

# SAN BENITO COUNTY PLANNING COMMISSION

## March 21, 2007 Minutes

PRESENT: Bettencourt, DeVries, Machado, Smith, Tognazzini

ABSENT: None

STAFF: Director of Planning (DoP) Art Henriques, Principal Planner (PP) Byron Turner; Assistant Planner (AP) Chris Herrera; Assistant Planner (AP) Michael Kelly, Planning Technician (AP) Michael Krausie, Deputy Director of Public Works (DDPW) Arman Nazemi; Deputy County Counsel (DCC) Shirley Murphy; Minutes Clerk Janet Somavia

Director of Public Works, Jerry Lo was also present for a portion of the meeting.

Chair Tognazzini opened the meeting at 6:05 p.m. by leading the pledge of allegiance to the flag and reiterating the standing rules of order.

### **DIRECTOR'S REPORT:**

DoP Henriques reported on items of interest from the Board of Supervisors meetings:

- March 13 update to the Board on the General Plan work in progress, with a written summary to the Commissioners at this meeting
- DoP Henriques employment contract amendment was approved
- discussion of affordable / inclusionary housing program: on Commission agenda at this meeting
- information presented as an update on the City of Hollister's sprayfield project (relating to the construction/distribution of the waste water plant – and County's participation {financially} and staff technical level/policy Board level;
- acknowledged that Chris Herrera who has been a valued employee is transferring to the Department of Public Works. AP Herrera spoke, telling the Commissioners he has appreciated the opportunity to help shape the County while helping applicants realize their hopes

### **PUBLIC COMMENT:**

Noting that no one was present to address matters not on the agenda, Chair Tognazzini closed the opportunity for public comment.

### **CONSENT AGENDA**

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of February 21, 2007
4. Minutes of March 7, 2007

**COMMISSIONERS MACHADO/BETTENCOURT MOTIONED TO APPROVE THE CONSENT AGENDA AS PRESENTED. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

*Note: following the decision by the Commissioners for each of the items listed on the agenda, it was noted that an appeal process time period is set forth, with appeal possible to the Board of Supervisors. DoP Henriques stated that unless the appeal was filed, the decision by the Commissioners is final.*

**CONSENT AGENDA ~ PUBLIC HEARING / COMMISSION ACTION**

5. **CERTIFICATE OF COMPLIANCE NO. 06-68** – APPLICANT: Paul Kaneko. OWNER: Jerry Haney. LOCATION: San Juan Canyon Road. APN: 23-31-04. REQUEST: Recognition of 70-acre non-buildable remainder parcel as buildable legal parcel. ZONING: Rural (R). ENVIRONMENTAL EVALUATION: Negative Declaration.

AP Kelly gave the staff report, stating a request has been received that this matter be continued to the meeting of April 18, 2007.

Chair Tognazzini opened the public hearing.

With none present to speak to the matter, the public hearing was closed.

**COMMISSIONERS SMITH/DEVRIES MOTIONED TO CONTINUE THE MATTER OF CERTIFICATE OF COMPLIANCE NO. 06-68 TO THE COMMISSION MEETING OF APRIL 18, 2007. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**PUBLIC HEARING ITEMS ~ COMMISSION ACTION:**

6. **MINOR SUBDIVISION NO. 1167-05:** APPLICANT: Laverne Browder. LOCATION: Thomas Road, Hollister. APN: 25-21-44. REQUEST: To subdivide a 10-acre parcel into two 5-acre parcels. ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration

PP Turner gave the staff report, and detailed the project, including the Mitigated Negative Declaration, with the measures contained therein, as he called attention to findings 1, 5, and 7. Condition # 10 C required joining a neighborhood CSA and Condition # 25 requires that the *new* parcel be annexed to CSA 43 (fire and police protection). Some minor changes, dealing with re-numbering of the Conditions and resultant alterations were noted, with deletion of Condition #15 and a deletion (credit to cost of required improvements) in Condition #28 highlighted.

Commissioner DeVries asked questions regarding the grades of the soils present in the site (PP Turner clarified that Class 1 soils were not present). It was noted that this site has been used for grazing in the past.

Chair Tognazzini opened the public hearing.

Matt Kelley, of Kelley Engineering, said Mr. Browder concurs with the mitigation requirements and conditions listed.

