

SAN BENITO COUNTY PLANNING COMMISSION

May 16, 2007

Minutes

PRESENT: Bettencourt, DeVries, Machado, Smith, Tognazzini

LATE: None

ABSENT: None

STAFF: Director of Planning (DoP) Art Henriques; Principal Planner (PP) Byron Turner; Senior Planner (SP) Chuck Ortwein; Assistant Planner (AP) Michael Kelly; Assistant Planner Lissette Knight; Deputy Director of Public Works (DDPW) Arman Nazemi; Deputy County Counsel (DCC) Shirley Murphy; and Minutes Clerk Janet Somavia

Chair Tognazzini 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:

DoP Henriques reported on items of interest from the Board of Supervisors (BoS) meeting:

May 8

- Proclaimed May 6 – 12 as Building Safety Week
- Appeal of the Silva decision (road) was continued to June 12, 2007
- Approved the Code Enforcement Hearing Officer position

Other items of interest:

Community meetings (informational and for receiving comment) for the General Plan will be scheduled in June and July, 2007.

PUBLIC COMMENT:

Chair Tognazzini opened, and the closed, the floor to public comment for items not appearing on the agenda as no persons in attendance indicated a wish to speak.

CONSENT AGENDA

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of May 2, 2007: a modification of punctuation was noted on page 21.

COMMISSIONERS MACHADO/SMITH MOTIONED TO THE CONSENT AGENDA, WITH MODIFICATION OF THE MINUTES. 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.

- 4. ~~CERTIFICATE OF COMPLIANCE 07-70~~** – APPLICANT: David Addamo. LOCATION: Los Viboras Rd. Hollister. APNs: 16-09-21 and 22. REQUEST: To recognize two parcels on a 14.6-acre site. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Categorical Exemption.

AP Kelly gave the staff report, telling the Commissioners that the code enforcement issues clouding the request had been resolved as of the date of the meeting (May 16, 2007). AP Kelly gave an overview of the issues associated with the parcel(s), each of which had been previously approved for separate development. However, investigation revealed that the two Assessor's parcels were, in fact, simply divided by a tax rate area boundary which was not reflective of legal parcel boundaries under the Subdivision Map Act. AP Kelly explained that the issuance of development permits for both Assessors' parcels as separate properties requires the County to issue CoCs for the parcels when requested by the property owner. Additionally, a CoC must be verified: the presence of existing development would 'not result in any changes to land use or density'. Consequently, AP Kelly said, staff determined that a CoC could be issued for each of the parcels.

Chair Tognazzini opened the public hearing.

Attorney Doug Marshall, 108 Locust St., #11, Santa Cruz, addressed the Commissioners and urged approval of the CoC.

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

COMMISSIONERS SMITH/BETTENCOURT MOTIONED TO APPROVE ~~CERTIFICATE OF COMPLIANCE 07-70~~, RECOGNIZING TWO PARCELS ON A 14.6-ACRE SITE, AND ENDORSING RECORDATION OF SAME WITH THE COUNTY RECORDER THE MOTION CARRIED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

CONDITION OF APPROVAL:

- 1. Recordation:** The Certificates of Compliance shall be recorded with the County Recorder. [Planning]

CONTINUED PUBLIC HEARINGS ~ 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, reminding that this item had been continued, having been heard on April 4, 18, and May 2. AP Kelly stated that the project would result in the issuance of a CoC to establish as buildable a parcel - for a future residential – to use the 70-acre lot previously designated as a nonbuildable remainder parcel and open space easement by MS 861-89. AP Kelly called attention that the site would be serviced by a shared well, septic system(s) and utilities currently available along San Juan Canyon Road. AP Kelly clarified that the remainder parcel – if approved – would function as parcel 3 of the subdivision. It was noted that the General Plan provisions can reduce the building size of one per 70 acres as opposed to one per five acres. Following the initial study, AP Kelly told the Commissioners, a Negative Declaration was completed. The proposed building site is accessible by a road with slopes of 69%. AP Kelly noted that as to the Conditions, #2B(i) Parcel Map Page 62, Book 8, all notes to the map should be removed *except* those on the remainder parcel.

