

SAN BENITO COUNTY PLANNING COMMISSION

April 18, 2007

Minutes

PRESENT: Bettencourt, DeVries, Machado, Smith, Tognazzini

LATE: None

ABSENT: None

STAFF: Director of Planning (DoP) Art Henriques; Principal Planner (PP) Byron Turner; Assistant Planner Lissette Knight; Deputy County Counsel (DCC) Shirley Murphy; and Clerk Trish Vieira-Maderis

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 (BoS) meetings:

- April 10: proclaimed April 27 as Arbor Day
proceeding with ballot measure for Mosquito District (north County area)
(proposed) Fire Sprinkler Ordinance referred back to staff (County Fire Department)
International Building Codes (IBC) to be enforced and County expected to adopt upgraded data for local enforcement
approved an extension (October 2007) to the contract for General Plan update / budget increase to include two Cities
approval for beginning preliminary work on One-Stop Permit Center
- April 17: no BoS meeting
- April 24: request for position of Building Inspector
proposed change to Chapter 19 of Code dealing with Code Enforcement; intent to standardize Hearing Officer process
Hillside Ordinance/Guideline updates

Planning Department Activity: General Plan Stakeholder meetings completed

Chair Tognazzini asked about the update to the IBC, with DoP Henriques and DCC Murphy responding.

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

COMMISSIONERS MACHADO/BETTENCOURT MOTIONED TO THE CONSENT AGENDA AS PRESENTED. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVREIS, 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: CONTINUED ITEMS

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.

PP Turner reported this item has been requested for continuation by the applicant, as he wished time to consult with the fire department. Responding to commissioner's questions, PP Turner said the continuance has been requested to the May 2, 2007 Planning Commission meeting.

COMMISSIONERS DeVRIES/MACHADO MOTIONED TO CONTINUE THE MATTER OF *CERTIFICATE OF COMPLIANCE NO. 06-68* TO THE MAY 2, 2007 COMMISSION MEETING. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

PLANNED UNIT DEVELOPMENT (PUD) ORDINANCE (479): APPLICANT: San Benito County LOCATION: County-wide REQUEST: Final amendments to the PUD Ordinance.

PP Turner reminded of the changes which have been discussed and agreed by consensus have been 'cleaned up' and following final review at this meeting, will be transmitted to the Board of Supervisors for a Public Hearing. DC Murphy noted some minor 'typo' language changes – together with the numbering corrected – and said that the Ordinance will now be posted with the modifications made in working with PP Turner. She said that the Ordinance could be reviewed by the Commissioners for further modifications as warranted.

COMMISSIONERS BETTENCOURT/MACHADO MOTIONED TO RECOMMEND APPROVAL OF THE PLANNED UNIT DEVELOPMENT (PUD) ORDINANCE [479] AS PRESENTED. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVREIS, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

CONTINUED ITEM: DISCUSSION ITEM

Preliminary Allocations Revisions

PP Turner presented the staff report, noting that Committee had reviewed the recommended amendments to the Growth Management Ordinance changes. The changes include Water and Wastewater now being mandatory requirements to be determined by the Environmental Health Department. PP Turner pointed out that some language had been added regarding

- grade 1 soils
- habitat area
- removed some hard to enforce/track landscaping conditions from major subdivisions
-

Chair Tognazzini opened, and then closed, the public hearing as there were none in attendance to speak to the matter.

COMMISSIONERS SMITH/MACHADO MOTIONED TO APPROVE THE AMENDMENTS TO THE PRELIMINARY ALLOCATIONS ORDINANCE (733: GROWTH MANAGEMENT ORDINANCE) REVISIONS AS PRESENTED AND RECOMMEND ADOPTION OF SAME TO THE BOARD OF SUPERVISORS. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVREIS, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

PUBLIC HEARING / COMMISSION ACTION

MINOR SUBDIVISION NO. 1199-06. APPLICANT/OWNER: Ridgemark Golf and Country Club. LOCATION: 1290 South Ridgemark Drive, Hollister APN: 020-650-017. REQUEST: To subdivide a portion of an existing golf course within the Ridgemark Subdivision into two (2) 10,000 square foot lots. ZONING: Residential Multiple (RM). ENVIRONMENTAL REVIEW: Mitigated Negative Declaration [no comments during the initial study comment period.]