Engineer Roger Grimsley spoke on the uses of the parcel, saying the ‘upper shelf’ was generally used for grazing and the lower shelf for a single family dwelling (existing home).

Chair Tognazzini closed the public hearing as there were no others present to address the matter.

Commissioner Bettencourt asked about the proximity Tiger Salamander habitat. PP Turner explained the Mitigated Negative Declaration had addressed mitigations for this matter.

**COMMISSIONERS BETTENCOURT/MACHADO MOTIONED TO APPROVE THE MATTER OF MINOR SUBDIVISION NO. 1167-05, INCLUDING THE MITIGATED NEGATIVE DECLARATION, TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND THE MODIFICATIONS OUTLINED BY STAFF. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**Conditions of Approval:**

**1. Recordation:**

A Parcel Map shall be submitted for review by the Planning and Public Works Departments before filing for recordation. The tentative map shall expire two (2) years after Planning Commission approval, unless extension(s) are granted pursuant to local regulation and the Subdivision Map Act. [PLANNING, PUBLIC WORKS, RECORDER]

**2. Hold Harmless:**

Pursuant to Section 66474.9 of the Government Code, upon written notice by the County the subdivider shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul the approval of the subdivision and applicable proceedings. San Benito County shall be subject to Section 66474.9(b)(2) of the Government Code. San Benito County reserves the right to prepare its own defense pursuant to said section. [PUBLIC WORKS]

**3. Assessment:**

Prior to recordation of the Parcel Map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492 through 66494 inclusive of the Subdivision Map Act. [ASSESSOR, PUBLIC WORKS]

**4. Easements:**

The Parcel Map shall show all easements for access, utilities, and drainage. [PLANNING, PUBLIC WORKS]

**5. Compliance Documentation:**

Prior to action by the County on the Parcel Map, the subdivider shall submit a summary response to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. The subdivider shall also submit a response as to how this project complies with all applicable impact fees. [PLANNING, BUILDING, PUBLIC WORKS]

**6. Encroachment Permits:**

Prior to any construction within the County right-of-way, the applicant shall obtain the appropriate encroachment permit from the Public Works Department. [PUBLIC WORKS]

**7. Conformity with Plan:**

The final parcel map and use of the site shall conform substantially with the approved tentative parcel map and the conditions of approval as declared by the Planning Commission. Any further development of additional units shall be subject to further Planning Commission review and approval. [PLANNING]

**8. Lighting:**

A note shall be placed on an additional sheet to the Parcel Map that states: "All exterior lighting for new development 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 (MM)1]

## **9. Air Quality:**

A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states: "The contractor shall require water trucks to operate in conjunction with grading equipment and application of water shall be made as frequently as is necessary to control dust at a minimum of three to times a day. If dust is not adequately controlled through the application of water, grading activities will be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed prior to the resumption of grading." [MM 2]

## **10. California Tiger Salamander:**

The following conditions are required regarding protection of the California Tiger Salamander. A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states all of the following:

**A.** Prior to subdivision construction, which includes grading and other ground disturbing activities, implement all measures required by the USFWS to avoid and minimize the 'take' of CTS; which, subject to USFWS approval of a Habitat Conservation Plan (HCP), may include an Incidental Take Permit with terms and conditions for the avoidance and minimization of impacts to CTS, as allowed under Section 10 of the Endangered Species Act.

**B.** No 'take' of state or federally listed species shall occur prior to obtaining the required permits from the appropriate regulatory agencies, e.g., the USFWS.

**C.** All measures recommended to the USFWS and all measures required by the USFWS to avoid and minimize the 'take' of CTS, whether part of a proposed HCP or otherwise, shall be submitted to the County Planning Director to determine compliance with project conditions.

Also, as part of the implementation of the above mitigation measures, project compliance shall include the following measures, which shall be recommended to the USFWS during the preparation of an HCP to avoid and minimize the take of CTS; although, it is acknowledged that these recommended measures are subject to USFWS approval:

- 1.** Establish a Preserve Area on the subject property to provide a protected habitat and movement corridor to off-site breeding ponds, as shown on the attached map titled "Recommended Protected Habitat and Movement Corridor for the California Tiger Salamander." This area shall be preserved and maintained as Open Space for the benefit of CTS. The exact acreage of the Preserve Area shall be determined by consultation of the applicant and the USFWS during the preparation of an HCP.
- 2.** Provide appropriately designed tunnels at a crossing under the access road to Thomas Road to allow passage of CTS, together with a protected habitat and movement corridor on APN 25-21-43 for CTS (to be included in the Preserve Area), as shown on the above-mentioned map; and, provide construction, monitoring and maintenance rights for this purpose from the owner of APN 25-21-43 for the present and future owners of the subject property via recorded easements and/or restrictive covenants.

