

SAN BENITO COUNTY PLANNING COMMISSION

June 6, 2007

Minutes

PRESENT: Bettencourt, DeVries, Machado, Smith, Tognazzini

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 (AP) Lissette Knight, Deputy Director of Public Works (DDPW) Arman Nazemi; Public Works Engineer Technician Christopher Herrera; 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 recent Board of Supervisor's (BoS) meeting/actions:

- changes to the Preliminary Allocations/Growth Management program guidelines, rules, and schedule as recommended by the Planning Commission, are being reviewed by the BoS; need to have the percent slope consistent with the Grading Ordinance and have further study/recommendation on the Habitat and Wildlife Management programs
- as part of the budgeting process, Affordable Housing Programs of the County and City of Hollister (combinations) will be considered
- approved the zoning for Casa de Fruta (Zanger) subdivision following a public hearing: minor change: Minor part of Grade 1 area transferred to an Open Space Agricultural Easement
- Gavilan College/Hollister Campus Letter from Board sent indicating willingness to work on new campus

PUBLIC COMMENT:

Vice Chair Tognazzini opened, and then closed, the public hearing having ascertained there were no persons present wishing to address items not on the agenda.

CONSENT AGENDA:

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of May 16, 2007

4. **NON-CONFORMING PARCEL REVIEW/SCENIC CORRIDOR REVIEW 06-109** APPLICANT: Aurelio Renteria. LOCATION: Chittenden Road (State Route 129). REQUEST: To construct a single-family dwelling on a nonconforming parcel containing Grade-1 soil and within the Route 129 scenic corridor. ZONING: Rural (R). ENVIRONMENTAL EVALUATION: Categorical Exemption.

COMMISSIONERS MACHADO/BETTENCOURT MOTIONED TO APPROVE THE CONSENT AGENDA(S) [ITEMS 1 – 4] AS PRESENTED. THE MOTION PASSED (5-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

DoP Henriques announced that any decision made by the Commissioners can be appealed and the appeal must be filed within 10 days of the decision announcement by the Commission.

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 presented the staff report, noting this item had been continued from the previous meeting. In presenting information, AP Kelly noted that the ability to build one dwelling on a 70-acre parcel in the Rural Density Zone (the components of which he explained) complies with the applicable General Plan policies regarding density & that the issuance of a COC does not approve development. AP Kelly gave an overview of the required findings and conditions for the Commissioners.

Commissioners discussed with staff:

- recommendations from the County Fire Department
- referencing a 1992 decision by the BoS (found in the staff report), would the request nullify that action [approval of this request does not give development approval, but recognition as a ‘regular parcel’ and provides a way for the applicant to apply for a building permit {it is not an automatic process}]
- issue of open space easement {not identified} [PP Turner explained that when the map was recorded, the entire parcel had been cataloged as Open Space; however, only a portion of the property should have been noted as Open Space]

Chair Tognazzini opened, and then closed the public hearing as none were present wishing to speak to the matter.

COMMISSIONERS BETTENCOURT/SMITH MOTIONED TO GRANT CERTIFICATE OF COMPLIANCE NO. 06-68, INCLUSIVE OF THE FINDINGS AND CONDITIONS AND TO APPROVE THE NEGATIVE DECLARATION. 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. USE PERMIT NO 965-07– APPLICANT: Lario Oil & Gas Co. LOCATION: Flint Hills. REQUEST: To establish one drillpad to drill and produce oil and/or natural gas. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.**

AP Knight gave the staff report and provided a brief description of the project, which proposed to create one oil and gas drill pad for exploratory and production drilling at the 'Blackwater' site. Responding to a question, AP Knight explained the State and County will oversee any drilling taking place on the site. Commissioner Bettencourt spoke on the requirement for obtaining analogs for water at the site. Commissioner DeVries clarified the length of time required for drilling implementation if the use permit was approved: both exploration and long term production are anticipated, AP Knight said.

Chair Tognazzini opened the public hearing.

Lisa Borba told the Commissioners she was present to answer questions as a representative of the applicant. Ms. Borba assured that if the analogs for proof of water at the site were needed, they would be provided.

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

COMMISSIONERS SMITH/ BETTENCOURT MOTIONED TO APPROVE USE PERMIT NO 965-07 (Blackwater), INCLUSIVE OF THE FINDINGS AND CONDITIONS AND TO APPROVE THE NEGATIVE DECLARATION, AS WELL AS THE MITIGATION MONITORING PROGRAM. THE MOTION CARRIED (5-0) BY THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

CONDITIONS OF APPROVAL

1. **Hold Harmless:** The permittee shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void, or annul the approval of this Use Permit and applicable proceedings. [Planning]
2. **Conformity with Plan:** Approved plans and specifications shall not be changed, modified or altered without written authorization from the Planning Department. All work shall be in accordance with the approved plans and no more than 15,593 cubic yards of cut grading and 11,882 cubic yards of fill is authorized. All grading will conform to the plans submitted for Grading Permit 07-377. The recommendations prepared by Laugenour and Meikle, shall be followed. [Planning]
3. **Hours of Operation:** Pursuant to County Ordinance 479, Section 44.3.e.2., grading activity shall take place between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday only. No grading shall occur on Federal holidays. [Planning and Building] [Mitigation Measure #21]
4. **Work Time Limits:** The permit holder shall fully perform and complete all work within the specified time limits. If no time limit is specified, the permittee shall complete the work within 180 days after the issuance of the grading permit except that no grading work may take place between October 15 and April 15 without the issuance of a Winter Grading Permit. The permit shall expire if work is not commenced within ninety (90) days from the date of permit issuance, or if the work is commenced and then suspended for a period of thirty (30) days, unless such suspension is approved by the Planning Department. [Planning]
5. **Stockpile topsoil:** Topsoil shall be stripped, stockpiled, covered with plastic or hay to prevent erosion, and reapplied as a surface layer to areas to be re-vegetated. The temporary soil working areas shall be clearly delineated on the site plan. [Planning]
6. **Compaction:** The grading compaction shall comply with the recommendations of the geotechnical investigation. The final compaction report for this site shall be submitted to the Building Department prior to the scheduling of a foundation inspection. [Planning and Building]
7. **Wind Erosion/Dust Control:** The contractor shall water graded areas as needed to control dust. It is also the contractor's responsibility to maintain the cleanliness of existing improved roads in the construction area. As a condition of UP 965-07, the following note shall be included in the improvement plans to minimize particulate emissions: "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 times a day. If the 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." [Planning, Building, Public Works] [Mitigation Measure #1]