AP Knight gave the staff report, giving the overview: the two lot sizes of 10,000 sf intended for single family residences. She explained that an attachment to the staff report had been distributed. AP Knight said the project will cause the cut-and-fill operation of approximately 60 CY of material, all of which will be contained within the proposed building envelopes. The proposed lots are to be carved from an unused portion of the existing golf course. AP Knight said Condition of Approval was to have the new lots joined to an existing HOA to ensure consistency with the surrounding units and the subdivision itself. Comments had been received by adjoining and area property owners.

Commissioner Smith asked if there is a public utility easement? AP Knight explained the plan to have Sunnyslope County Water District provide water and wastewater services had been approved by the District's Board of Directors as infrastructure was already in place and this development would not add new connections, per se.

The public hearing was opened by Chair Tognazzini.

Eric Deitz (3800 Airline Highway; Ridgemark Golf and County Club) was present to represent the applicant and answer questions.

Commissioner DeVries called attention to the neighbor who had raised concerns of the view shed, asking Mr. Deitz if there was something that existed internally at Ridgemark which would represent/equal an architectural site review placement of homes, e.g., height, landscaping, etc. Mr. Deitz said, “Absolutely, as a condition of entering into the HOA, they would have to go through that architectural review. That’s why the lots are 10,000 sf; that way they made the CC&Rs. There is an adjacent piece of property that is 83 – 8400 sf that we chose not to gain allocations for because it did not meet the criteria that the HOA requires.” Commissioner DeVries continued by asking if that criteria and design guidelines are designed to ensure that neighboring properties are least affected as possible when it comes to issues like view shed. Again, Mr. Deitz responded, “Absolutely.”

Commissioner Machado asked if the HOA had a 10,000 minimum. [Yes]

Commissioner Smith clarified with Mr. Deitz that Sunnyslope Water is able to provide services to these lots. Mr. Deitz explained the dealings with the Water District to ‘trade the hook-ups’ for taking some service off-line from the golf course and mitigations through the use of low-flow toilets.

Belinda Taluban, PO Box 292, Salinas, was present represent to residents of 160 Fred’s Way (Phil and Jen Taluban) who are concerned about the view and open space (preserving open space). Ms. Taluban said she had a list of other neighbors who shared the concerns of the location of the subdivision and how it was being presented. Ms. Taluban said a letter had been sent with pictures of the view from the rear yard; currently on three sides of the property there are unobstructed views for over 1,000 feet. She noted the closest house is within 200 feet. Where these two lots are to be created, they currently have an unobstructed view to the sky – to the horizon. Ms. Taluban presented photos taken of mature trees and grasses, which she said would be changed to ‘somebody’s hardscape’ – backyards and houses. “The reason the Taluban’s bought this house was specifically because it was open on three sides, never thinking the golf course would be converted to commercial land,” Ms. Taluban said. Ms. Taluban said she had made a desperate dash to the Planning Department and the EIR spoke much about the preservation of open space. When the subdivision was created, it was very specific in the zoning, 250 – 275/6 single family lots would be permitted in preserving open space. “I see this as taking away from the open space that was basically predicated on the subdivision that created the subdivision. “Every mitigation in the actual report comes down to paying the fees, it doesn’t ask for replacement of trees; it doesn’t ask for replacement of open space; it doesn’t ask for replacement of any kind of natural resource that will be taken away as part of the subdivision – and obviously the development of homes,” Ms. Taluban stated. “From that aspect, it looks like it is more a fiscal operation than something that is actually environmental. Protecting the environment, the view shed, the open space, the drainage, and everything else. The run-off. Currently there is very expansive soils and I’m sure this is addressed in the soils report, but even the soils report was dated back to 1983, which current standards of writing reports are very much