3. Establish or join a Home Owners Association (HOA) for the new residential development. The HOA shall appoint a person responsible for all the long-term management of the Preserve Area; and, the HOA, through fees assessed on each subdivided parcel, shall pay for the annual monitoring and maintenance of the Preserve Area.
4. Install a CTS exclusion fence prior to construction of the homes between the boundaries of the development area where it intersects with the Preserve Area in order to protect the CTS by preventing them from entering the development area.
5. Have a qualified biologist monitor all ground-disturbing activities associated with construction (e.g., stripping, grading, etc.), and relocate any CTS present to the Preserve Area. [MM3, MM4, MM5]

**11. San Joaquin Kit Fox:**

The following conditions are required regarding protection of the San Joaquin Kit Fox. A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states all of the following:

- A. Within 14-30 days of the start of construction if construction is initiated between 1 March and 30 July, have a qualified biologist conduct a survey of the project area for the presence of the San Joaquin Kit Fox,
- B. If kit fox dens are located, erect construction barriers around them with colored flagging or other suitable material that would remind construction personnel to avoid the area during active use of the dens,
- C. If active dens are found, the project biologist must notify the U.S. Fish and Wildlife Service and consult with them as to any additional protection measures they would deem prudent,
- D. Inactive dens, confirmed through use of the established protocols, could be collapsed
- E. Any constructed steep walled holes more than two feet deep should be covered at the end of each work day, and the hole carefully inspected the next morning to ensure a fox is not present. If one is found in such a structure, workers should avoid the area until the fox has left. If necessary, a temporary ramp, such as a long piece of timber, may be placed in the hole to ease the fox's escape,
- F. All food related containers should be stored in closed containers and removed from the site as appropriate,
- G. Each morning before the start of construction, all potential fox hiding places shall be inspected to ensure a fox is not hidden in or beneath them. For example, all equipment and materials, such a vehicles, pipes, open boxes, etc., where a fox could hide should be inspected. If a fox is found, workers should remove themselves from the area to allow the fox to escape the area without being harassed.

Also, to comply with County Ordinance 541, mitigation fees for SJKF will be paid to the County as a condition of the subdivision and again with building permits. These fees are to fund a Habitat Conservation Plan for the SJKF, which will further protect and assist in the recovery of this species.

**12. Burrowing Owl:** The following condition is required for protection of the burrowing owl. A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states all of the following: Prior to subdivision construction, the land owner shall have performed a burrowing owl survey using the 1993 Burrowing Owl Consortium protocols. A copy of the results shall be provided to CDFG and the San Benito County Planning Director. No construction for this project shall occur unless and until the San Benito County Planning Director approves a negative finding based on these protocols. [MM 6]

**13. Archaeological Reconnaissance Investigation:** The applicant shall be required to submit an Archaeological Reconnaissance Investigation of the project site prior to recordation of the parcel map. The study shall be prepared by a qualified California SOPA archaeologist and recommendations of the study shall be incorporated into the project improvement plans and followed for building permit applications. A note to this effect shall be placed on all construction, grading, or other improvement plans. [MM7]

**14. Archaeological Resources:** If, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact or other evidence of an archaeological site is discovered, all further excavations and disturbances within 200 feet of the discovery shall cease and desist. If human and/or questionable remains have been discovered, the sheriff-coroner shall be notified immediately pursuant to County Ordinance 610. A note to this effect shall be placed on all construction, grading, or other improvement plans. [MM8]

**15. Foundation & Structure Plans:** The LandSet Engineers, Rogers E. Johnson geologic investigation and 2004 and 2005 Nolan Zinn Associate peer review shall be noted on an additional map sheet of the recorded parcel map with the following statement: "Foundation plans and structure design for building shall comply with the recommendations from the Rogers E. Johnson, and Earth Systems studies in order to minimize damage from ground shaking, surface fault rupture and debris flow hazard to an insignificant level." The map sheet shall include a note stating that "The soils and foundations investigations for residences shall include a re-evaluation of liquefaction hazard and recommendations for foundation design." [MM 12]

