

SAN BENITO COUNTY PLANNING COMMISSION

August 1, 2007

Minutes

PRESENT: Bettencourt, DeVries, Machado, Scattini, Tognazzini

ABSENT: None

STAFF: Director of Planning (DoP) Art Henriques; Senior Planner (SP) Chuck Ortwein, 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 6:06 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:

- staff is writing follow-up report for proposed PRGI revisions to be presented to the BoS on Tuesday, August 14, 2007
- update on report {additions/changes} of General Plan Community Survey working with Consultant; told of need for completion soon and explained 'return time' for survey and additional community meetings
- Coyote Valley EIR response to the City of San Jose
- Annual budget review

NEW BUSINESS

A warm welcome was extended by all the Commissioners to newly appointed District #5 Planning Commissioner, Robbie Scattini.

Election of Vice-Chair for remainder of term

Commissioner Machado was declared Vice-Chair of the San Benito County Planning Commission following the action: **COMMISSIONERS BETTENCOURT /SCATTINI NOMINATED GORDON MACHADO TO FILL THE TERM OF VICE CHAIR UNTIL FEBRUARY, 2008. THE MOTION PASSED (5-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

PUBLIC COMMENT:

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:

COMMISSIONERS MACHADO/BETTENCOURT MOTIONED APPROVAL OF THE FOLLOWING ITEMS:

- 1. Acknowledge Certificate of Posting**
- 2. Minutes of July 18, 2007**

THE MOTION (5-0) PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SCATTINI, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

DoP Henriques made the following announcement: Any person may appeal the decisions of the Planning Commission within ten (10) calendar days to the Board of Supervisors. The notice of appeal must be in writing and shall set forth specifically wherein the Planning Commission's decision was inappropriate or unjustified. He then detailed the method for filing an appeal.

CONTINUED PUBLIC HEARINGS ~ COMMISSION ACTION

- 3. 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: FINDINGS FOR DENIAL OF 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, reminding this item had been heard previously at several meetings and was most recently continued from the July 18, 2007 Planning Commission meeting, providing an overview of the request and the subsequent hearings on the matter.

Commissioner Bettencourt requested DC Murphy to address the issue of a Commissioner vote on the matter at this juncture in the topic. [DCC Murphy advised there should not be a vote at this point]

Chair Tognazzini opened, and then closed, the public hearing following the statements of the 16 speakers to the matter. *(See attached speaker – comment list)*

DoP Henriques addressed the issues of Parking and Code restrictions, noting that Zoning requirement approval on a discretionary matter at a Planning Commission hearing can be more restrictive (trumps) the Building Code requirement.

SP Ortwein noted the following:

- water and sewer issues are addressed in the presented staff report
- the well permit was properly issued
- the Regional Water Quality Control Board would not offer comment unless an application for a project is received by that body
- the local Water District is struggling; the County Water District might be called on to assume leadership if issues are not resolved
- LAFCo is conducting – with assistance from a contracted Consultant - {required}Municipal Service Reviews, including all Water Districts
- Planning Department Staff completed addressing of General Plan and environmental assessment (CEQA) concerns

Commissioners discussed with staff:

- whether the Tres Pinos area is considered urban or rural; density of acreage may have created designation(s)
- basis of a C-District review
- potential for project(s) placement if zoning change is allowed
- allowable uses under a Conditional Use Permit [past practice discussed]
- need for highest and best use of property
- viability of keeping commercial uses near major highways
- conflicts of urban/rural zoning in specific zoning areas
- concern of moving area from R-1 to Commercial; [SP Ortwein advised the proposed project is on ‘the edge of Commercial zoning]
- other zoning areas and designations were clarified
- Land Use Element of the General Plan [DCC Murphy addressed] discussion continued regarding
 - o commercial
 - o multiple family
 - o parks
 - o single family dwellings
 - o mixed use development
- need to ascertain occupancy change based on Building/Fire Codes
- Planned Unit Developments
- Rural Residential zoning

COMMISSIONERS MACHADO/TOGNAZZINI MOTIONED TO DENY THE ZONE CHANGE NO. ZC 06-150 and COMMERCIAL DISTRICT REVIEW NO. CDR 59-06. THE MOTION DID NOT PASS (2-3) WITH THE FOLLOWING VOTE: AYES: MACHADO, TOGNAZZINI; NOES: BETTENCOURT, DeVRIES, SCATTINI; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONER DeVRIES OFFERED A MOTION TO APPROVE THE ZONE CHANGE AS RECOMMENDED BY STAFF, BASED ON THE FINDINGS IN THE APPROVAL RESOLUTION.