Commissioners discussed with staff the large amount to data connected to this request. Concerns of the lack of a staff recommendation were discussed at length. The need for another continuation was noticed.

Chair Tognazzini opened the public hearing.

Jerry Bowden 4665 Scotts Valley Road Dr., Scotts Valley, told the Commissioners he was present to present a response to the staff report which had been ‘received only two days ago’. Mr. Bowden asked the Commissioners to consider:

- request to approve the CoC ‘unconditionally’
- remove the designation of ‘unbuildable’
- remove the open space easement

Mr. Bowden referenced a memo prepared by Paul Kaneko for the Planning Staff and Commissioners from which he detailed specific concerns. Mr. Bowden said he would not oppose a continuation based on the need to have the issues raised in the memo addressed.

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

DoP Henriques concurred with Mr. Bowden, adding, “It is important to review the potential correction of issues imposed at the time the subdivision was approved.”

COMMISSIONERS DeVRIES/MACHADO MOTIONED TO CONTINUE THE MATTER OF CERTIFICATE OF COMPLIANCE NO. 06-68 TO THE JUNE 6, 2007 PLANNING COMMISSION MEETING TO PROVIDE STAFF WITH TIME TO UPGRADE THE REPORT BY ADDRESSING THE ISSUES RAISED. THE MOTION CARRIED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

6. **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

PP Turner presented the staff report, and gave a brief background to the project, including the Conditions of Approval. PP Turner told the Commissioners that on May 2, 2007 the applicant submitted a letter formally requesting a minor amendment to Condition of Approval #27 to read: *Prior to the recordation of the final map, Magladry Road shall be brought to a minimum width of 20 feet of pavement with a 2-inch overlay, between Lone Tree Road and the north boundary of the proposed project.* PP Turner advised that the requested amendment is consistent with the intent of the original condition, and the Planning Staff requested it being remanded to the Planning Department for approval. PP Turner suggested the Commissioners ask DCC Murphy if this would be sufficient for approval(s).

Commissioner DeVries was excused at 7:44 p.m. and returned at 7:46 p.m.

The Commissioners discussed:

- if the report should be brought back to the Commissioners for an actual change [PP Turner to present the changes – with explanations – to the Commission]
- consistency with CEQA (CEQA requirements to be contained within the Conditions)
- time involved for the process
- if this was a ‘rare’ occurrence [yes]

COMMISSIONERS MACADO/SMITH MOTIONED TO REMAND THE MATTER OF TSM NO. 04-71 TO STAFF FOR FURTHER INFORMATION AND CLARIFICATION WITH THE MATTER TO BE RETURNED TO THE PLANNING COMMISSION AS NEED FOR ACTION. THE MOTION CARRIED (4-0-0-1) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: DeVRIES.

REGULAR AGENDA

PUBLIC HEARING ITEMS ~ COMMISSION ACTION

7. **MINOR SUBDIVISION NO. 1186-06.** APPLICANT/OWNER: William Young. LOCATION: 988 Spring Grove Rd, Hollister. APN: 017-03-030. REQUEST: To subdivide 28.58 acres into three parcels of 5.00 acres, 5.34 acres, 5.09 acres and a remainder lot of 13.10 acres. ZONING: Agricultural Productive (AP). ENVIRONMENTAL REVIEW: Mitigated Negative Declaration.

AP Knight gave the staff report, noting that this is a proposal to subdivide a 28.53 acre parcel into four parcels with lot sizes ranging from three 5-acre parcels and a 13.10-acre parcel with the intention of constructing single family residences and retaining Ag production. AP Knight explained that one parcel has an existing house, with access from Spring Grove Road. The remaining parcels will have access from a cul-de-sac from Comstock Road. AP Knight advised that a Negative Declaration had been prepared, with the conditions being agreed with the applicant.