**16. Drainage:** Submission of engineered improvement plan that complies with County Drainage Standards and provides erosion and drainage control details on the improvement plans is required. Any drainage calculations submitted shall comply with the requirements of the County Drainage Standard and shall be signed and stamped by a registered civil engineer in the State of California. The improvement plans shall depict a building site for each lot, appurtenant access on each lot, and provide an engineering drainage report that demonstrates no drainage impact on downstream properties as a result of development on the project site. [MM13]

**17. Grease Traps:** A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states all of the following: As additional protection of storm water run-off to the retention ponds, grease and silt traps will also be installed at the base of the proposed driveways. This will further prevent storm water run-off into the San Benito River. [MM14]

**18. Septic Envelope:** A note shall be placed on an additional sheet to the Parcel Map that states: In order to protect groundwater quality, the applicant shall secure approval from the Division of Environmental Health for septic envelopes prior to approval of the project. The approved septic envelopes and systems shall be illustrated on the tentative map for project consideration and the locations shall comply with all provisions of the Central Coast Basin Plan and the San Benito County Code. The map shall also illustrate the locations of soil testing performed. The septic envelopes shall be shown separate from the building envelopes, shall be scaled, and shall be large enough (based upon the soil types observed in each area) to accommodate the primary, secondary, and tertiary reserve area for the “typical” dwellings to be constructed. The applicant may include more than one envelope on each lot provided that the envelope is justified by a soils report prepared by a registered civil engineer. [MM16]

**19. Sewage Disposal/Leachfields:** The following notes to be placed on an additional map sheet of the recorded parcel map:

- a) Prior to the issuance of building permits, the applicant shall obtain sewage disposal permits from the Division of Environmental Health.
- b) The total depth of any leachfield trench on any lot shall not exceed seven feet (five foot flowline). [MM17]

**20. Small Water System:** Prior to approval of the tentative map, the applicant shall submit a 24-hour pump test, an updated water quality analysis for Well #1, and a list of parcels to be served by this well. The information shall be reviewed by the Environmental Health to establish the ability of this well to serve a Local Small Water System. If standards cannot be met, the applicant shall be required to drill a new well that meets County standards to serve parcels one and two. [MM18]

**21. Secondary Drinking Water Standards:** In order to advise potential homeowners of the proposed water supply, a condition of MS 1167-05 shall require the following note to be placed on additional map sheet of the parcel map: “This note is to advise that in well number 2 on parcel 3, the concentrations of sulfate, chloride, specific conductance, turbidity, total dissolved solids, iron, and manganese exceed secondary drinking water standards. Furthermore, the concentrations of Specific Conductance and Sulfates exceed the recommended Upper limits and the concentration of total dissolved solids exceeds the short-term upper limits. [PLANNING, ENVIRONMENTAL HEALTH]

**22. Construction Hours:** A note shall be placed on an additional sheet to the Parcel Map that states: “As required by County Ordinance, construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans.” [PLANNING]

**23. Utilities:** Prior to recordation of the parcel map, the applicant shall place a note on the improvement plans stating: “Utility service systems to all parcels shall be placed underground”. [Public Works, Subdivision Ordinance Section 17-65 (f)]

**24. County Service Area:** Prior to recordation of the parcel map, the applicant shall make application to LAFCO to join County Service Area 43 for fire and sheriff protection. All related processing fees, including State Board of Equalization fees, must be submitted prior to recordation of the final map. [LAFCO, Ordinance 651]

**25. Fish & Game Fees:** Applicant shall pay applicable Department of Fish and Game fees of \$1,800 plus \$50 filing fee prior to recordation of the parcel map. [CDFG]

**26. Mitigation Monitoring:** Prior to recordation of the final map or Planning Department approval of the improvement plans, whichever ever comes first, the applicant shall enter into a mitigation monitoring agreement with San Benito County. (PLANNING)

**27. Dedication:** Prior to recordation of the parcel map, applicant shall make an irrevocable offer of dedication for half of a 60 feet of right-of-way along Thomas Road, to San Benito County, along property frontage. [PUBLIC WORKS]

**28. Thomas Road Improvements:** The applicant shall make an irrevocable offer of dedications to San Benito County for:

- a) Half of 60 feet road right -of -way along Thomas Road;
- b) Full 30 feet ingress /egress easement for the off-site access driveway, from Thomas Road to the access approach for proposed parcel two.

