

SAN BENITO COUNTY PLANNING COMMISSION

February 7, 2007

Minutes

PRESENT: Bettencourt, DeVries, Machado, Smith, Tognazzini

ABSENT: None

STAFF: Principal Planner (PP) Byron Turner; Assistant Planner (AP) Lissette Knight; Deputy Director of Public Works (DDPW) Arman Nazemi; Deputy County Counsel (DCC) Shirley Murphy; Minutes Clerk Janet Somavia

Chair DeVries opened the meeting at 6:04 p.m. by leading the pledge of allegiance to the flag and reiterating the standing rules of order.

DIRECTOR'S REPORT:

Due to the absence of DOP Henriques to a conference in Sacramento, PP Turner presented the Director's report:

- Special meeting February 13 – joint meeting of City and County Planning Commissions – regarding Lowe's projects. PP Turner stressed no decisions will be made, with the meeting being at 6:00 p.m. at Hollister City Hall. Chair DeVries clarified that items brought forth in prior discussions would be reviewed at this meeting.

Commissioner Smith asked about the necessity of recusal due to potential conflict of interest (300 foot rule). DC Murphy clarified that Commissioner Smith may attend and participate from the audience, but not as a voting member of the Commission.

PUBLIC COMMENT:

Chair DeVries welcomed Government-class student Greg Smith (son of Commissioner Smith), then provided an overview of the duties and functions of the Commission.

Noting no others present to address matters not on the agenda, the public comment opportunity was closed.

**ELECTION OF CHAIR AND VICE-CHAIR FOR TERM OF
FEBRUARY 1, 2007 THROUGH JANUARY 31, 2007**

COMMISSIONERS SMITH/MACHADO NOMINATED COMMISSIONER TOGNAZZINI TO BE CHAIR FOR THE ENSUING TERM. THE MOTION PASSED (5-0-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

Commissioner DeVries thanked the Commissioners for helping with a ‘very enjoyable’ term. Chair Tognazzini assumed the gavel, thanking the Commissioners for the ‘vote of confidence’.

COMMISSIONERS BETTENCOURT/MACHADO NOMINATED COMMISSIONER SMITH TO BE VICE-CHAIR. THE MOTION PASSED (5-0-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

CONSENT AGENDA:

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of January 17, 2007

COMMISSIONERS DeVRIES/SMITH MOTIONED TO APPROVE THE CONSENT AGENDA, AS PRESENTED. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT.

PUBLIC HEARING ITEMS – CONSENT AGENDA

CONTINUED ITEM ~ COMMISSION ACTION ~ CONSENT AGENDA

(this item was pulled from the Consent Agenda with the potential for action by the Commissioners)

4. Consider Re-Allocation(s) of pending subdivisions: (provides 2 year extension)

MS 1161-05	DOTTA/PERREIRA	Exp 1/18/07 ~ 1 allocation
MS 1162-05	DOTTA	Exp 1/18/07 ~ 1 allocation
MS 1158-04	COROTTO	Exp 1/18/07 ~ 2 allocations
TSM 06-73	LICO-GRECO	Exp 1/18/07 ~ 14 allocations

PP Turner gave the staff report, reminding this item had been continued from the January 17, 2007 meeting. All applicants listed in the table had been contacted, he said, with the details of the specific requests having been distributed to the Commissioners.

The following was discussed:

- time line of allocations and extensions thereof
- these are re-allocations

COMMISSIONERS BETTENCOURT/SMITH MOTIONED TO APPROVE ITEM #4 OF THE CONSENT AGENDA, AS PRESENTED {AND WITH THE PRELIMINARY ALLOCATION NUMBERS READ INTO THE RECORD}. THE MOTION PASSED (5-0-0-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

PUBLIC HEARING ITEM – COMMISSION ACTION

CONTINUED ITEM ~ COMMISSION ACTION ~ PUBLIC HEARING ITEM

5. MINOR SUBDIVISION NO. 661-84B – APPLICANT: Cooper, Sandoval and Adair LOCATION: Brown Rd., San Juan Bautista. APNs: 11-23-29, 11-23-40 & 11-23-41. REQUEST: An amendment to the approved subdivision to change the building envelopes and access easements (R).