Commissioners discussed with staff:

- soils grades (concern of outdated maps being used)
- existing driveway
- drainage
- CA definition of 'local importance' to agriculture
- no grading required on property

Chair Tognazzini opened the public hearing.

Project Engineer, Matt Kelly told the Commissioners that the #4 slopes are not conducive to farming. He said the existing home has been there for '50 years' and there is intent to retain it for residential purposes.

Dennis Madigan asked questions regarding:

- the Dark Sky ordinance [DCC Murphy advised that provisions of Ordinance 748 are required for all subdivisions]
- purported Ordinance prohibiting use of greater than 2% of properties which are not grade 1 soils [DCC Murphy advised she was not aware of such]
- Mitigation Monitoring Plan

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

Commissioners discussed:

- story index of 80 or better for Grade 1 soils
- under proposed General Plan amendments, peer review provisions for soils evaluation and assessment
- in the Preliminary Allocation process, soils issues are not considered in depth
- perceived need to protect Grade 1 soils

- buffer areas around building envelopes
- configuration/placement of building envelopes
- policies 3 and 4 (possible exemptions)

COMMISSIONERS DeVRIES/BETTENCOURT MOTIONED TO APPROVE MINOR SUBDIVISION NO. 1186-06 WITH THE MODIFICATIONS IDENTIFIED DURING DISCUSSION, E.G., EXEMPTION FROM SPECIFIED POLICIES, AND WITH THE INCLUSION OF THE FINDINGS AND CONDITIONS THEREIN. THE MOTION CARRIED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, 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. 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]

7. **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 (\$1,875.00 – 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]
8. **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]
9. **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]
10. **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. [Public Works]
11. **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). [Planning, Department of Fish and Game]
12. **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. [Mitigation Measure #8]

Public Works Conditions

13. Prior to recordation of the parcel map, the applicant shall pay a fair-share contribution toward the Comstock Road Improvement Benefit Area (((\$16,449.78/parcel)* (3 new parcels) = (\$49,349.34). [Sections 65(i) & 66 of SBC Subdivision Ordinance]
14. Prior to recordation of the parcel map, the applicant shall provide a water system designed to serve the proposed project as both a Fire and Domestic water supply.
15. Prior to recordation of the parcel map, erosion and drainage control details shall be submitted to the Public Works Department and will be in compliance with the County Drainage Standards. Drainage Calculations shall be submitted, and shall be engineered signed and stamped. [Mitigation Measure #6]
16. Prior to commencement of any improvements associated with this project, the applicant/owner shall obtain a Public Works Encroachment Permit for any work being performed within the County road right-of-ways. [General Design Standard Chapter 2.4 (A)]

17. Prior to recordation of the parcel map for this project, the applicant/owner shall improve both the northern project driveway accessing Comstock Road, as well as the southern project driveway accessing Spring Grove Road, per the following requirements:
 - A. Full-width 24 feet AC on 34 feet road bed where the driveway serves 5 or more dwellings;
 - B. Full-width of 16 feet AC on 18 feet roadbed where the driveway serves 2 to 4 dwellings.
[Section 17-53 of SBC Subdivision Ordinance]
18. Prior to recordation of the parcel map for this project, the applicant/owner shall make an irrevocable offer of dedication for both the northern project driveway accessing Comstock Road, as well as the southern project driveway accessing Spring Grove Road, as follows:
 - A. 60 feet road right-of-way/easement for the driveway where it serves 5 or more dwellings;
 - B. 30 feet road right of way/easement for the driveway where it serves 2 to 4 dwellings.
[Section 17-64, 65(a) of SBC Subdivision Ordinance]

Planning Conditions:

19. **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”.
20. **Mitigation Monitoring:** Prior to the recordation of the parcel map, the applicant/owner, County Counsel and the Planning Director shall agree to and sign the Mitigation Monitoring Program form(s).
21. **Inclusionary Housing:** Prior to recordation of the Parcel Map the applicant/owner shall pay Inclusionary Housing fees. Developments of 3-4 units shall pay a fractional fee. A four-unit/lot development shall pay 4/5ths of the required fee for the third and fourth lot. $[4/5 \times 27,019.60 \times 2 \text{ (lot three and four)} = \$43,231.36 \text{ total}]$
[Chapter 35 of the San Benito County Code]
22. **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. [Mitigation Measure #3]
23. **Erosion Control:** Prior to the issuance of a grading permit, the applicant shall provide a detailed erosion control plan that complies with the County Standards and shows the location of erosion control devices on the site. The erosion control plan shall be submitted to the County Planning and Public Works Department for review and approval. [Mitigation Measure #4]

County Fire Conditions:

- 24. Hazards and Hazardous Materials:** 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 County Fire Department, including the provision of an adequate water supply and flow for fire suppression. Required fire flow for this project shall be in accordance with 2000 UFC Division III, Appendix III-A-A-I, Table A-III-A-I. All residential structures shall be equipped with NFPA 13D sprinkler systems."
[County Fire Department]
- 25. 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]
- 26. Ingress/Egress:** The applicant/owner shall ensure that there is adequate ingress and egress to any and all buildings. Roadways/driveways and shall be all-weather surfaced conforming to the applicable codes and standards. Driveway(s) shall include turnouts and turnarounds as required. If a gate is utilized on an access or egress driveway, a Knox system shall be required. Appendix III-D 2000 UFC.
- 27. Addressing:** Addresses shall be posted and installed to ensure that are visible to responding emergency personnel coming from either direction and conforming to applicable codes and standards.
- 28. Fire Hydrants:** If on or near an established and recognized water distribution system, fire hydrants shall be provided in accordance with the 2000 UFC Appendix III-B. Fire hydrants shall be provided along fire apparatus access roads and adjacent public streets. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. Appendix III-B 2000 UFC.
- 29. Completions:** Prior to obtaining a building permit or any construction, access and water supply for all four parcels shall be in place and operable.
- 30. Fire Approval:** Upon completion of the County Fire requirements and prior to occupancy of any building or structure specifically referred to in this project, the applicant/owner shall request and receive a Project Fire Requirement Final Signature from this Fire Department. Contact Fire Prevention at 637-4474 to make this request.

Environmental Health Conditions:

- 31. Water System:** Prior to recordation of the Parcel Map or a Deed, a note shall be placed stating the following: "Prior to issuance of a building permit, the applicant shall notify the successor in interest that
- a. The concentrations of iron and manganese and color exceed the maximum contaminant levels established by the San Benito County Code. (and/or)
 - b. Prior to the issuance of a building permit, the actual water system shall be reviewed, inspected and approved by the Department of Public Works for satisfactory completion." [Mitigation Measure #7]

DoP Henriques left the room at 8:00 p.m., returning after 3 minutes.

- 8. USE PERMIT NO. 968-07. APPLICANT/OWNER:** Mike Howard.
LOCATION: 6991 Airline Highway, Tres Pinos. **APN:** 022-220-022. **REQUEST:**
To replace an existing uninhabitable single-family dwelling with a new dwelling.
ZONING: Neighborhood Commercial (C2). **ENVIRONMENTAL REVIEW:**
Categorical Exemption.

AP Kelly gave the staff report, noting the request would create negligible change to the vicinity's character. AP Kelly explained the density permitted and presented the findings and conditions for approval. The plan, he said, contained provisions for having 3rd Street (which is undeveloped) as a public right-of-way and the addition of a new parking lot.

Chair Tognazzini opened the public hearing.

Pam Alvarado, a representative of the Tres Pinos Water District, told the Commissioners the property could be serviced by the District, with a well not being required.

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

AP Kelly clarified that the property is zoned C-2 with a residential overlay, which he termed 'very rare'.

Chair Tognazzini noted that this is a replacement structure with the utility connections already in place.