- 8. Inspections:** Grading operations shall be subject to inspection by the County. Special testing, when deemed necessary by the County, shall be performed at the expense of the permittee. [Public works, Planning and Building]
- 9. Erosion Control/Re-vegetation:** Grading activity shall be completed and all disturbed soils shall be reseeded and mulched by within 30 days from the issuance of this permit. Cut slopes shall be scarified to enhance reseeding. Topsoil shall be reapplied on cut and fill slopes and fertilized. Within 10 days after completion of grading activity, all disturbed areas, including cut slopes and keyways, shall be reseeded at a rate of 30 to 50 pounds of seed per acre. Seeded areas shall be covered with straw or similar mulch at a rate of two tons of mulch per acre. Mulch shall be anchored by an approved method. Check dams, silt fences, hay bales or other designs approved by the Planning and Building Department will be used to catch any sediment until after the disturbed areas are re-vegetated sufficiently to control erosion. Sedimentation shall be retained on site and shall be prevented from flowing in drainage features. Sediment catchment barriers shall be inspected immediately after each significant rainfall and at least daily during prolonged rainfall. [Planning and Building]
- 10. Winter Grading Measures:** All work after October 15 shall require sufficient control materials such as fiber rolls, straw bale dikes, plastic jute netting, etc, and shall be kept on site at all times to be installed immediately by the permittee upon the advent of any rainfall or wind that may be expected to cause accelerated erosion. When rainfall or wind is predicted or occurring, temporary erosion control measures must be applied to all soils bared at the end of each day. A surety bond shall be provided to the Planning Department to guarantee the installation of erosion control measures. Permits for grading shall not be valid and work shall not be started until the required bond has been provided. The amount of the bond shall be equal to 150% of the estimate (from a licensed contractor) for the complete cost of drainage, erosion control, and/or other protective devices. The bond shall remain in effect through the rainy season (October 15 to April 15). [Building and Planning]
- 11. Maintenance and Remediation:** The applicant shall monitor re-vegetation and maintain irrigation as necessary. Erosion control measures shall be maintained until the disturbed area has been successfully vegetated. If reseeding fails, remediation measures shall be undertaken, including areas which did not re-vegetate or were damaged by erosion, wind, or other causes. Such areas shall be repaired to re-establish the condition of the soil and shall be re-fertilized, reseeded, and re-mulched. [Planning and Building]
- 12. 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 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 Ordinances 610. A note to this effect shall be placed on all construction, grading, or other improvement plans. [Planning] [Mitigation Measure #16]
- 13. Safety Precautions:** The permittee shall take all appropriate and necessary precautions to protect adjacent public and private property from drainage that may result from the grading operations. [Planning and Building]

- 14. Environmental Health: Prior to obtaining a grading permit** the owner shall provide a signed contract with the portable toilet company servicing the site, contact information, and number of days/times that portable toilets will be cleaned will be cleaned and serviced/pumped. [Environmental Health]
- 15. Delineation of Work Boundaries:** Prior to the start of the project, the boundaries of the work area (i.e., construction area, vehicle access routes, and areas planned for storage of materials, placement of soils, and staging of equipment) should be clearly delineated in the field with construction fencing. No placement of soils, storage of construction materials, or the staging of equipment should be allowed in any riparian corridor or within the drip-line of any trees. [Planning]
- 16. Verification of Delineation:** The applicant shall notify the County when the project boundaries have been marked in order for an inspector to verify that the approved work area has been properly delineated. [Building]
- 17. Encroachment Permit:** The applicant shall obtain a Public Works Encroachment Permit for any work being performed within the road right-of-way. [Public Works]
- 18. Fire:** The project shall meet the standards set forth in the latest adopted additions of the Uniform Fire Code, Uniform Building Code, Chapter 17 of the San Benito County Code and other related codes as they apply to a project of this type and size.
 - a. The applicant shall ensure there is adequate ingress and egress to any and all buildings.
 - b. Prior to obtaining a grading permit the applicant must submit a plan explaining the fire protection to the fire department for review and approval.
 - c. Any and all entrance gates to the driveway(s) shall be equipped with a Knox Locking System.
 - d. Access and Fire Protection water supplies shall be in working order and on site prior to any drilling or construction. [California Department of Fire]
- 19. Emissions:** The following note shall be included in the improvement plans for this Use Permit and the related Grading Permit (GR 07-377) to minimize particulate emissions: “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. 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.” [Planning, Building, Public Works]
- 20. Training:** Worker environmental awareness training shall be conducted prior to a project initiation for construction personnel, and should consist of a brief presentation in which persons knowledgeable in local sensitive habitats and wildlife, and regulatory protection should discuss environmental concerns. All personnel working on the project should understand the sensitivity of adjacent habitats and species. [Planning] [Mitigation Measure #2]