While the motion had not been seconded, Chair Tognazzini permitted discussion: whether there was need to rescind previous Commission action(s) on the matter.

COMMISSIONER DEVRIES AMENDED THE MOTION, ADDING ‘WITHOUT PREJUDICE’, as others agreed, noting, “The General Public though the matter had reached conclusion with the prior Commission action. Further discussion ensued regarding the wording of the motion on the floor, which now required a second. Commissioner DeVries explained that ‘without prejudice’ meant the issue can be brought to the floor again if denial of the request was finalized.

The motion died for lack of a second and was so declared by the Chair.

COMMISSIONERS DeVRIES/SCATTINI MOTIONED TO RESCIND THE ORIGINAL MOTION (COMMISSION MEETING (JUNE 6, 2007) FOR DENIAL OF ZONE CHANGE NO. ZC 06-150 AND COMMERCIAL DISTRICT REVIEW NO. CDR 59-06, WITHOUT PREJUDICE. THE MOTION (3-2) PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, SCATTINI, who said he had studied the issues related to the project and believed this to be ‘a good and viable application for progress’; NOES: MACHADO, TOGNAZZINI; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONERS DeVRIES/BETTENCOURT MOTIONED TO ALLOW THE REQUEST AS PRESENTED, AND TO RECOMMEND THE APPROVAL OF THE MITIGATED NEGATIVE DECLARATION AND ZONE CHANGE NO. ZC 06-150 AND CONTINUATION OF COMMERCIAL DISTRICT REVIEW NO. CDR 59-06, TO THE BOARD OF SUPERVISORS.

Under discussion, Commissioner Machado said the project would need a full EIR, not a Mitigated Negative Declaration. Questions also were raised regarding the ability to complete a zone change with conditional C-District Review.

THE MOTION (3-2) PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, SCATTINI; NOES: MACHADO, TOGNAZZINI; ABSTAIN: NONE; ABSENT: NONE.

DoP Henriques restated the appeal requirements of Planning Commission actions.

LIST OF SPEAKERS:

Speaker Name/Address	Comment(s)
Paul Rovella, 415 Donna's Lane, Hollister, Attorney for the applicant	Applicant intends building 'something pleasing to area' Project will be good for tourism
Pam Alvarado, PO Box 275, Tres Pinos	Presented facts of service provision from Water District perspective; told of planned Town Hall meeting August 2, 2007
Ed Schmidt, 6711 Airline Hwy., Tres Pinos	Concern of: findings as presented; lack of recognition of his property rights; compatible use urban designation lack of provision for: water (adequacy); sewer (availability); fire and police protection General Plan provisions for his property rights
Dave Grimsley, 8400 Airline Highway	Supportive of project plan: 'has spark that Tres Pinos needs'; will help attendance and use of Bolado and Historic Park
Bobby Zaucha, 50 E. 4 th St., Tres Pinos	Parking not adequate Concerns of traffic study; asked for Public Works to discuss
Annette Giacomazzi, 4770 Santa Ana Valley Rd, Hollister	Provided Speaker Card but decided not to speak
Sarah Mollen, 411 Bolado Rd., Tres Pinos	Spoke for her mother, Cheryl Mollen: opposes project proposal due to issues of water
Vedana Freitas; resident of Ridgemark	Staff has presented 'good findings'; is supportive of project: will be fine establishment with local money and local residents
Sharlene Van Roy Tres Pinos	Opposed to project: does not wish to have commercial zoning: unacceptable
Mark Davis, Ridgemark resident	Fully supports project Would enhance destination tourism Project would be complementary to events in County
Joe Frusetta, Tres Pinos	Asked for denial of request
Al Guerra, 1157 Ridgemark Dr., Hollister	Reminded that only one neighboring resident would be affected Project fully meets County Code
Shawn Kuchton, 4713 Santa Ana Valley Road	Supports 'beautiful' project; a lot of thought went into this much needed project
Martin Salaberry, 35921 Airline Highway;	Told Commissioners he has reversed prior support and now opposes the project
LeeAnn Britt, 575 4 th St. Hollister	Spoke in opposition
Donna Howe	Told of special event planned for area October 5, 6, 7, 2007 (50 th anniversary of making of movie <i>Vertigo</i> citing this as an example of when 'quality lodging would be needed' Said the project would be a practical thing for the County

SP Ortwein noted that Agenda items 4 – 5 – 6 were requested for continuation. Chair Tognazzini opened, and then closed public hearings on each of the three items, with no persons in attendance indicating a wish to speak to any of the three agenda items.