**Prior to recordation of the parcel map for this project, applicant shall:**

- a) Improve Thomas Road to a width of 20 feet with AC dikes on both sides of the travel way from the intersection of the off-site access driveway to the south boundary. Off-site access driveway, from Thomas Road to the access approach for proposed parcel two (full width 16 feet AC on 18 feet road bed plus 40 feet radius AC turnaround).

**29. Fire Standards:** A note shall be placed on an additional sheet to the Parcel Map that states: "Prior to the issuance of any permits for new development, the applicant shall comply with all requirements of the County Fire, including the provision of an adequate water supply and flow for fire suppression. This may require the installation of one or more above ground water storage tanks and fire hydrants, and the installation of NFPA 13D Residential Fire Sprinkler Systems." [COUNTY FIRE]

**7. VARIANCE NO. 07-20 / SCENIC CORRIDOR REVIEW NO. 07-70: APPLICANT: David Abbott. LOCATION: 1271 Chittenden Pass; San Juan Bautista. APN: 011-140-032. REQUEST: Requesting a 10 foot set back variance in order to build an agricultural storage garage. ENVIRONMENTAL FINDINGS: Categorical Exemption**

PT Krausie presented the staff report, explaining the Variance (07-20) and Scenic Corridor Review (07-70) relation to the request.

Commissioners asked questions regarding the ability to have the garage seen by members of the public, to which the staff responded.

Chair Tognazzini opened the public hearing.

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

**COMMISSIONERS SMITH/DeVRIES MOTIONED TO APPROVE VARIANCE NO. 07-20 / SCENIC CORRIDOR REVIEW NO. 07-70, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

- 8. MINOR SUBDIVISION NO. 1194-06.** APPLICANT/OWNER: Alfred Silva Jr.  
LOCATION: 4155 John Smith Road, Hollister. APN: 022-013-016 & 017.  
REQUEST: To subdivide 201.73 acres into a four (4) lot subdivision. ZONING: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Mitigated Negative Declaration.

AP Herrera gave the staff report, noting the project will require improvement of an existing 15-foot wide ingress and egress easement for access to three of the proposed parcels, to County standards. He said approximately 500 cubic yards of cut and 500 cubic yards of fill would be required to accomplish the finished grade and surfacing of the road, with the proposed road being accessed by way of John Smith Road, a County major collector road. The applicant, Al Silva Jr., is asking that the conditions required for road improvements be waived, based on the location of the project as well as a past Commission decision for waiving requirements of road improvements at a near-by subdivision, AP Herrera explained. AP Herrera went on to speak modifications to Conditions 13, 14, 21, and 23.

Chair Tognazzini opened the public hearing.

Engineer Roger Grimsley spoke to the Commissioners, saying while he and the applicant agreed with the Conditions 'generally' but could find no justification for improvement of the road to the east of John Smith Road. Mr. Grimsley said the subdivision was being done for a family estate and therefore, no further traffic would be generated. Mr. Grimsley suggested this would be a case for deferred road improvements, with an agreement for same. Mr. Grimsley also spoke to other conditions, e.g., use of the 40 acres, and 30% slopes in some of the area.

Commissioner DeVries asked if DCC Murphy could speak to the issue of deferred road improvements versus waiving the requirements of the Condition for road improvements. DCC Murphy explained that in this case, a deferment could be placed as there was not new density, but such decision must be made by the County Engineer. DDPW Nazemi explained that the County has not looked favorably on deferred road improvements. During the ensuing discussion, it was stressed that under the Subdivision Ordinance, decisions must be consistent and that further subdivision could be possible both on this property and in the area.

Other items discussed were:

- possible conditions on a waiver
- alternatives to deferment
- safety
- shoulder improvements – not a new lane
- previous deferments (and correctness of arrangements)
- potential for deferment until further development
- if deferment, what would be liability to County
- uses of road shoulders, i.e., bike paths, walkway for pedestrians, etc.
- necessity of bringing roads to current standards/requirements
- need for finings if waive or defer road improvement requirements

The applicant, Al Silva, Jr., 4155 John Smith Road, was present and spoke to the Commissioners regarding not requiring improvements to the east (which he said were unnecessary as all the traffic ‘goes west’). Mr. Silva said he had asked for a waiver, but was willing to accept the deferred road improvements as an alternative. Mr. Silva stated he would be willing to put such an agreement in writing.