- 21. Biological Species Clearance:** A pre-construction biological species clearance survey shall be conducted prior to the beginning of earth moving activities within the project area to ensure that no special status wildlife or plant species are present. [Planning] [Mitigation Measure #3]
- 22. Hazardous Materials:** Hazardous materials, fuels, lubricants or solvents that are accidentally spilled during drilling activities should be cleaned up and disposed of immediately and according to applicable federal, state and local regulations. [Environmental Health] [Mitigation Measure #4]
- 23. Traffic:** The speed of project-related vehicular traffic should be limited to 15 miles per hour once vehicles have left paved roadways and are traveling along unpaved dirt roadways to and from the well site. [Public Works] [Mitigation Measure #5]
- 24. Storage:** All equipment storage during site development and operation should be confined to the project area or to previously disturbed off site areas that are not habitat for sensitive species. [Environmental Health, Planning] [Mitigation Measure #6]
- 25. Run-off:** During the rainy season, sediment-control devices (e.g. weed-free straw wattles, silt fence, straw bales, etc.) should be installed around construction work zones to prevent run-off to adjacent lands. [Public Works] [Mitigation Measure #7]
- 26. Maintenance:** Vehicle refueling or maintenance of equipment should occur at least 100 feet from any wetlands or other sensitive resource. Proper spill cleanup materials should be staged at the site at all times in the case accidental spills occur. [Environmental Health] [Mitigation Measure #8]
- 27. Wildlife Protection:** To prevent entrapment of wildlife species during the construction phase of the project, all excavated, steep-walled holes and trenches in excess of 3-feet in depth should be provided with one or more escape ramps constructed of earthen fill or a wood/metal plank. If wildlife proof barricade fencing is available, it should also be utilized where appropriate escape ramps should be at less than a 45 degree angle. Trenches and pits should be inspected for entrapped wildlife each working day before construction activities resume. Before such pits and trenches are filled, they should be thoroughly inspected for entrapped animals. If any wildlife species are discovered, they should be allowed to escape voluntarily, without harassment, before construction activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded. [Planning] [Mitigation Measure #9]
- 28. Pipe Inspection:** All construction pipes, culverts or similar ~~that~~ structures that are stored at a construction site overnight should be thoroughly inspected for trapped animals before the pipe is buried, capped or otherwise used or moved. Pipes laid in trenches overnight shall not be capped or buried until the animal escapes. [Public Works, Planning] [Mitigation Measure #10]

- 29. Trash Maintenance:** All trash items such as wrappers, cans, bottles and food scrapes generated both during construction and subsequent operation shall be regularly removed from the site. Food items may attract animals onto the project site, consequently exposing such animals to increased risk of injury or mortality. [Environmental Health] [Mitigation Measure #11]
- 30. Pets:** To prevent harassment, mortality or unauthorized “take” of sensitive species and/or their habitat by domestic dogs and cats, no pets are permitted on-site. [Planning] [Mitigation Measure #12]
- 31. Lighting:** All exterior lighting 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. [Planning] [Mitigation Measure #13]
- 32. Fire Maintenance:** Impact associated with wild fires shall be minimized by maintaining firefighting equipment on site during project related activities. The use of shields, protective mats or use of other fire preventive methods during grinding and welding activities will prevent or minimize the potential for fire. [California Department of Fire] [Mitigation Measure #14]
- 33. USFWS and CDFG:** Any take (harming, harassment, pursuing, hunting, shooting wounding, killing, trapping, capturing or collecting or any attempt to conduct the previous), injury or illness of threatened or endangered species shall be reported promptly to the US Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG). [USFWS & CDFG] [Mitigation Measure #15]
- 34. Archeological:** If at any time in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact of 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. [Planning] [Mitigation Measure #16]
- 35. Excavation:** All earth excavated will be placed within the approved drill and facility site, to avoid any significant impact to sensitive resources. [Planning] [Mitigation Measure #17]
- 36. Water Tank:** A Water tank will have to be brought to the site to provide water in case of a fire. A 15,000 gallon water tank is the minimal size required. [California Department of Fire] [Mitigation Measure #18]
- 37. Protective Sleeve:** A protective sleeve will be brought in to contain the earth which is removed by the original drilling. [Public Works, Planning, Building] [Mitigation Measure #19]

38. Wastewater and Materials: Waste water and waste materials will be removed and stored in a pre-approved place for removal and disposal. [Public Works, Planning, Building] [Mitigation Measure #20]

39. Natural Gas: If natural gas is discovered on-site, an approved piping plan will be required and review by a County approved engineer. [Planning] [Mitigation Measure #22]

7. **USE PERMIT NO 966-07** – APPLICANT: Lario Oil & Gas Co. LOCATION: Flint Hills. REQUEST: To establish one drillpad to drill and produce oil and/or natural gas. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

AP Knight presented the staff report, noting this request was similar to the previous one, with a different location being noted.

Chair Tognazzini opened, and then closed, the public hearing as no persons were in attendance to address the matter.

COMMISSIONERS SMITH/ BETTENCOURT MOTIONED TO APPROVE USE PERMIT NO. 966-07 (Snakeman), INCLUSIVE OF THE FINDINGS AND CONDITIONS AND TO CERTIFY THE NEGATIVE DECLARATION, AS WELL AS THE MITIGATION MONITORING PROGRAM. THE MOTION CARRIED (5-0) BY THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SMITH, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

CONDITIONS OF APPROVAL

1. **Hold Harmless:** The permittee shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void, or annul the approval of this Use Permit and applicable proceedings. [Planning]
2. **Conformity with Plan:** Approved plans and specifications shall not be changed, modified or altered without written authorization from the Planning Department. All work shall be in accordance with the approved plans and no more than 4,800 cubic yards of cut grading and 3,200 cubic yards of fill is authorized. All grading will conform to the plans submitted for Grading Permit 07-378. The recommendations prepared by Laugenour and Meikle, shall be followed. [Planning]
3. **Hours of Operation:** Pursuant to County Ordinance 479, Section 44.3.e.2., grading activity shall take place between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday only. No grading shall occur on Federal holidays. [Planning and Building] [Mitigation Measure #21]

4. **Work Time Limits:** The permit holder shall fully perform and complete all work within the specified time limits. If no time limit is specified, the permittee shall complete the work within 180 days after the issuance of the grading permit except that no grading work may take place between October 15 and April 15 without the issuance of a Winter Grading Permit. The permit shall expire if work is not commenced within ninety (90) days from the date of permit issuance, or if the work is commenced and then suspended for a period of thirty (30) days, unless such suspension is approved by the Planning Department. [Planning]
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8. **Inspections:** Grading operations shall be subject to inspection by the County. Special testing, when deemed necessary by the County, shall be performed at the expense of the permittee. [Public works, Planning and Building]
9. **Erosion Control/Re-vegetation:** Grading activity shall be completed and all disturbed soils shall be reseeded and mulched by within 30 days from the issuance of this permit. Cut slopes shall be scarified to enhance reseeded. Topsoil shall be reapplied on cut and fill slopes and fertilized. Within 10 days after completion of grading activity, all disturbed areas, including cut slopes and keyways, shall be reseeded at a rate of 30 to 50 pounds of seed per acre. Seeded areas shall be covered with straw or similar mulch at a rate of two tons of mulch per acre. Mulch shall be anchored by an approved method. Check dams, silt fences, hay bales or other designs approved by the Planning and Building Department will be used to catch any sediment until after the disturbed areas are re-vegetated sufficiently to control erosion. Sedimentation shall be retained on site and shall be prevented from flowing in drainage features. Sediment catchments barriers shall be inspected immediately after each significant rainfall and at least daily during prolonged rainfall. [Planning and Building]