4. **MINOR SUBDIVISION NO. 1187-06** – APPLICANT: Chris Ferguson. LOCATION: 1946 Carr Ave., Aromas. APN: 11-08-58 REQUEST: To subdivide a 7.35 acre parcel into 2 parcels of 4.85 and 2.5. ZONING: Rural Transitional (RT). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

COMMISSIONERS SCATTINI/MACHADO MOTIONED TO CONTINUE THE MATTER OF MINOR SUBDIVISION NO. 1187-06 TO THE NEXT REGULARLY SCHEDULED COMMISSION MEETING. THE MOTION (5-0) PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SCATTINI, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

5. **MINOR SUBDIVISION NO. 1200-07** – APPLICANT: Gloria Ballard, MH Engineering. OWNER: Timothy Gray. LOCATION: 363 Orchard Hill Rd., San Juan Bautista APN: 11-29-72. REQUEST: To subdivide a 17.72-acre site into three parcels of 7.01, 5.46, and 5.25 acres. ZONING: Rural (R)/Open Space (OS). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

COMMISSIONERS BETTENCOURT/SCATTINI MOTIONED TO CONTINUE THE MATTER OF MINOR SUBDIVISION NO. 1200-07 TO THE NEXT REGULARLY SCHEDULED COMMISSION MEETING. THE MOTION (5-0) PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SCATTINI, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

6. **TSM NO. 06-72 & ZONE CHANGE NO. 07-51** – APPLICANT: Ted Intravia. LOCATION: 3291 San Juan Hollister Road. APN: 21-13-30 REQUEST: To rezone and subdivide 32.48 acres to a PUD. The subdivision would create 5 parcels with an average size of 1.06 acres and a remainder of 27.15 acres. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

COMMISSIONERS MACHADO/SCATTINI MOTIONED TO CONTINUE THE MATTER OF TSM NO. 06-72 & ZONE CHANGE NO. 07-51 TO THE NEXT REGULARLY SCHEDULED COMMISSION MEETING. THE MOTION (5-0) PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SCATTINI, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

7. **CAPITAL IMPROVEMENT PROJECTS** APPLICANT: San Benito County. LOCATION: Countywide. REQUEST: Find Capital Improvement Projects consistent with the General Plan. ENVIRONMENTAL EVALUATION: Various Determinations. Project by San Benito County Public Works Dept.

DDPW Nazemi explained the rationale for the report, noting that there still needs to be environmental work completed for the listings on the capital improvement projects record. This would be evaluated individually as the projects arose. He explained that routine maintenance work was exempted from CEQA requirements, and that the report - which would be forwarded to the Board of Supervisors – would be consistent with the General Plan.

DDPW Nazemi stressed the following when detailing the various projects on the list:

- grouping of ‘necessity’ work
- decision of BoS needed for prioritization
- recommended repairs (Commissioner Scattini spoke to the recently released Grand Jury report)
- discussion of ‘One Stop Center’ on Flynn Road

COMMISSIONERS MACHADO/SCATTINI MOTIONED TO ACCEPT THE CAPITAL IMPROVEMENTS PROJECTS LIST AS RECOMMENDED BY THE DEPARTMENT OF PUBLIC WORKS, AND FORWARD THE LIST TO THE BOARD OF SUPERVISORS WITH FINDING OF CONSISTENCY WITH THE COUNTY’S GENERAL PLAN AND RECOMMENDATION FOR APPROVAL. THE MOTION (5-0) PASSED WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SCATTINI, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

8. **Update on future Planning Commission discussion items**

It was noted that a Special Meeting had been scheduled for August 29, at which time in-depth discussion will occur regarding work being done by the Planning Department where the input is needed from the Commissioners. Planning staff discussed the areas of importance which may be addressed:

- Hillside Ordinance/Design guidelines
- Habitat Conservation - study of areas in County where mitigations are needed
- need for timely responses from other governmental agencies when requests are sent for work on applications received
- need to have all comments received before staff analysis completed on projects
- policy for new information received at meeting – need to continue discussion to future meeting?
- updates of staff analysis difficult to receive at meeting
- clarification of direction given to staff – what results to anticipate
- need to get Code Enforcement in loop
- Hearing Officer duties
- need for clarification of enforcement, e.g., Crowing Fowl Ordinance

INFORMATIONAL – NON-ACTION ITEM

Commissioner Announcements/Reports/Discussions

None

ADJOURN TO AUGUST 15, 2007

ON A MOTION BY COMMISSIONERS SCATTTINI/MACHADO, AND PASSED UNANIMOUSLY BY THE COMMISSIONERS PRESENT – WITH NONE ABSENT – CHAIR TOGNAZZINI ADJOURNED THE MEETING AT 8:45 P.M.

*Minutes transcribed by:
Judi Johnson*

*Attest:
DoP Henriques*