COMMISSIONERS SMITH/BETTENCOURT MOTIONED TO APPROVE USE PERMIT NO. 968-07 TOGETHER WITH THE FINDINGS AND CONDITIONS NOTED. THE MOTION CARRIED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Conditions of Approval

Planning:

- 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 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 Commission. 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. **Lighting:** Any exterior lighting for the proposed single-family residence shall comply with the requirements of County Ordinance 748 (Development Lighting Regulations). [Planning, Building]
4. **Landscaping:** The site shall be maintained in a litter-free and weed-free condition. No trees of six-inch diameter at breast height (dih) or larger shall be removed from the site without prior approval of the Planning Department. [Planning]
5. **Parking:** Sufficient off-street parking shall be provided to meet the requirements of the parking standards within the County Zoning Ordinance for the proposed dwelling unit. [Planning]
6. **Permit Fees:** The applicant shall pay all applicable building permit fees including those associated with the enforcement of County Code Chapter 19 (Code Enforcement). [Planning, Building, Code Enforcement]

County Fire:

7. **Fire:**
 - a. The project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, the Uniform Building Code, Chapter 17 of the San Benito County Code, the Public Resources Code sections 4290 and 4291, and other related codes as they apply to a project of this type and size.
 - b. When fire protection, including fire apparatus access roads and water supplies for fire protection, is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction.
 - c. Temporary addressing shall be posted at the entrance to the project prior to and during construction and shall be plainly visible for emergency response personnel. Permanent addresses shall be posted at the entrance to the driveway and on the residence and shall be visible to responding emergency personnel.
 - d. The applicant shall ensure adequate ingress and egress to any and all buildings. Roadways and driveways starting at the main roadway shall be a minimum of 20 feet in width, all-weather surfaced conforming to applicable codes and standards. Overhead roadway clearance shall be a minimum of 14 feet.
 - e. Any and all entrance gates to the project shall be equipped with a Knox Locking System, for which ordering forms are available from the County Fire Department.
 - f. The structure shall be equipped with an NFPA 13D fire-sprinkler system for interior fire protection. Plans and calculations for this system shall be submitted to the County Fire Department for review prior to installation.
 - g. A steamer hydrant connected to underground water distribution lines and located within 500 feet of the driveway entrance may substitute for an on-site water storage tank for exterior fire protection.
 - h. 110-volt, hardwired smoke detectors with battery backup shall be installed where required per the Uniform Building Code.
 - i. The Fire Marshal or a representative of the County Fire Department shall sign off the project permit prior to granting of occupancy provided all Fire requirements are met and in place.

DISCUSSION ITEMS

- 9. HILLSIDE ORDINANCE** – Review existing Ordinance, discuss revisions, and receive direction.

PP Turner presented the staff report, explaining that it is planned that the present Ordinance could be amended /repealed/ replaced with a new document, or (a preference) amended. He invited participation from the Commissioners, noting that he would address the deletions and definitions.

Commissioners asked questions and/or raised concerns of:

- applicability to targeted developments and projects
- sizes of parcels/ number of units per development
- grading permits ('triggered' by amount of dirt to be moved)
- Grades of soils present
- issues of percentage of slope with grading
- establishing goals and setting policy to achieve the goals
- intent to amend
- CEQA requirements
- Design and Review guidelines
- hillside: defined by topography map or GIS
- 'unusual corridors', e.g., habitat
- concerns of building heights ~ sizes
- landscaping issues
- fencing – visual effects
- lighting (Dark Sky Ordinance)
- Fire code concerns (possible removal of these)
- need for continuing guidelines/ongoing balance

Chair Tognazzini opened the public hearing.

Anne Hall, San Benito Engineering, spoke to the need of 'some criteria' for triggering the provisions of the Hillside Ordinance. As to the grading permit, Ms. Hall asked about having it concurrent with an application or keeping it separate. [PP Turner said it would run concurrently.]