different than they were in 1983 -4. The expansive nature of the soil, the runoff, and the runoff on this appears to be going into a catch basin which is located that cuts across the fairway and into a catch basin, goes down into a pile and I'm assuming into a catch system. Currently now, in the middle of summer under Mr. Taluban's home I know it gets moist to the point where he has to get heaters and blowers put in to ensure the soil can be dried out underneath the house. The reason for it is the expansive mud and clay on the upper layers of the soil absorb the water and doesn't let it penetrate. It doesn't percolate and it all runs off. So he's concerned with the drainage, obviously also. Under the mandatory findings of significance, they are concerned with the project as it has limited communitive consideration. Has consideration been made that, granted these two individual lots may not have a significant impact on the entire subdivision, but how many open space lots are created in that subdivision. On one map I saw three. If they come in and do minor subs on each potential lot they have, they potentially – if they have 20 open space lots, have – they could create 40 new home sites. How that would be impacted. I know two lots are insignificant – it's not that big of a deal. However, if this minor sub is approved, what is to prevent them from continuing and continuing, and using an old EIR that is outdated and doesn't necessarily address the concerns of this time? I have asked the staff how many lots are in the subdivision currently: is it 275 as proposed in the original EIR? [Ms. Taluban alleged the staff did not know.] Two on top of 275 may not be significant; 40 on top of 275 I feel would be significant. I'm concerned with that generating effect may continue with this setting precedence for continuing minor subs throughout the subdivision and increasing the population, the effects on traffic, road, police, fire, everything that's going to be impacted. Item #C, the Taluban's feel the significance is great for their house and for the neighbors for the open space currently provided to them will be taken away. They are very concerned and very opposed to the subdivision.”

John Humber, 1410 Paullus Drive, told the Commissioners his parents live at 150 Fred's Way, directly adjacent to the Taluban's residence and will be affected by the two new homes which are being requested. Mr. Humber said, “Mr. Deitz said they will become a part of the Ridgemark Homes HOA, and by doing that they will be subject to the CC&Rs, which should put them before an architectural review committee. I'm asking if you should find this subdivision to be a valid subdivision – and I think Ms. Taluban made some very valid comments this evening – should you still select to approve this subdivision, I'm also requesting that my folks, and the Taluban's and the other affected neighbors on the north side of the fairway e included in any architectural site review decisions that are made for the construction of those two new homes. They, along with the Taluban's and the neighbors to the west, selected and bought those properties because of the open space and the tremendous view shed it afford them. We would hate to see that view shed removed entirely - with selective position of the new homes, they may be able to retain some of that view shed.”

Commissioner DeVries determined that Mr. Humber thought Fred's Way residences (130, 140, 150, 160) should be included in the review.

Commissioner Bettencourt clarified that Fred's Way and South Ridgemark Drive are in different HOA. [Mr. Deitz advised that there are seven HOAs in the Ridgemark development. He also said that there was not a requirement to put these two lots into the HOA; it was a 'good neighbor gesture'. This will definitely cement the review by the architectural site review committee.]

Discussion ensued regarding {the} 300 feet line surrounding the requested subdivision (for people interested in the architectural review) possible placement of the new dwellings, and the trees/view shed.

DCC Murphy advised that the County does not enforce CC&Rs, and cannot dictate inclusion of others as a condition of review to an HOA. She reminded that the planning staff would review the site plans on application.

AP Knight gave explanation of the standard procedures of working with an HOA during project review following application. DoP Henriques listed the reasons by telling the need for documentation of review by the architectural site review committee.

COMMISSIONER DEVRIES MOTIONED TO APPROVE MINOR SUB-DIVISION NO. 1199-06, ADDING CONDITION #25: prior to issuance of the building permit, planning staff will ensure that other affected homeowners have been consulted.