It was suggested that staff be directed to prepare findings relating to deferment and/or waiving the road improvement conditions, with considerable discussion following.

The possibility of having 10 more houses on the property was discussed with staff, the applicant, and the applicant’s engineer engaged in the deliberations. Mr. Silva assured that if further subdivision were requested, the road would be improved. Commissioner Machado said a decision would be contingent on the ultimate use of the land, and he added that he did not like the idea of waiving road improvements. Commissioner DeVries suggested the applicant should take the issue to the County Engineer for consultation regarding the kind of road improvements needed.

Tammy Jackson, 4155 John Smith Road, said she had talked with Public Works, and knew that the Casillas subdivision had been granted deferred road improvements. Ms. Jackson asked questions regarding the County ‘fair share’ requirements during divisions.

Commissioner DeVries commented that his concern was with ‘follow through’ and further that he felt the County Engineer might work to reach agreement regarding the matter.

DDPW Nazemi asked if there might be interest in changing the Ordinance.

Commissioner Machado advised that if the Ordinance were to be changed, bonded improvements might be required. Without such, he said, it was unlikely that improvements would be made. DDPW Nazemi agreed, saying that with bonded improvements, there had been no known problems.

Engineer Ann Hall, spoke on the issue of deferment, noting that proper recordation is contingent on the correctness of the action.

With no others in attendance indicating a wish to speak to the matter, Chair Tognazzini closed the public hearing.

Commissioner DeVries led discussion regarding:

- the length of road wherein the improvements are required
- the potential for deferment
- the acknowledged dispute issues with a neighboring land owner
- concern of dealing with the matter without further information from staff

**COMMISSIONERS DEVRIES/BETTENCOURT MOTIONED TO CONTINUE THE MATTER OF MINOR SUBDIVISION NO. 1194-06 TO THE COMMISSION MEETING OF APRIL 4, 2007 PROVIDING OPPORTUNITY FOR THE APPLICANT TO MEET WITH REPRESENTATIVES IN THE DEPARTMENT OF PUBLIC WORKS, AND DIRECTING STAFF TO CONSIDER MODIFYING LANGUAGE WITHIN THE CONDITION PERTINENT TO ROAD IMPROVEMENTS. THE MOTION PASSED (5-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

9. **USE PERMIT NO. 908-04** – APPLICANT: Dave Lantis, Steve Ward.  
LOCATION: Northwest of San Benito St/Union Rd intersection along San Benito River bank. APN: 20-28-50. REQUEST: To operate a paintball facility with eight netted fields on an undeveloped 11.16-acre site. ZONING: Rural Residential (RR)/Floodplain (FP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

AP Kelly gave the staff report, telling the Commissioners the location of the proposed facility, which might have up to 100 customers per day with operations to be on weekends and holidays. Noting the proposed operation to be located in a flood plain, AP Kelly said a traffic study has indicated an increase of 40 traffic trips per day to the site.

Commissioners asked questions regarding:

- use of tents [no]
- current fire protection
- dust control (Condition #8)
- well site for water (on the property)
- intersection > ingress/egress
- emergency access
- addition of a condition to gate the secondary access with a locking device for entry by emergency personnel only

Chair Tognazzini opened the public hearing.

Roger Grimsley spoke to the Commissioners as the representative of the applicant. Mr. Grimsley explained:

- the legal access route onto San Benito Street
- completion of Westside loop will require a 30-foot right-of-way
- access to San Benito Street will be deleted on completion of Westside Loop
- review period (one year of operations); if no problems, etc. will be routine review, but could be called up by the Commissioners

Engineer Matt Kelley spoke regarding the Conditions contained within the staff report, and answered questions from the Commissioners. Mr. Kelley addressed the issue of the Conditional Use Permit one-year review. "This is a good opportunity to take advantage of a property that is not usable otherwise," Mr. Kelley said. He said the applicant would have no problem with a 'tightening up' of Condition #6 (c) regarding the secondary access for emergency personnel entry.