Commissioners continued questions of:

- other Jurisdictional Hillside - or similar - Ordinances
- slope percentage for grading
- use of hilltops
- need for finalization of products

Scott Fuller, 3825 Union Road, said land use will be an issue and that specific language is needed. "I think the view shed will be the key to having a success for a Hillside Ordinance," Mr. Fuller said. "Whether or not the size of buildings or if it can be seen from strategic locations is the reaction of the view shed."

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

Commissioner Machado agreed with the statements Mr. Fuller had made, saying he thought the slope was not as critical as the view.

Commissioner Smith proposed that it might be well to identify view shed areas.

Commissioner DeVries capsulated the Commissioners thoughts: "It's a tough task."

10. ZONING ORDINANCE – Review existing Ordinance and recent revisions associated to Abattoir regulations.

SP Ortwein presented the staff report, noting this is a request to amend Ordinance 479, which had been approved by the Commission on August 16, 2006 allowing for an abattoir as a conditional use in AR zoned districts. SP Ortwein advised this request was generated by Sallie Calhoun (owner) and Lou Cruz (manager) of the Paicines Ranch. "Essentially, what they are looking for is approval for setting up a processing plant to make dog food," SP Ortwein explained. He went on to detail the proposal:

- changing the size of the building to be 30,000 sf (currently a maximum of 12,500 sf)
- rendering and cooking of animal products (currently no cooking or rendering except in an Industrial Zone)

Commissioners discussed with staff:

- smells and odors associated with rendering
- environmental/CEQA concerns
- consistent land use
- whether there is justification for enlarging building
- concern that the original Ordinance was not comprehensive

Chair Tognazzini opened the public hearing.

Lou Cruz, PO Box 6, Paicines, addressed the Commissioners, underscoring that this will be a processing facility with slaughter and packaging occurring. Mr. Cruz said food safety is of utmost importance, and the larger building is needed to ensure that food safety. Mr. Cruz stressed this is not a feed lot and the owner and he are willing to work with County staff to ensure a successful operation. Mr. Cruz said it was possible that rendering might not be done, but he wanted to keep options open.

Responding to Commissioners question, Mr. Cruz said they figured to initially start with 50 head of animals per day, and reiterated he wanted to keep options open.

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

Commissioners brought forth the following points with staff and the applicant:

- the original Ordinance is ‘radically’ different from the proposal
- possibly an entire new EIR should be considered (Mr. Cruz requested a review and amendment)
- Commissioners remembered different requirements and regulations being told at the time of the Ordinance
- (Mr. Cruz) focused on a USDA program: Hazard Analyst System
- a question of needing larger facilities in a buffer zone

PP Turner reminded that under current zoning, an abattoir of 30,000 sq. ft. cannot be considered for application.

NOTICING THE TIME, AND THE COMMISSION’S STANDING RULE FOR NO NEW BUSINESS AFTER 10:00 P.M., CHAIR TOGNAZZINI ORDER THIS MATTER SUSPENDED IN ORDER TO HAVE AGENDA ITEM 11 HEARD.

11. TEMPORARY USE PERMITS (TUP) – Discuss 4th of July applications and administrative process.

SP Ortwein presented the staff report, noting that the Commission had been asked for clarification to determine if the previous Planning Commission decision (1999) indicated a concern for all events related to the Fourth of July Bike rally or was limited to specific actions. SP Ortwein advised of a May 4 meeting whereby the Sheriff’s Department, Environmental Health, County Fire, and the Planning Department addressed potential concerns with approval(s) of Temporary Use Permits from Dave Grimsley, Jim Matthews, and the Windhaven Ranch proposals. SP Ortwein noted that the Windhaven proposal had been incomplete and staff would require more information regarding the matter anticipating the matter to be heard at the June 6, 2007 meeting. The Matthews request has been denied, SP Ortwein said, as it conflicts with the Planning Department’s policy for determining what constitutes a 30-day temporary use permit as well as confirming inconsistencies with the Zoning Ordinance and General Plan.