Mr. Deitz asked if the motion deals with modification of the CC&Rs as the duties of the architectural review committee(s) is noted within that document. Commissioner DeVries argued that his motion would not alter the CC&Rs at all. Chair Tognazzini agreed. DCC Murphy said it would be better if the Commissioners wanted a Condition requiring that Planning Staff make the plans available to neighbors within 300 feet and conduct an administrative public hearing regarding those plans prior to staff level of approval of those plans. Chair Tognazzini suggested the motion on the floor be rescinded, to which Commissioner DeVries acquiesced.

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

COMMISSIONERS DEVRIES/BETTENCOURT MOTIONED TO APPROVE MINOR SUB-DIVISION NO. 1199-06, INCLUSIVE OF THE MITIGATED NEGATIVE DECLARATION, AND THE FINDINGS AND CONDITIONS WHILE ADDING CONDITION #25: prior to issuance of a building permit for parcels one and two, staff will review plans and architectural design and provide notice to neighbors within 300 feet and hold an administrative public hearing prior to approval of the plans.

PP Turner spoke, saying he was concerned about the administrative public hearing was cause for concern. "I don't know we have a mechanism for that," he said. "We can make the plans available to any interested parties. We can send a notice to 300-foot residents, but as far as a hearing goes, I'm not sure what the County can do beyond showing the plans. It is really a function of the CC&Rs. We look for zoning consistency, things like that," he said.

Discussion followed regarding the requirements of an administration hearing. DCC Murphy stressed the Commissioners do not have authority over the HOA to require inclusion of residents into the architectural review process. It was noted that a decision by the Commissioners can be appealed. Chair Tognazzini asked if the HOA could tell the residents they could hear the review committee discussion.

Chair Tognazzini was requested to reopen the public hearing.

Ms. Taluban said it appeared to have been suggested that if the request is approved, the neighbors could be included in hearing the review board. "I can tell you, in all honesty, Mr. Taluban does not want any development where his view will be blocked," Ms. Taluban said. "So he would thank you for the opportunity to look at the house plans, but he is going to go in and say, 'Oh, you're going to put the house there. Well, I don't like it.' The only kind of house he's going to like is a subterranean house and that's not going to happen with that soil. We know that's not going to occur." She continued at length regarding the objections.

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

Considerable discussion ensued regarding what had been said during the previous public hearing, with Commissioner DeVries clarifying that his intent had been to ensure the neighbors would review the plans.

Chair Tognazzini said it appeared important to have the neighbors go to the HOA with concerns. Ms. Taluban said that was true, but she was attending the meeting because of concern with the open space.

Commissioner Machado said, "What is before us is the subdivision and the proper zoning of it. If we have no control over the CC&Rs, then that issue is not with us as the Planning Commission."

Commissioner Smith reviewed the motion, then staff input regarding that motion with a condition, with PP Turner giving the path of action for the application and review.

DCC Murphy gave an overview of the review process with the potential for a hearing being scheduled.

Commissioner DeVries said it would be important to weigh in on the design, by giving the neighbors an opportunity to make their voices heard on the design, height, and other items they would be looking at. "I don't think the Commission is going to disapprove the subdivision, but I think the least we can do is allow the people to come and comment about what they will have to look at."

Commissioner Smith said he disagreed, and that the Ridgemark HOA has CC&Rs with representation. I don't think we should be meddling in that. We should consider, I think, what staff has submitted to us. I really don't think that we need to be taking Ridgemark to task with how well they are representing their customers. They can vote their representatives up or down if they don't like their actions. I don't feel like we are representative of the people opposing this because they have representation and this has already gone through due process. We are just confusing matters taking it any further. So I disagree and I would like to see the Commission back off adding Condition #25."