AP Knight presented the staff report, noting this item had been continued from the January 17, 2007 meeting, and gave an overview of the request. She explained that the data distributed to the Commissioners contained:

- noise studies ~ as requested by the Commissioners
- updated/corrected Conditions of Approval
- attachment containing views of the properties

Chair Tognazzini opened the public hearing.

Jim West, representing Granite Rock, repeated the prior request for denial, citing what he referred to as ‘previous commitments and agreements’. Mr. West insisted that the building envelopes had been agreed, and should not be changed as he spoke of the areas of vested mining area [for Granite Rock] plus the areas designated by the State as ‘mineral deposits of significant importance’. Responding to a question from Commissioner Bettencourt, Mr. West detailed the ‘overburden’, and said that there would likely be active mining (with blasting) in the area some day.

Ko Cooper spoke at length, having presented written comments to the Commissioners. Mr. Cooper was adamant that the Tentative Map added restrictions which could be considered ‘safeguards’ and asked approval of the request.

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

Disclosure: Commissioner Bettencourt noted he had visited the site and ‘walked the property’.

Commissioners noted:

- there appears to be enough barrier (dense foliage, etc.) at the ridgeline to minimize noise
- recorded map gives the impression of adequacy
- concern: if noise studies are legally defensible
- distances of lots from quarry
- noted that staff did not feel a new noise study was warranted
- potential for new methods of mining in the future

COMMISSIONERS DeVRIES/SMITH MOTIONED TO APPROVE MINOR SUBDIVISION NO. 661-84B, IN THE REQUEST AS PRESENTED, INCLUSIVE OF THE MITIGATED NEGATIVE DECLARATION, CEQA REQUIREMENTS, AND THE AMENDED FINDINGS AND CONDITIONS OF APPROVAL CONTAINED WITHIN THE STAFF REPORT. THE MOTION PASSED (5-0-0-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

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 Use Permit and applicable proceedings. [Planning]
2. **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]
3. **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 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)

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.

4. Environmental Health:

- a. Soil Profile and percolation testing must be performed in each area proposed for development to determine soil suitability. Any soil testing may be applicable if the testing was performed in the areas proposed for this development.
- b. If any water system is proposed to serve two to four connections then a local small water system permit will be required. [Environmental Health]

5. Fire: The project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, the Uniform Building Code, San Benito County Code Chapter 17, Public Resources Codes 4290 and 4291 and all other related codes as they apply to a project of this type and size.

6. Public Works: The applicant and owner of parcel one shall grant to the County of San Benito a right of way easement for a 30 foot radius return at the northeast corner of Brown Road with Cannon Road.

7. Recordation: The applicant(s) shall file a Certificate of Correction to show the amended building envelopes.

8. Note on Certificate of Correction: The following note shall be placed on the recorded Certificate of Correction for MS 661-84B: *"Property owners are advised and hereby notified that the revised building envelopes are in close proximity to a mineral resource area which is vital to the County's economic well being and visual or noise impacts may be experienced"*.

REGULAR AGENDA ~ COMMISSION ACTION ~ PUBLIC HEARING ITEMS

6. MINOR SUBDIVISION 1161-05 – APPLICANT: Dolores Perreira.
LOCATION: 2035 Wright Road. APNs: 18-22-08 and 19-10-12. REQUEST:
Tentative parcel map for division of a 10.63-acre parcel into 2 lots. ZONING:
Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated
Negative Declaration.