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- 12. 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 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 Ordinances 610. A note to this effect shall be placed on all construction, grading, or other improvement plans. [Planning] [Mitigation Measure #16]
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- e. The applicant shall ensure there is adequate ingress and egress to any and all buildings.
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 - g. Any and all entrance gates to the driveway(s) shall be equipped with a Knox Locking System.
 - h. Access and Fire Protection water supplies shall be in working order and on site prior to any drilling or construction. [California Department of Fire]
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- 28. Pipe Inspection:** All construction pipes, culverts or similar ~~that~~ structures that are stored at a construction site overnight should be thoroughly inspected for trapped animals before the pipe is buried, capped or otherwise used or moved. Pipes laid in trenches overnight shall not be capped or buried until the animal escapes. [Public Works, Planning] [Mitigation Measure #10]
- 29. Trash Maintenance:** All trash items such as wrappers, cans, bottles and food scrapes generated both during construction and subsequent operation shall be regularly removed from the site. Food items may attract animals onto the project site, consequently exposing such animals to increased risk of injury or mortality. [Environmental Health] [Mitigation Measure #11]
- 30. Pets:** To prevent harassment, mortality or unauthorized “take” of sensitive species and/or their habitat by domestic dogs and cats, no pets are permitted on-site. [Planning] [Mitigation Measure #12]

- 31. Lighting:** All exterior lighting 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. [Planning] [Mitigation Measure #13]
- 32. Fire Maintenance:** Impact associated with wild fires shall be minimized by maintaining firefighting equipment on site during project related activities. The use of shields, protective mats or use of other fire preventive methods during grinding and welding activities will prevent or minimize the potential for fire. [California Department of Fire] [Mitigation Measure #14]
- 33. USFWS and CDFG:** Any take (harming, harassment, pursuing, hunting, shooting wounding, killing, trapping, capturing or collecting or any attempt to conduct the previous), injury or illness of threatened or endangered species shall be reported promptly to the US Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG). [USFWS & CDFG] [Mitigation Measure #15]
- 34. Archeological:** If at any time in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact of 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. [Planning] [Mitigation Measure #16]
- 35. Excavation:** All earth excavated will be placed within the approved drill and facility site, to avoid any significant impact to sensitive resources. [Planning] [Mitigation Measure #17]
- 36. Water Tank:** A Water tank will have to be brought to the site to provide water in case of a fire. A 15,000 gallon water tank is the minimal size required. [California Department of Fire] [Mitigation Measure #18]

- 8. MINOR SUBDIVISION NO. 1198-06 – APPLICANT:** Gordon Wynn.
LOCATION: 1275 Santa Ana Valley Road. **REQUEST:** To subdivide a 40.94 acre parcel into four five acre parcels and a 20.94 acre remainder. **ZONING:** Agricultural Productive (AP). **ENVIRONMENTAL EVALUATION:** Mitigated Negative Declaration.

As she presented the staff report, AP Knight called attention to changes:

- Page 1 (Growth Ordinance), lines 3 and 4: ~~two~~ *four* new parcels and *a reminder parcel*
- Page 6 (Condition # 17: Roadway Development), line 2: ~~18~~ *20* feet of roadbed, *that terminates to a 40-foot paved radius as a turnaround facility as shown on the parcel map.*

Commissioner Bettencourt asked if the radius was part of the remainder? [Yes] AP Knight, responding to a question from Commissioner DeVries, said the remainder was 20 acres; explaining further, she said a major subdivision would be triggered by an application for additional units at the site.

Engineer Matt Kelley was present as a representative of the applicant. Mr. Kelley urged the Commissioners to approve the request and spoke briefly of the planned minor subdivision.

Chair Tognazzini opened, and then closed, the public hearing as no persons were present to address the matter.

Commissioner Machado asked for clarification of Condition #17 (Condition # 17: Roadway Development). DDPW Nazemi responded this is the same standard condition that is used for Minor Subdivisions. DCC Murphy reminded of the time limit regarding bonding for improvements.

COMMISSIONERS SMITH/ BETTENCOURT MOTIONED TO CERTIFY THE NEGATIVE DECLARATION AND APPROVE MINOR SUBDIVISION NO. 1198-06, INCLUSIVE OF THE FINDINGS AND CONDITIONS WITHIN. THE MOTION CARRIED (5-0) BY 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 sub-divider 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 #43). 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 #7]

Public Works Conditions:

13. Fair Share Contribution: Prior to recordation of the parcel map, the applicant shall pay a fair-share contribution toward the intersection improvement at Fairview Road/Santa Ana Valley Road (**\$1,908.16**). [Sections 65(i) & 66 of SBC Subdivision Ordinance]

14. Dedication: Prior to the recordation of the parcel map, the applicant shall make an irrevocable offer of dedication to the County of San Benito for the public use to maintain;

- a. Adequate right-of-way radius along the Santa Ana Valley Road property frontage to accommodate a minimum of 55 mile per hour roadway speed design and;
- b. A 60 foot right-of-way width for the proposed internal street with a 50 foot right of way radius for the turn-around facility to provide access to the proposed parcels 3 and 4 as shown on the tentative map and;
- c. A non-access strip along Santa Ana Valley Road frontage to limit the access to the proposed common driveway.

15. Frontage Improvements: Prior to the recordation of the parcel map, the applicant shall bond or improve half of Santa Ana Valley Road to build half of 38 feet of pavement width and 5 feet shoulder along property frontage.

16. Maintenance Agreement: Prior to the recordation of the parcel map, a maintenance agreement or homeowners association shall be formed to maintain the road and common related facilities within the subdivision.