Following further discussion, **COMMISSIONERS DeVRIES/BETTENCOURT WITHDREW THE MOTION ON THE FLOOR.**

COMMISSIONERS SMITH/BETTENCOURT MOTIONED TO APPROVE MINOR SUB-DIVISION NO. 1199-06, INCLUSIVE OF THE MITIGATED NEGATIVE DECLARATION, AND THE FINDINGS AND CONDITIONS. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

CONDITIONS OF APPROVAL

- 1. Hold Harmless:** Pursuant to Section 66474.9 of the California 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 San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]
- 2. Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Department. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
- 3. Compliance Documentation:** Prior to recordation of the parcel map, 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]
- 4. Assessment:** Prior to recordation of the parcel map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act. [Planning, Assessor]
- 5. Recordation:** The applicant shall submit a parcel map to the County and the parcel map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The tentative parcel map shall expire two (2) 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 parcel map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]

6. **Fire Protection:** 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 Uniform Fire Code, Chapter 17 of the San Benito County Code, Public Resources Code 4290/4291 and other related codes as they apply to a project of this type and size.”[COUNTY FIRE]
7. **Easements:** The parcel map shall show all easements for access, utilities, and drainage. All future development shall maintain a ten (10) foot setback from the noted easements. [Public Works, Planning]
8. **Notice of Determination (Fish & Game Fees):** The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval of the tentative map. Department of Fish and Game fee (\$1,850.00 – Fish & Game Code section 711.4(d)) must be submitted with the filing. A copy of the filed notice shall be submitted to the County Planning Department. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section 21089(b)). [Planning]
9. **Conditions of Approval, Easements, and Restrictions:** All unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the parcel map. [Planning]
10. **County Service Area:** Prior to recordation of the final map, the applicant shall make application to LAFCO to join a County Service Area (CSA #9). All related processing fees, including State Equalization fees, must be submitted prior to recordation of the final map. [LAFCO, Planning]
11. **Improvement Plans:** As a condition approval, the applicant shall be required to submit and have approved, by the County Public Works Department, improvement plans for the proposed subdivision.
12. **Habitat Conservation Plan Impact Fees:** In accordance with County Ordinance 541, which sets fees for habitat conservation plan financing and kit fox protection measures, the applicant shall contribute, prior to recordation of the parcel map, a habitat conservation plan mitigation fee of \$600.00 (\$300 per parcel).
13. **Construction Hours:** As required by County Ordinance, construction shall be limited to the hours of 7 a.m. to 7 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]

Public Works Conditions

14. Prior to recordation of parcel map applicant shall pay fair-share contribution (\$435.00/lot) toward the Traffic signal at Airline Highway/Best Road Benefit Area.
15. Prior to recordation of parcel map applicant shall pay fair-share contribution (312.50/lot) toward the Traffic signal at Airline Highway/Fairview benefit area.
16. Prior to recordation of parcel map applicant shall pay fair-share contribution (\$780.00/lot) toward the Enterprise Drainage Basin Benefit Area.

Sunnyslope County Water District

17. All water mains and appurtenances must conform to current Sunnyslope County Water District standards and construction notes.
18. All domestic water services are required to have water meters. Any lots with access to unapproved water sources will require backflow protection devices be installed in accordance with Sunnyslope County Water District current standards.

19. Each new dwelling unit must pay appropriate Water and Sewer Connection Fees prior to issuance of building permits. Proof of appropriate fees paid must be shown to building department.
20. Prior to issuance of a building permit on either parcel 1 or parcel 2, the applicant or owner of the lots shall submit front yard landscape plans for review and approval. Each lot must adhere to water conservation practices.
21. Attach a copy of the most current Sunnyslope County Water District specification and construction notes to Improvement Plans.
22. New water fixtures should be low flow models.

Planning Conditions:

23. **Water Softeners:** A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states: “The use of on site-regenerating water softeners is prohibited. Off site regeneration softening systems may be used subject to the approval of the San Benito County Water District”.
24. **Environmental Mitigation Measures:** Prior to recordation of the Parcel Map the Mitigation Monitoring Program shall be signed. The mitigation measures set forth in the initial environmental assessment are incorporated herein as follows:
 - a. A note shall be placed on the improvement plans for the proposed subdivision which states that the following actions shall be incorporated into site improvements:
 - Water all graded areas at least twice daily.
 - If dust is not adequately controlled, then a more frequent watering schedule shall be incorporated.
 - All grading activities during periods of high wind (over 15 mph) is prohibited. Sweep streets if visible soil material is carried out of the construction site.
 - b. Should any subsurface cultural remains (shell, bone, square nails, ceramics, painted glass) be encountered during ground altering activities in the project area, work shall be temporarily halted and a qualified archaeologist consulted. Prompt evaluations could then be made regarding the finds, and a course of action acceptable to all concerned parties could then be adopted. Local Native American organizations shall be consulted if human remains are encountered.
 - c. All preparation, grading, foundations, site drainage and finish improvement shall be designed to the recommendations of the Soil Investigation report prepared by Reynolds Associates for Ridgemark Estates South (File #8423-M209-B3).