AP Kelly gave the staff report, addressing the issues of soils (grades), and location of the building envelope, mitigations, and distributing updated information of the conditions {non access strip along Wright Road; land reserved for possible future realignment of Wright Road; road will be improved near driveway and shoulders be improved beyond the driveway along Wright Road} required by Public Works.

Commissioners discussed with staff:

- buildings placed on Grade 1 soils through subdivision of lands (DCC Murphy clarified that there is not proscription to divide parcels containing Grade 1 soils, but such should be given the highest level of protection)
- General Plan does not give prohibition on subdividing Grade 1 soil
- property under request is surrounded by development on three sides
- there are mitigation measures which are acceptable for properties with Grade 1 soils
- the actual building site is on Grade 2 soils
- existing parcel has dwelling on it

Chair Tognazzini opened the public hearing.

Engineer Roger Grimsley called attention to Policy 3 of the County's General Plan, contains three criteria: get soils engineer to qualify the soil as Grade 1, if surrounded on three sides by development, and if site is not entirely Grade 1 soils, an exemption can be made. Mr. Grimsley spoke of the 'knoll' where the Grade 2 soil was present and why the decision had been made to construct the dwellings at that location. Mr. Grimsley referenced the Lompa property on Southside Road where the Grade 1 portion of the property can be highlighted and reserved for agriculture preserve inside the subdivision boundaries and make that part of the mitigation.

Mr. Grimsley also referenced the Conditions of Approval saying the change is needed for Condition #6 (as indicated by the Department of Public Works), saying there would be future alignment of the roadway.

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

Considerable discussion ensued regarding:

- easement ~ mitigation measures
- Policy 3 of the General Plan
- question of protection of the General Plan
- prospective update of General Plan
- need to have Legal Counsel look at policy set by General Plan
- need to have evidence to support finding
- need for more in-depth discussion/study session for this issue (grades of soils; what is allowable for building)

Following the lengthy discussion, **COMMISSIONER DEVRIES/MACHADO VOTED TO CONTINUE THE MATTER OF MINOR SUBDIVISION 1161-05 TO THE FEBRUARY 21, 2007 COMMISSION MEETING, AND DIRECTING STAFF TO PROVIDE AN ANALYSIS AND SUPPLEMENTAL REPORT OF FINDING #1 [SUBDIVISION FINDINGS, PAGE 3 OF 7 STAFF REPORT] AND THE CONSISTENCY WITH THE GENERAL PLAN AND IF FITS INTO THE EXEMPTIONS WITH CLARIFICATION OF YES/NO AND HOW THE MITIGATION MEASURES IN THE MITIGATED NEGATIVE DECLARATION SOLVE THE PROBLEM]. THE MOTION PASSED (5-0-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

7. PRELIMINARY ALLOCATION EXEMPTION 06-02 – APPLICANT:
Cathy Larson. LOCATION: 1614 Hillcrest Road. APN: 25-35-53. REQUEST: To obtain a one-time, one-lot family member exemption from the County Growth Management System in order to obtain preliminary approval for subdividing a property into two parcels. ZONING: Rural Residential (RR).

AP Kelly gave the staff report, noting the requirements of Ordinance No 751, which gives the Planning Commission ‘the authority to approve a minor land division....where the land division creates one new building site for a family member of the property owner’. AP Kelly then called attention to a correction: the site is *not* in a flood plain as had been mapped in the staff report.

Chair Tognazzini opened, then closed, the public hearing as there were none present to address the matter.

COMMISSIONERS BETTENCOURT/MACHADO MOTIONED TO APPROVE RESOLUTION NO. 2007-02, INCLUSIVE OF PRELIMINARY ALLOCATION EXEMPTION (PAX) 06-02 TO SUBDIVIDE PROPERTY LOCATED AT 1614 HILLCREST ROAD FOR A FAMILY MEMBER. THE MOTION CARRIED (5-0-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

**8. Consider Time Extension(s) of preliminary allocations:
(provides 1 year extension)**

PP Turner gave the staff report, noting that the extensions were for 12 months. The Growth Management System allows applicants to request this time frame. These allocations were given in February 2005 and a majority of the applications are for a partial allocations granted at that time. Due to the partial allocations, the applicants were not able to apply for a tentative map until full allocations were received (mid 2006).