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

**COMMISSIONERS BETTENCOURT/DeVRIES MOTIONED TO DIRECT STAFF TO ADDRESS THE SECONDARY ACCESS OF USE PERMIT NO. 908-04, AND RETURN THE ITEM (WITH A CONTINUATION) TO THE APRIL 4, 2007 COMMISSION MEETING AS A CONSENT AGENDA ITEM. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**INFORMATIONAL – NON-ACTION ITEMS**

10. **PLANNED UNIT DEVELOPMENT (PUD) ORDINANCE WORKSHOP:**  
APPLICANT: San Benito County. LOCATION: County-wide. REQUEST:  
Discussion regarding amendment of the PUD Ordinance.

PP Turner presented the staff report, noting the time table for action and the highlighted changes in the Standards for PUD projects, including page 2, item 2 which will be written with the notation of having the 'three sides' reference removed. PP Turner reminded that staff had been directed by the Board of Supervisors to revisit the Ordinance with potential changes in terminology and 'wordsmithing'.

Commissioners discussed:

- Parks and Recreation uses (a requirement of PUDs)
- fees possibly being directed to areas where the development was opened with priority to districts where fees were collected
- approval of 'new wording' which dilutes the need to have a park with the project

Chair Tognazzini opened the floor for public comment

Attorney Brad Sullivan was present and admonished the Commissioners that it is not proper to restrict fees to a Supervisorial District.

With no others present to speak to the matter, Chair Tognazzini closed the public hearing.

PP Turner briefly addressed the issue of Grade 1 soils, saying the impact of adjoining land use should be considered. He also reminded that the matter will be heard by the Board at the meeting of April 24, 2007 as a draft Resolution – providing there are no changes recommended. This item will return to the Commission in April.

## **11. PRELIMINARY ALLOCATIONS REVISIONS**

PP Turner gave the staff report, asking the Commissioners to discuss the revisions presented. He said that regarding Water and Wastewater (sewer), Environmental Health will make the decision regarding recommendation. PP Turner responded to a question relating to Condition #4, saying this mostly dealt with major subdivisions.

PP Turner stressed that staff is committed to meeting with applicants to clarify any points in the initial application. He reminded that the preliminary application scores will be discussed with the application.

Commissioners discussed

- the importance of the deadlines contained within the scoring notation(s)
- the ‘pre application’ meeting
- need to ‘encourage’ Environmental Health participation
- having the ‘One Stop Center’ up and running (anticipated time: 2.5 years)
- peer review soils study
- need for timely ‘turn around’
- habitat area (points available)
- Engineers role in planning the application
- Growth Management Ordinance restrictions
- possibility of forming a subcommittee of the Commission to study the 1% growth provision
- need to inform Board of Supervisors regarding increase in growth rate following staff preparation of report
- PRGI: proposed clean up
- need to provide ‘what Board has asked for’
- question of waiting for completion of General Plan Update to ensure ‘fit’

**STAFF WAS DIRECTED - BY CONSENSUS OF ALL COMMISSIONERS PRESENT, WITH NONE ABSENT - TO RETURN THE MATTER TO THE COMMISSIONERS WITH CLARIFICATION FOR ACTION.**

## **12. AFFORDABLE HOUSING ~ Report on Board of Supervisors' March 13 Workshop**

DoP Henriques presented the staff report, saying much of the emphasis had been on future funding and collaboration.

The importance of the following was stressed:

- in-lieu fees
- partnership with WorkForce Housing
- new State management in place to review housing at Labor Camps
- consideration of short term options
  - participant and stakeholder education
  - fiscal management
  - correction of any outstanding payments/refunds for the County as a result of collection errors
  - facilitating built units
- consideration of long term options
  - use of general plan
  - fiscal management
  - building partnerships
  - implementing constructive policies
- need to remind residents and realtors of the resale restrictions at Riverview Estates (and other areas as well)

DoP Henriques said direction had been given to have the top ideas back to the Board soon with timelines and he invited Commissioners to phone/write staff with their ideas.

### **GENERAL PLAN UPDATE**

DoP Henriques distributed a memo on the progress report of the first phase of the General Plan Update, for which he was thanked by the Commissioners.

### **Commissioner Announcements/Reports/Discussion**

The items of continuation were noted.

**COMMISSIONERS SMITH/BETTENCOURT MOTIONED TO ADJOURN THE MEETING. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT. CHAIR TOGNAZZINI ADJOURNED THE MEETING AT 9:40 P.M.**

*Minutes transcribed by:  
Judi Johnson*

*Attest:  
DoP Art Henriques*