Responding to a question from Commissioner Machado, PP Turner said that the drainage and soils would receive considerable review at the time of building permit application.

TSM NO. 04-71. APPLICANT/OWNER: Ruben Rodriguez LOCATION: Magladry Road APN: 17-15-42 REQUEST: Discussion of Magladry Road Benefit Area and TSM 04-71 Conditions of Approval. ZONING: Agricultural Productive (AP) ENVIRONMENTAL EVALUATION: None

Clerk Maderis referenced a memo telling the Commissioners that Deputy Director of Public Works Armon Nazemi could not be present for the meeting and that a continuation was requested.

COMMISSIONERS SMITH/MACHADO MOTIONED TO CONTINUE THE MATTER OF TSM NO. 04-71 TO THE MAY 2, 2007 COMMISSION MEETING. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

DISCUSSION ITEM

HILLSIDE ORDINANCE – Review existing Ordinance, receive direction based on expedited timeline as directed by Board of Supervisors.

DoP Henriques and PP Turner presented the staff report.

PP Turner explained that this matter regards grading of slopes, and at present no projects have been submitted which would cause the Hillside Ordinance regulations and guidelines to be considered or utilized. He said staff is recommending updating the design guidelines with documented discussion over the past year which might have affect on areas covered by the Ordinance.

Considerable discussion ensued and included issues of:

- potential for revisiting the 1% growth limit
- addressing the Ordinance within the guise of the General Plan
- rescission of the Ordinance
- possible replacement of elements of the Ordinance
- concern that recession of the Ordinance might leave the County unprotected
- CEQA elements of the Ordinance
- possibility of retaining the Ordinance with changes
- Board of Supervisors discussion (read from minutes of the April 10, 2007 meeting)
- inability to enforce guidelines

CONCLUDING A ‘STRW VOTE’, CHAIR TOGNAZZINI NOTICED THE RECOMMENDATION WAS: SEND BACK TO STAFF FOR TOTAL ‘REWORKING’ BEFORE TRANSMITTAL TO THE BOARD OF SUPERVISORS. [THIS WAS AGREED BY COMPROMISE, WITH COMMISSIONER DeVRIES DISSENTING]

Brad Sullivan, local attorney, gave his views of the Ordinance and said the current Ordinance ‘doesn’t apply to anything’ but the guidelines are enforceable.

Discussion followed regarding possible wordsmithing for clarification.

The need to have the Commissioners speak with their appointing Supervisors for clarification of the intended action on the Hillside ordinance was stressed.

INFORMATIONAL-NON-ACTION ITEMS

Commissioner Announcements/Reports/Discussion

Commissioner DeVries: PRGI Meeting reports(s) [4/17 and 4/24, 2007]

Commissioner Machado announced that Lowe's had presented a new design for the proposed building.

DoP Henriques asked for comment on the depth of the minutes. Commissioners concluded that the summary minutes are valuable, but some items need more in-depth reporting.

Future Agenda Items

May 2

Certificate of Compliance No. 06-68

Crowing Fowl Ordinance ~ Enforcement

COMMISSIONERS MACHADO/BETTENCOURT MOTIONED TO ADJOURN THE MEETING. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE (5-0) OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT. Consequently, CHAIR TOGNZZINI ADJOURNED THE MEETING AT 8:41 P.M.

Minutes transcribed by:

Judi Johnson

Attest:

Art Henriques