17. Roadway Development: Prior to the recordation of the parcel map, the applicant shall bond or improve the common driveway with 16 feet of pavement on 20 feet of road bed, that terminates to a 40 ft. paved radius as a turn-around facility, as shown on the tentative map.

18. Roadway Name: Prior to recordation of the parcel map, the street name for the common driveway shall be approved by the communications department.

19. Encroachment: Prior to construction an encroachment permit shall be obtained from the County Public Works Department.

20. Drainage and Erosion Plan: Prior to the issuance of a grading permit, a drainage and erosion control plan prepared by a registered civil engineer, licensed in the State of California shall be submitted to the County Public Works Department for review and approval and will be in compliance with the County Drainage Standards. The drainage plan shall include a design to handle the 100 year storm development runoff and limit the outflow to a 10 year pre-development. [Mitigation Measure #4]

Planning Conditions:

21. 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".

22. 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).

23. 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]

24. 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]

25. Exterior Lighting: A note shall be placed on a 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 indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture." [Mitigation Measure #1]

26. Air Quality: As a condition of MS 1198-06, the following shall be included in the improvement plans to minimize particulate emissions: "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 times as day. If the 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." [Mitigation Measure #2]

County Fire Conditions:

27. Hazards and Hazardous Materials: A note shall be places 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." [Mitigation Measure #5]

28. Submittal and Review: Fire hydrants shown on the site plan will satisfy exterior fire protection requirements. All habitable structure to be built in this project shall be equipped with a NFPA 13D fire sprinkler system for the interior fire protection. Plans and calculations for these systems shall be submitted to the County Fire Department for review and approval prior to installation.

29. 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]

30. 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.

31. 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.

32. Temporary Addressing: Prior to and during construction, temporary addressing shall be posted at the entrance to the project. It shall be plainly visible for emergency equipment.

33. 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.

34. Completions: Prior to obtaining a building permit or any construction, fire access and water supply for all four parcels shall be in place and operable.

35. 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:

36. Water Content: Prior to the recordation of the Final Parcel Map, the applicant shall record a note on each deed stating: "The concentration of TDS in the proposed water source exceeds the maximum contaminant level permitted by the San Benito County Code."

37. Water System: Prior to the recordation of the Final Parcel Map, a Local Small Water System Permit shall be obtained and the applicant shall install or bond for all components of the water system as required by the County Public Works Department.

9. **TEMPORARY USE PERMIT NO. 07-47** APPLICANT/OWNER David Grimsley. LOCATION: 8400 Airline Highway APN 25-22-02, 25-22-28 and 25-22-19. REQUEST: Temporary Use Permit for Camping and Barbeque for July 6, 7, 8, 2007. ZONING: Agricultural Rangeland (AR) ENVIRONMENTAL REVIEW: Categorical Exemption.

SP Ortwein told the Commissioners this is an administrative permit being considered by the Planning Commission at the request of the applicant's Attorney. SP Ortwein called attention to Condition # 16, page 3, which he recommended for deletion. DDPW Nazemi said the Public Works Department was not opposed to the deletion, but wanted 'something in writing' from CalTrans which would indicate they had no requirements.

Chair Tognazzini opened the public hearing.

Attorney Doug Marshall appeared as a representative of the applicant, asking the Commissioners to disregard the request made by Public Works.

Commissioner Smith reminded that encroachment permits are for working within the right of way, not for Traffic Control Plans as indicated in the original Condition.

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

COMMISSIONERS SMITH/ BETTENCOURT MOTIONED TO APPROVE TEMPORARY USE PERMIT NO. 07-47, INCLUDING THE FINDINGS AND CONDITIONS, AS AMENDED. 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. Hold Harmless:** The permittee shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against San Benito County or its agents, officers, or employees to attack, set aside, void, or annul the approval of this Use Permit and applicable proceedings. [Planning]
- 2. Conformity with 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 change in the number, location and/or dimensions of the structures, or any increase in the nature or intensity of land use on the site, shall be subject to further Planning Commission review and approval. [Planning]
- 3. Compliance Documentation:** The permittee 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, Building]
- 4. Term of Permit:** The use permit renewal shall be valid for a period not to exceed thirty (30) days, by which time, if the applicant desires a renewal of the temporary use permit, the applicant must obtain the Planning Commission's approval of the renewal of the original temporary use permit. The temporary use will automatically terminate upon the expiration of the thirty (30) day term. [Planning]
- 5. Use Permit Review/Extension/Revocation:** Any expansion of this use beyond what is currently proposed must first be reviewed by the Planning Director, and if necessary, shall require further Use Permit review by the Planning Commission. In the event of a compelling public necessity, non-compliance, problems, concerns, or complaints, this permit will be subject to further review and conditioning or, if necessary, revocation by the Planning Commission. Violation of the permit, creation of a nuisance, or a compelling public necessity could cause the revocation of this permit. [Planning]

6. **Camping:** All camping shall be restricted to designated site as proposed on site plan.[Planning]
7. **Noise:** The applicant shall adhere to all County standards for noise levels.
 - No amplified music shall be played on site.
 - No loud or excessive noise after 10:00 P.M.
 - No Bike racing or excessive “revving” of motorcycles [Planning]
8. **Temporary Fencing:** A temporary fence shall be constructed and maintained to run the length of the property site at a distance of 20 feet from the Tres Pinos Creek, water bed. [Planning, Department Fish and Game]
9. **Ingress and Egress:** All access to the site will be via the bridge at the San Benito County Historical Park [Planning]
10. **Water Supply:** A 2000 gallon water tender shall be placed on site for this event. It shall be equipped with a driver/ operator and be available to the fire department upon demand.[County Fire]
11. **Fire Safety:** All campfires shall be in approved rings. Five gallons of water shall be available for fire extinguishment at each campfire site. Barron ground clearance shall be maintained for a safe distance around all campfire rings.
 - All Barbeques shall be in approved barbeque pits or portable barbeque appliances
 - There shall be no open flame burning allowed outside the designated Barbeques/ Camping areas. [County Fire]
12. **Defensible Space:** 100 feet of defensible space with regards to landscaping and vegetation clearance is required for all projects located in High and Very High Fire Hazard Severity Zones and all State Responsibility Areas (SRA Lands). A Defensible Space Plan is required to be submitted to this fire department for review prior to completion of project.[County Fire]
13. **Fire Department Clearance:** The Fire Marshall or a representative of the fire department shall signoff the project permit prior to occupancy being granted. Before a permit will be signed off, all fire department requirements must be met and in place. [County Fire]
14. **Event Application:** An event organizers application must be submitted at least two weeks prior to the event. The number of participants must be established to determine the requirements. [Environmental Health]
15. **Waste Water Disposal:** The method of waste water disposal shall be proposed for review and approval. This includes porta-toilets, porta-showers, and hand washing sinks. The pumping contract regarding servicing the porta-toilets must be submitted for review and approval. [Environmental Health]
16. **Domestic Water:** The domestic water well must be properly constructed and must meet coliform bacteria and nitrate standards or be from a permitted public water system. [Environmental Health]