SP Ortwein advised, therefore, that left the Grimsley request still on the table. He noted that the issue of consent from Public Works was due to be resolved on May 17, 2007; and consequently, staff anticipates approving that TUP then.

Although this had not been noticed as a public hearing item, Chair Tognazzini agreed to hear Attorney Doug Marshall.

Mr. Marshall indicated he was present to represent the Grimsley interest. Firstly, Mr. Marshall asserted he disagreed with DCC Murphy and the Planning Commission and insisted that a public hearing was in order for legal reasons. Mr. Marshall further claimed a public hearing would provide for any opposition to be declared openly.

DCC Murphy clarified that a TUP is addressed in a different section of the Zoning Ordinance. She stated that appeals can be heard in a Public Hearing conducted by the Planning Commission.

SP Ortwein explained the Planning Department has not indicated opposition, and indeed is planning to approve the request following action by the Department of Public Works. Mr. Marshall said, "I respectfully disagree. There is a letter from the opposition's lawyer."

Commissioner DeVries, in stating disagreement with Mr. Marshall, said an appeal is the proper way to have a conflicting view in the matter of a TUP resolved.

Discussion followed regarding:

- a public hearing would avoid litigation
- could arbitration be considered
- public hearings are noticed in the print media and mailed to surrounding landholders
- the Planning Commission can call a public hearing
- concerns and issues were raised regarding past 4th of July gatherings at the identified site
- this matter was addressed at the previous Planning Commission meeting
- an appeal is adequate for a public hearing
- the Director of Planning has the option of making an administrative decision, which could be appealed to the Planning Commission

Mr. Marshall spoke on the procedural requirements of County Code.

Due to the concerns raised and the continued insistence of Mr. Marshall,
COMMISSIONERS BETTENCOURT/SMITH MOTIONED TO CONTINUE THE MATTER OF A TUP FOR DAVE GRIMSLEY'S RIDE TO CELEBRATE THE 4TH OF JULY HOLIDAY TO AN OPEN PUBLIC HEARING AT THE COMMISSION MEETING OF JUNE 6, 2007. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Agenda Item 10 - ZONING ORDINANCE – was taken up again. Discussion ensued as to the potential of creating an Agricultural/Industrial zone.

- Commissioners voiced the following thoughts:
 - Machado: no change should occur from the original Ordinance
 - Smith: explained the history and intent of the Ordinance
 - Tognazzini: clear guidelines needed for requirements of a facility (proposed) this large
- Other Commission discussion included:
 - the original request was for cattle only; multi-species would likely require a larger plant

Although this had not been noticed as a public hearing item, Chair Tognazzini agreed to open the floor to members of the audience:

Fred Flook said San Benito County has long had a reputation for raising cattle, although there is not a slaughter house here. Mr. Flook spoke on the great need for such a service. "We have local cattle for this kind of operation," he said. Mr. Flook added he would prefer to see such a plant located in the South County, and thought others would like that, too.

John Eade addressed the Commissioners, indicating he was present to speak in favor of the processing plant. "We need it to provide a local market for local cattle. It will bring new jobs, and will be a great asset for the County," he said.

With no others present indicating a wish to speak to the matter, the opportunity for public input was closed.

Commissioners and staff discussed:

- the potential for directing staff to return and address the request with language and methods for building in industrial zones
- study the 'proper zone' for location of such a facility
- leave the current Ordinance intact

Mr. Flook spoke again, saying, "Do not limit slaughter houses to strictly Industrial Zones.

BY CONSENSUS, THE MATTER WAS REFERRED TO STAFF FOR FURTHER INFORMATION GATHERING.

INFORMATIONAL – NON-ACTION ITEM

Commissioner Announcements/Reports/Discussions: None

COMMISSIONERS DeVRIES/SMITH 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 10:40 P.M.

*Minutes transcribed by:
Judi Johnson*

*Attest:
DoP Art Henriques*