07.

Conservation and Scenic Easement Vacation General Plan Consistency Finding:

Finding: The proposed modification or vacation of the conservation and scenic easement recorded against the property is consistent with the General Plan.

Evidence: A conservation and scenic easement was recorded against the subject property in order to fulfill a condition of approval of a 1975 minor subdivision (Parcel Map 218-75) prohibiting further subdivision of the parcels created by the parcel map resulting from that subdivision (Book 2 of San Benito County Parcel Maps, Page 89) in order to mitigate environmental constraints related to drainage, the soil's susceptibility to land slides, subsidence or extreme erosion, 25% slopes and concerns regarding liquid waste disposal and groundwater. The General Plan does not mandate a conservation and scenic easement. The original condition of approval, requiring recordation of a deed restriction prohibiting further subdivision, is compatible with the General Plan. Restoration of the original condition of approval and vacation of the conservation and scenic easement on this parcel would be consistent with the General Plan.

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. **Public Works:** Prior to commencement of any work associated with this project, the applicant shall obtain a Public Works Encroachment Permit if any of this work will be performed within the County right-of-way. [Public Works]
4. **Sewer and Water:** On parcels with either public water and/or sewer service, letters must be provided from the appropriate sanitation and water district indicating that there will be adequate sewer and water service to the project. In areas not served by public sewer or water systems, a letter of adequacy of the existing systems must be submitted for the second unit from the County health department. [Planning, Building, Environmental Health]
 - a. The applicant shall obtain sewage disposal permits for the accessory senior dwelling unit and for the proposed new residential structure.
5. **Fire:**
 - 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. [Fire]
 - b. A letter must be provided from the appropriate fire district indicating all fire protection requirements for the project, and all such requirements must be met. [Planning, Fire]
6. **Occupancy:** The accessory senior dwelling unit shall be restricted to occupancy of a one- or two-person household. The accessory unit or the primary residence must be occupied by one household member who meets the definition of a "senior citizen." The owner of the unit shall annually send to the planning department the name and proof of eligibility of the current occupants. Failure of the owner to voluntarily submit the required proof of eligibility will result in the imposition of an administrative fee to cover the cost of the staff inquiry to determine eligibility. Such fees shall be established from time to time by resolution of the Board of Supervisors. [Planning]
7. **Parking:** Sufficient off-street parking shall be provided to meet the requirements of the parking section of the zoning ordinance for the main dwelling unit plus one space for the accessory senior dwelling unit. Any garage or carport constructed in connection with the accessory senior dwelling unit shall not exceed five hundred fifty square feet in area and is not considered part of the area of the unit, but is considered in the overall lot coverage. [Planning, Building]
8. **Design:** The accessory senior dwelling unit shall be designed in a manner as to be visually consistent and compatible (including use of similar materials and color scheme) with the principal residence on the site and other residences in the area. [Planning]
9. **Declaration of Deed Restriction:**
 - a. Before the issuance of a building permit, the property owner shall file a declaration of deed restriction with the County Recorder. This declaration will incorporate the restrictions set forth in this section and any additional conditions placed on the use permit. These restrictions shall be binding upon any successor in ownership of the property. [Planning]
 - b. The applicant shall provide the County with a deed restriction prohibiting further subdivision of the subject parcel, to substitute for the Conservation and Scenic Easement located on the property.

- 10. Archeological:** If, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact or other evidence for an archeological site is discovered, all further excavation and disturbances within 200 feet of the discovery shall cease and desist. If human and/or questionable remains have been discovered, the sheriff/coroner shall be notified immediately pursuant to County Ordinance 610. A note to this effect shall be placed on all construction, grading, or other improvement plans.
- 11. Numbering:** House number shall be posted so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the house numbers shall be set adjacent to the driveway and/or access road to the property. House numbers shall be posted when the construction begins. [Building]
- 12. Periodic Review:** In the event of a compelling public necessity, noncompliance, problems, concerns, or complaints, this permit will be subject to further review and conditioning or, if necessary, revocation by the Planning Commission. Violation of the permit, creation of a nuisance, or compelling public necessity could cause the revocation of this permit. Any expansion of this use beyond what is currently proposed must first be reviewed by the Planning Director, and if necessary shall require further use permit review by the Planning Commission. [Planning, Building]
- 13. Conservation and Scenic Easement:** The use permit shall not be operative or in effect and no rights shall vest thereunder, unless and until the San Benito County Board of Supervisors modifies or vacates the conservation and scenic easement located on the property. Should the Board of Supervisors deny the modification or vacation request, conditional approval of the use permit shall be automatically nullified and voided by the Board of Supervisor's denial.
- 6. SPECIAL PLAN REVIEW NO. 08-123 REQUEST:** The applicant is proposing to construct a 3,200-square-foot metal storage building on his property. A neighbor has requested a public hearing about the proposed building location. **APPLICANT/OWNER:** Robert Ferrari. **LOCATION:** 525 Mount Diablo Road, Hollister. **ZONING:** Agricultural Productive (AP).