- 17. Food Permit:** An individual food permit is required for the bottled water and any other food service that may be provided. Food permits must be submitted two weeks prior to the event.[Environmental Health]
- 18. Medical Services:** Any plan to provide medical services on site must be accompanied by a protocol to store and dispose of medical waste. [Environmental Health]
- 19. Solid Waste:** The plan to provide solid waste collection and disposal shall be proposed for review and approval. [Environmental Health]

PUBLIC HEARING ITEMS ~ COMMISSION ACTION

- 10. ZONE CHANGE NO. ZC 06-150 and COMMERCIAL DISTRICT REVIEW NO. CDR 59-06** APPLICANT/OWNER: John & Jae Eade.
LOCATION: Northwest side of the intersection of State Highway 25 and Southside Road, Tres Pinos. APN: 22-20-09 and 22-20-10. REQUEST: A Zone Change from Rural/Urban (R/URB) to Commercial Thoroughfare District (C-1) for the development of a commercial lodging facility. ZONING: Rural/Urban.
ENVIRONMENTAL REVIEW: Mitigated Negative Declaration.

SP Ortwein presented the staff report, giving the location – northwest side of State Route 25 and Southside Road and a detailed project description including the proposed quiet hours. SP Ortwein said the applicant intends to construct a commercial lodging facility which will consist of 36 standard rooms, eight suites, a banquet room, and a meeting room. The design, he said, also includes a separate building which will be designed to house a water holding tank. The total building area will encompass approximately 34,000 sf; and the site will have a private swimming pool, hot tub, court yard, and 65 parking spaces (including handicapped and employee parking). SP Ortwein explained the off-site improvements which will include realignment of the intersection and presented an overview of the traffic impact report. SP Ortwein said the water service will be from a private on-site well and a private septic system will be designed for the facility. Should water and sewage service become available from the Tres Pinos Water District, the facility will be required to obtain those services.

The location of the on-site retention/detention ponds for reduction of stormwater runoff from the site was explained. SP Ortwein called attention to the mitigated negative declaration prepared following the initial study. The permitted uses in a C-1 District were explored (with #12 on the list being motels and hotels). The required findings for a Zone Change were explained by SP Ortwein.

SP Ortwein went on to explain the process of the environmental evaluation and told of the response to public comments received - as a petition together with some letters of concern – during the Initial Study [this data was included in the distributed staff report].

The factors studied as part of the environmental evaluation included:

- water (petitions and considerable other correspondence had been received regarding concerns of use of the Tres Pinos Water District and alleged undermining of the District's policies.
- sewage
- noise
- lighting
- police protection
- parking
- traffic
- bike/pedestrian pathway
- fire protection

SP Ortwein read from the staff report regarding the staff recommendation and detailed the (prepared) findings and conditions.

The illustrations and contextual graphics for the Tres Pinos – Spur Hotel were noted as being part of the staff report.

SP Ortwein called attention to a memo dated June 7, 2007 and entitled “amendment to Staff report for Zone Change (ZC 06-150) and Commercial District Review (CRD 59-06) which referenced a meeting of Planning Staff, County Counsel and Public Works for a final review which resulted in changes to several items, including:

- minor typos in the staff report, which were corrected before the meeting for clarification and continuity of reading
- Condition of Approval # 24 (request of Public Works): e) Applicant shall provide left turn channelization at SR25/Airline Highway and Southside Road. ~~This may not need to be a full version of left turn pocket, but there needs to be something for safety to the satisfaction of the Public Works Department.~~
 - Make a half-road reconstruction of Southside Road, for the roadway lane fronting the project property, base on R-value section of AC on AB with a compacted subgrade (half-width **40** feet AC on ~~34~~ **42** feet roadbed to ~~rural~~ County Urban standard);

(add) 35. **Kit Fox:** The applicant will be required to pay a \$550 per developed acre fee to the County prior to alteration of the site.

Discussion ensued as Commissioners asked questions of staff regarding:

- determination of a Kit Fox area [yes] [Fish and Game establishes]
- if 3C and CDR are ‘tied together’? [yes] DCC Murphy clarified that 3C *only* may be approved by the BoS

Chair Tognazzini opened the public hearing. (*See attached list of speakers*)

Public Comment speakers raised issues both for and against the request. (*See attached list of concerns/issues in support for the project and in opposition to the project*)

Commissioner DeVries called attention to the importance of speaking to the location under discussion.

Chair Tognazzini asked for clarification of the numbers on the presented petition. Jamie Frusetta explained that she had submitted the petition which was circulated inside the Tres Pinos Water District. Ms. Frusetta indicated the noted population of 510 is incorrect. She said there are 158 adults residing in the Tres Pinos Water District and 72% of those persons with water connections (hook-ups) have indicated opposition to the project.

Commissioner Smith inquired if there was a conflict with two members of the Tres Pinos Water District who had assisted in conducting the petition survey. It was noted this survey was circulated before they were on the Water Board. Commissioner Smith asked the name of the Certified Operator for the Water District. [William Markham]. Pam Alvarado told the Commissioners she is the manager of the Water District, and disputed the methodology of signature collection on the petition, saying there could be more than one signature per household. Ms. Alvarado emphasized there had also been some misrepresentation of Board Members of the Tres Pinos Water District tonight in her opinion.