Responding to a question from Commissioner DeVries (Why the applicant has to ask for an extension if there is no basis for denial?), PP Turner explained that only those which are eligible for extension [as he explained the reasons why denial could be made] - and the Planning Commissioners has the ability to deny – under the current rules.

PA 05-01	BOWERS	1 Allocation
PA 05-02	BROWDER	1 Allocation
PA 05-03	SANCHEZ	1 Allocation
PA 05-05	RODRIGUEZ	2 Allocations
PA 05-06	SILVA	1 Allocation
PA 05-07	FERGUSON	1 Allocation
PA 05-08	YOUNG	1 Allocation
PA 05-10	HILDEN	2 Allocations
PA 05-11	COROTTO	1 Allocation
PA 05-12	COROTTO	1 Allocation
PA 05-13	GRABEEL	2 Allocations
PA 05-14	BERESINI	1 Allocation
PA 05-15	KAMBOJ	3 Allocations
PA 05-18	LEONARDINI	2 Allocations
PA 05-19	PRADO	1 Allocation
PA 05-21	INTRAVIA	2 Allocations
PA 05-23	VALLES/PERRY	1 Allocation
PA 05-25	STOWELL	1 Allocation
PA 05-26	PEARCE	1 Allocation

Chair Tognazzini opened the public hearing.

Engineer Matt Kelly said (speaking for several of the applicants) the delays were caused by turn-over/lack of staff in the County. He noted that the staff has asked approval of the extensions.

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

COMMISSIONERS MACHADO/DeVRIES MOTIONED TO APPROVE THE EXTENSIONS AS OUTLINED. THE MOTION PASSED (5-0-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

INFORMATION – NON-ACTION ITEM

Update on General Plan and Affordable Housing Study Session

PP Turner gave an overview of the affordable housing study session at the Board of Supervisors, with the notes and PowerPoint presentation given at that meeting. He said a summary would be presented to the Board with direction being sought for future action/highest priority. There are issues, he said, with the Inclusionary Housing Ordinance, which needs to be 'revamped'.

The General Plan Stakeholder meetings were discussed, with planning staff asking for other names for inclusion in the future meetings. PP Turner spoke on the importance of including as many groups as possible. Responding to Commissioner Bettencourt, PP Turner gave an overview of the process at this time, with the stakeholder invite stage being current.

Commissioner Announcements/Reports/Discussions

Commissioner's reports:

Commissioner DeVries: PRGI sub-committee met last week County officials, which will result in major changes to the way the County will address large scale developments. Next, he said, County Counsel is working on a draft proposal that will be taken to the Board of Supervisors in March (DCC Murphy said it could be heard at the February 27 Board meeting), with enactment of a new Ordinance in April. Commissioner DeVries addressed the issue of the relationship of the General Plan and the PRGI Ordinance.

Commissioner Machado asked as to the detail of the Sign Ordinance. PP Turner reported it is very detailed.

Commissioner Bettencourt said he had talked to Supervisors Monaco and Loe regarding involvement of the High School and Community College students in having input on the update of the General Plan.

Announcements: Roger Grimsley announced that Engineers Matt Kelly and Ann Hall are working on allocations for the current year. He urged the Commissioners and staff to 'get going on the updates to the system'.

COMMISSIONERS BETTENCOURT/SMITH MOTIONED TO ADJOURN THE MEETING. THE MOTION CARRIED WITH; THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; TOGNAZZINI WAS ABSENT. CHAIR DeVRIES ADJOURNED THE MEETING AT 7:29 P.M.

Minutes transcribed by:

Judi Johnson

Attest:

Byron Turner, Principal Planner