AP Dolmage presented her staff report and explained the application aided by power point slides. AP Dolmage explained that typically this type of application was reviewed administratively however a neighbor had requested Planning Commission review. AP Dolmage added a correction to her staff report striking the sentence citing Section 66474.9(b)(2) of the Government Code in the recommended Conditions of Approval.

Chair Machado opened the Public Hearing.

Jose E. Hernandez, 550 Los Viboras Road, Hollister addressed the Commission advising he is a direct neighbor to the proposed building. Mr. Hernandez stated he was not opposed to the construction of the building only requested that the applicant move the location intended. Mr. Hernandez stated he has concerns for increased noise and traffic this building may create. Mr. Hernandez provided a photograph to the Commission. (photo retained in permanent record)

Royce Enz-Bowles, 300 Park Center Drive, Hollister, contractor for the applicant explained some of the issues of re-locating the building and stated the applicant has plans to include landscaping which would compliment the area. Mr. Bowlus added that the opposing neighbor Mr. Hernandez had requested Planning Commission review after the deadline.

Robert Ferrari, 525 Mt. Diablo, Hollister, the project applicant advised the Commission that the building would be used for storage of personal items such as his motor home, tractor and other vehicles. Mr. Ferrari added that in the 3 months he has resided on the property he has added extensive landscaping, planted numerous trees, installed a new water tank and has intentions of adding additional landscaping and a vineyard. Mr. Ferrari also provided photos to the Commission. (photos retained in permanent record)

Jose Hernandez rebutted that the proposed building was too close to the roadway and may block the view of vehicles traveling on Jenny Lane. After some debate back and forth, Chair Machado reminded the speakers to address their concerns and comments directly to the Commission.

Mrs. Hernandez (no speaker card) advised the Commission that the proposed building would block her view and reiterated some safety concerns.

Chair Machado then closed the Public Hearing. Commissioner DeVries explained that the application and proposed building is an allowed use in the zoning district and the applicant has met the required setbacks. Commissioner Scattini concurred stating the Commission was following the laws and rules in place. Chair Machado then called for the question.

Commissioner Bettencourt moved to approve SPR 08-123 with the recommended findings and conditions, Commissioner Scattini offered a second to the motion which passed unanimously.

Conditions of Approval

1. **Hold Harmless:** Upon written notice by the County, the applicant shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul the approval of the subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to said section. [PLANNING]
2. **Compliance Documentation:** Prior to issuance of a building permit, 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 all applicable impact fees. [PLANNING, BUILDING]
3. **Conformity with Plan:** The development and use of the site shall conform substantially with the proposed site plan and the Conditions of Approval as declared by the Planning Commission. [PLANNING]
4. **Fire:** The project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, the Uniform Building Code, the San Benito County Code, and other related codes as they apply to a project of this type and size. [FIRE]

INFORMATIONAL

Commissioner Announcements/Reports/Discussions

Commissioner Tognazzini requested staff to return MS1181-05, Applicant: Jim Corotto to ratify the Commission's decision on April 16, 2008 due to recent Board of Supervisor approval of amendments to the Subdivision Ordinance.

DOP Henriques advised staff would confirm the timing and return the information to the Commission as a later date.

ADJOURNMENT

On a motion by Commissioner DeVries and seconded by Commissioner Tognazzini Chair Machado adjourned to the Regular Meeting of August 6, 2008 at 8:29 PM.

Minutes prepared by:
Trish Maderis
Planning Commission Clerk

ATTEST:
Art Henriques
Director of Planning