Commissioner Smith engaged in discussion with Ms. Alvarado regarding:

- if there had been lack of compliance for 17 years
- the 'past history' of the Water District
- violations in reporting of water sampling [no]
- water pressure available for fire protection
- Prop 218 notices to decide on capital improvement project to be sent August 16, 2007

Commissioner Smith disclosed he had met with the applicant and referenced a hand-out provided by the applicant which detailed {potential} taxes, revenues, room tax (a five-year estimate) to benefit the County.

Commissioner Bettencourt disclosed he had recently been attending the Tres Pinos Water Board meetings.

With no others present speak to the issue of the Spur Hotel, the public hearing was closed.

PP Turner addressed the Commissioners concerning several issues and/or mitigations regarding the request:

- the San Benito County Water District is charged with permitting drilling for the water source
- CDF has approved the fire protection plan, if approved – including sprinklering of the building
- C-Districts (in general) – part of town already is zoned C-2
- few vacant C-Districts in County
- General Plan studies
- school safety issues be mitigated
- project is subject to Dark Sky Ordinance (issue relates to concerns raised about lighting)
- trash receptacles must be enclosed – Zoning Code required buffers between Commercial & R-1
- Potential flooding issue has been mitigated
- Zoning Code governs parking requirements
- intersection must be constructed and reconfigured, if necessary, to CalTrans and Public Works standards
- explanation of zoning and General Plan inconsistencies (most of the County is consistent, but not all)
- population count is on a official sign at the entrance of Tres Pinos – population is also from the Census Bureau

DoP Henriques advised of the efforts to have involvement from the Tres Pinos community such as with the new General Plan with a community meeting coming up in July.

Commissioner DeVries asked DoP Henriques if any ‘special attention’ was given to areas such as Tres Pinos and Aromas when applications from those areas were received at the Planning Department. DoP Henriques said, “No, the staff is always neutral but required noticing is sent out. However, we can generally count on a lot of community interest and involvement DOP Henriques noted townships in some counties such as Santa Cruz have received extra focus in their General Plan documents”. [Commissioner Bettencourt asked about how uses are listed in the General Plan].

SP Ortwein and DCC Murphy engaged in discussion with the Commissioners regarding:

- uses and restrictions of the General Plan versus the Zoning Ordinance (the General Plan is encompassing; specific zoning is limiting)
- allowable by past County practice to request C-1 in Rural Residential/Rural Urban General Plan area. Some limited Commercial allowed with Zone Change in areas of Rural/Urban such as within the Tres Pinos Community

SP Ortwein advised:

- bike path will be adequately marked
- a 4-foot wall will be used to separate the bike path from the hotel with appropriate marked crossings, wall and landscape buffer
- entrances to the property, including: driveway (main entrance) and emergency ingress/egress

Commissioner DeVries consulted with staff regarding permitted uses in the Rural/Urban designated area and how it affects Tres Pinos. He noted over 1/3 of the town has this General Plan designation.

PP Turner advised that the General Plan does not list permitted uses, while the Zoning Ordinance does. Commissioner Machado agreed, saying the Zoning Ordinance is more definitive and further that the General Plan designation always trumps the zoning if there is a new request. Considerable discussion ensued regarding the General Plan and Zoning Ordinance provision and language.

Commissioner Smith asked staff if there were any zoning changes to show precedence for applicability to this request? Some of the sites noted by PP Turned included Enterprise Road, Southside Road, and the Hart properties which have been rezoned.

Commissioners listed concerns, issues, and thoughts:

- General Plan issues within the Tres Pinos community (residential/commercial)
- only compelling argument for granting request: create attractive Gateway
- findings needed
- water appears an excuse to jeopardize project
- need to advocate for economic development
- 'good project'
- may fit need
- nothing existing in the County of this quality or project
- potential of considering a 'scaled down' version
- would be an asset to Tres Pinos
- possible findings to say "no"

SPUR HOTEL – LIST OF SPEAKERS:

| Name/Address | In favor | Opposed |
|--|-----------------|---|
| Paul Rovella, 415 Donna’s Lane, Hollister, Attorney for the applicant | X | |
| Bobby Zaucha, 50 E. 4 th St, Tres Pinos | | X |
| Fred Flook, 1304 West St., Hollister | X | |
| John Kiesswetter, 10930 Cienega, Hollister | | X |
| Mike Krulee, 5625 Diablo Hills Rd, Tres Pinos | | X |
| Susan Modic, PO Box 517, Tres Pinos, representative of the Tres Pinos School Board | | X (not opposed if mitigated) |
| Connie Rodriguez, 428 7 th St., Hollister | | X |
| Susan Enz, 1781 Limekiln Rd. Hollister | X | |
| Norma Price, 381 Bolado Rd., Tres Pinos | X | |
| Sue Alvarado, 6730 F St., Tres Pinos | | X |
| Joseph A. Zanger, Sr., 7350 Pacheco Pass, Hollister | X | |
| Helen Frusetta, 6864 F. St., Tres Pinos | | X |
| Patrick Fancher, 727, Line St., Hollister, representing his Mother, Fern Fancher (6830 and 6840 F. St., Tres Pinos | | X |
| Matt Kelley, 1000 San Benito St., of Matt Kelley Engineering | X | |
| James Pleyte, 911 Monterey St., Hollister, representing the Schmidt and Frusetta families | | X |
| J.P. Puette, 10000 Airline Highway, Tres Pinos | X | |
| Robert Frusetta, 6790 F. St., Tres Pinos, Tres Pinos Water District Director | | X |
| Virgie Vilosi, 1121 Sunset Dr., Hollister, spoke on behalf of her daughter, Susan Calleri | | X |
| Roxy Montana, 7350 Pacheco Pass, Hollister | X | |
| Janie Lausten, 7171 F. St. Tres Pinos | X | |
| Sharlene Van Rooy, 624 Fifth St. Hollister | | X |
| Jane Schmidt, 6711 Airline Highway, Tres Pinos | | X |
| Joe Frusetta, 6790 F St., Tres Pinos, spoke on behalf of his Aunt Nancy Moore | | X |
| Diana Hawkes, 7050 F. Street, Tres Pinos | | X |

| | | |
|---|----------|-------------------------------|
| Dustin Hoppe, 180 Gibson Dr., #29, Hollister | | X |
| Helen McKinney, 210 Quien Sabe Road, Tres Pinos | | X |
| Mike Howard, 6991 Airline Highway, Tres Pinos | X | |
| Ed Schmidt, 6711 Airline Highway, Tres Pinos | | X |
| Greg Alvarado, PO Box 275, Tres Pinos | | Neither For or Against |
| Pam Alvarado, PO Box 275, Tres Pinos | | Neither For or Against |
| John Eade, 4760 Santa Ana Valley Road, Hollister (applicant) | X | |

***NOTE:** a DVD of neighboring or local property owners (addresses not provided) in opposition to the project was presented by Mr. Schmidt:*

Ida Kincaid, Don Rider, Mary Britt, Helen Riddle, Anita Magorian, Robert and Rhonda Rovella, Lynn Vandervort and Peter Frusetta

SPUR HOTEL ~~ CONCERNS AND ISSUES

| Concerns/issues in support | Concerns/issues in opposition |
|---|--|
| <ul style="list-style-type: none"> - good for community and County <i>(several speakers addressed this issue)</i> - support hotel – but not at this site <i>(several speakers agreed)</i> - need for progressive growth - increase in revenue for area - ‘workable’ situation with reasonable applicant - enhanced fiscal benefit to County <i>(several speakers addressed this issue)</i> - potential of bus stop at site - {suggest} build hotel closer to existing wineries - ability to have more attractive Gateway to community - bike path relocation - potential for greater use - ‘good idea ~ wrong location’ - opportunity to revitalize entrance to Town, ‘clean it up’ - positive project - {applicant} desire to enhance attractiveness of area by placing a useful and interesting addition to the Town - {applicant} need for facility with large meeting room well documented - {applicant} would affect twice as many properties if build in the existing C-2 area - {applicant} plans home on this property across street as a buffer - {applicant} willing to work with Water District. Also work with adjoining neighbors (Schmidt’s) on buffer. | <ul style="list-style-type: none"> - ‘hopsotch zoning’ - extreme impact - concerns with fire and water <i>(several speakers addressed this concern)</i> - support hotel – but not at this site <i>(several speakers agreed)</i> - disruption of life style - concern of safety for area children - traffic increase <i>(several speakers addressed this concern)</i> - school safety - need to make cross walk more visible - signage (traffic issues) - lighting - need for elevated walkway - objection to site – not hotel - ‘good idea ~ wrong location’ - no benefit to area - bike path <i>(several speakers addressed this concern)</i> - loss of ‘residential flavor’ - destroy beauty of community - opposition to location (but not business) - lack of adequate services, e.g., fire, sewer, water - increased traffic, noise, lighting - relevance of consideration for neighbors <i>(several speakers addressed this concern)</i> - need to retain ‘Old West’ atmosphere - parking issues - fears of decreased property values - not a ‘guarantee’ of enhanced financial benefit to community - impact would be ‘devastating’ - re-zone creates problems not created in R-1 |

Commissioner Smith thanked staff or the report and help this evening. He noted his interest in economic development.

Commission Machado noted the good project and high quality. He re-capped his personal business being next to residential. He also noted that 2/3 of the town is underdeveloped and what is the R-1 zoning security if the General Plan may allow other uses.

Commission DeVries noted he lives near the Posada de San Juan hotel in San Juan Bautista which has low impact on the residents. He noted perhaps paring down the project might help.

Commissioner Bettencourt noted the hotel would help with fire protection while the Water District is getting back into compliance.

Commissioner Smith inquired as to whether people would be willing to meet and possibly working something out?

After hearing fellow Commissioner comments and concerns, Chair Tognazzini called for a vote.

COMMISSIONERS SMITH/BETTENCOURT MOTIONED TO APPROVE THE MITIGATED NEGATIVE DECLARATION AND RECOMMEND ZONE CHANGE NO. ZC 06-150 {INCLUDING THE FINDINGS AND CONDITIONS AS PRESENTED} AND CERTIFY COMMERCIAL DISTRICT REVIEW NO. CDR 59-06, THEREBY SENDING THE MATTER TO THE BOARD OF SUPERVISORS FOR CONSIDERATION.

THE MOTION DID NOT PASS WITH THE FOLLOWING VOTE: (2-3) AYES: BETTENCOURT, SMITH; NOES: DEVRIES (who cited General Plan issues), MACHADO (who said the R-1 zoning was of concern), and TOGNAZZINI; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER DEVRIES THEN MOTIONED TO DENY THE MITIGATED NEGATIVE DECLARATION AND NOT RECOMMEND FORWARDING TO THE BOARD OF SUPERVISORS, ZONE CHANGE NO. ZC 06-150, AND COMMERCIAL DISTRICT REVIEW NO. CDR 59-06, WITHOUT PREJUDICE, UNTIL THE GENERAL PLAN UPDATE IS COMPLETED. COMMISSIONER MACHADO SECONDED THE MOTION.

THE MOTION TO DENY PASSED (3-2) WITH THE FOLLOWING VOTE: AYES: DEVRIES, MACHADO, TOGNAZZINI; NOES: BETTENCOURT, SMITH; ABSTAIN: NONE; ABSENT: NONE.

DCC Murphy advised of the need for the Commissioners to have written support (findings) for the denial. She detailed the denial of a Zone Change and further advised that the findings could be included in a staff report regarding the matter for An Agenda item for the next meeting. The Commission concurred.

DoP Henriques noted that staff would be presenting the findings for denial at the next Commission meeting on June 20, 2007. He noted anyone who had questions prior to the next Planning Commission meeting could contact the Planning Department.

INFORMATIONAL – NON-ACTION ITEM

Commissioner Announcements/Reports/Discussions

This item was excluded from discussion due to the lateness of the hour.

ADJOURN TO JUNE 20, 2007 @ 6:00 pm

ON A MOTION BY COMMISSIONERS SMITH/BETTENCOURT, AND PASSED UNANIMOUSLY BY THE COMMISSIONERS PRESENT – WITH NONE ABSENT – CHAIR TOGNAZZINI ADJOURNED THE MEETING AT 11:16 P.M.

Minutes transcribed by:

Judi Johnson

*Attest:
Art Henriques
Director of Planning*