

SAN BENITO COUNTY PLANNING COMMISSION

August 15, 2007 Minutes

PRESENT: Bettencourt, DeVries, Machado, Scattini, 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, Associate Planner (AP) Lissette Knight, Public Works Engineering Technician (ET) Chris Herrera; Deputy County Counsel (DCC) Shirley Murphy; and Clerk Trish Maderis.

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 Board of Supervisor's (BoS) meeting/actions for

August 7:

- Further review of the updated PRGI regulations, eliminated the advisory vote requirement and added vote after Board public hearing process of large projects.
- Annual County budgeting process completed,
-

August 14:

- reviewed CalTrans letter concerning widening Highway 25 from San Felipe St. in Hollister to near Highway 101; some clarification of issues will continue with discussion

Other issues:

- PRGI Ordinance, the BOS supported the changes as presented and have continued the matter to the August 28 BoS meeting for final adoption.
- the Enz application Use Permit was appealed, with agreement reached to return the matter to the Planning Commission for updating the Environmental Assessment
- the Department budget was tentatively approved and is inclusive of new Attorney support for the Department and Public Works as well as a new Planner position which will be advertised following finalization of the budget

Commissioner Bettencourt requested that further information be provided at a future meeting regarding the Public Works budget.

PUBLIC COMMENT:

Chair Tognazzini opened the public hearing to members of the public wishing to address items not on the agenda.

Stan Rose, 1220 Monterey St., #134, Superintendent of San Benito High School, was present to discuss issues relating to the future of the High School. The Commissioners asked questions regarding:

- over-crossing for students on Nash Road [previously investigated and found not to be feasible]
- potential for new campus at Best Road site [under investigation]
- acreage for campus [school district owns 150 acres at the Best Road site]

With no others present wishing to address items not on the agenda, the public hearing was closed.

CONSENT AGENDA:

COMMISSIONERS MACHADO/BETTENCOURT MOTIONED TO APPROVE THE CONSENT AGENDA:

Acknowledge Certificate of Posting

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

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 Commissioners.

CONTINUED ITEM ~ COMMISSION ACTION
PUBLIC HEARING ITEMS

2. RESOLUTION NO. 2007-03 – Resolution recommending approval of Zone Change No. 06-150. 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: Zone Change from Rural/Urban (R/URB) to Commercial Thoroughfare. ENVIRONMENTAL REVIEW: Mitigated Negative Declaration.

SP Ortwein gave the staff report, reminding that this matter had been heard several times and was most recently continued from the Planning Commission meeting of August 1, 2007. The prepared Resolution was addressed, with PP Turner calling attention to areas that had created considerable discussion at previous meetings. DCC Murphy clarified the several issues which were raised, including CEQA-related issues, the tax sharing ratio, and several other questions from Commissioners regarding previous discussions and subsequent actions at the various meetings.

Chair Tognazzini opened the public hearing.

Robert Frusetta, 6790 F. St., Tres Pinos, Tres Pinos Water District Director, declared that some errors had been made in assembling information and writing the proposed Resolution.

Ed Schmidt, 6711 Airline Hwy., Tres Pinos, spoke to the Commissioners regarding:

- CEQA Finding # 3, which made provision for a Mitigated Negative Declaration. Mr. Schmidt said it appeared the project has favored the applicant in making this finding, and asked that a full EIR be required
- discrepancies of information of the parking requirements
- concerns of allowable uses in the C-1 and C-2 Districts under County rules
- 'leap frog' zoning to support application request
-

Mr. Schmidt gave a statement asking that the zoning be restricted on the project, not allowing a 'split' of C-2 and the Commercial District Review as stated in the findings.

Bobby Zaucha, 50 E. 4th St., Tres Pinos, spoke with the Commissioners regarding differences in C-1 and C-2 zoning designations.

Sue Alvarado, 6730 F St., Tres Pinos, told the Commissioners that she lives across the street from the proposed project and is concerned that there would be a lot of problems if the request is granted.

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

Commissioners discussed with staff:

- {staff report} item 7, page 3 (cooperative land use considerations re this proposal and the Cities in the County; add *Bautista* following *San Juan*)
- correction to number of required parking spaces
- differences between C-1 and C-2 {allowable uses} zoning [PP Turner explained C-1 permits hotels/motels; C-2 does not, along with explanation of other allowable uses]

At this point, Commissioner DeVries received a communication from a member of the audience, and then announced that it was his understanding that the residents of Tres Pinos would receive the C-1 zoning designation more readily.

Commissioner Bettencourt clarified that only a hotel/motel could be built with the proposed zoning change. Commissioner Bettencourt continued by leading discussion of the Findings and Conditions associated with the request. Responding to a question from Commissioner Bettencourt regarding a possible reversion to current zoning conditions, DCC Murphy said that (implied) actions of the (proposed) Resolutions cannot be finalized until the Conditions have been met.

Lengthy discussion ensued regarding the Conditions (with particular emphasis on item #5, page 3 of the {proposed} Resolution). Several points of Resolution were discussed, with items contained in the Resolution being read.

COMMISSIONER BETTENCOURT OFFERED RESOLUTION NO. 2007-03, RECOMMENDING APPROVAL OF ZONE CHANGE PETITION NO. ZC 06-150, INCLUSIVE OF THE FINDINGS AND CONDITIONS, together with minimal modifications to minor typographical errors within the Resolution. COMMISSIONER SCATTINI SECONDED THE MOTION.

Commissioner DeVries asked that the motion be set aside for further discussion and clarification of identified issues. Chair Tognazzini clarified that the motion was specific only to the Zone Change request; included the stated findings and conditions; that the recommended Zone Change would affect only APN: 22-20-09 and APN: 22-20-10; recommends changing the zoning from the current R-1 (Single Family Residential) to Commercial Thoroughfare. Chair Tognazzini also emphasized that Commercial District Review (CDR 59-06) was not under consideration at this time, as the zoning matters must be considered and decided first. The Commercial District Review may later be considered by the Planning Commission after the Board of Supervisor's decision and final action on the proposed Zone Change.

THE MOTION TO FORWARD THE PROPOSED ZONE CHANGE, RESOLUTION NO. 2007-003 TO THE BOARD OF SUPERVISORS PASSED (4-1-0) BY THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, SCATTINI AND TOGNAZZINI; NOES: MACHADO, who reiterated and clarified concerns he had voiced throughout the various meetings regarding the matter; 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 zone change and commercial district review and applicable proceedings. [Planning]
- 2. Approval of Zone Change Petition:** The Commercial District Review permit (CDR 59-06) shall not be operative or in effect, and no rights shall vest thereunder, unless and until the San Benito County Board of Supervisors approves the Zone Change petition (ZC 06-150) associated with this project. [Planning]
- 3. Permits and Fees:** Applicant must obtain all County and State permits and pays all necessary fees. [Planning]
- 4. Bike/Pedestrian Pathway:** The applicant shall post a sign along side the pathway on Highway 25 alerting emergency vehicles to "Yield to Pedestrians" and install Cautionary striping along this section of the pathway. [Planning]
- 5. Lighting:** 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 the Development Lighting Regulations Ordinance (San Benito County Code, chapter 32, Ordinance 748). Prior to the issuance of any 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 MM2]

- 6. Architectural and Landscaping:** The applicant shall provide detail architectural drawings for review and approval. These drawings shall include detailed descriptions of the structures and grounds. A list of Finish Materials for use in construction shall be provided along with landscaping plans including sizes and types of flora to be used on site. The plants, grasses, and flora shall be limited to species native to San Benito County. The applicant shall be required to adhere to the landscaping plan prepared by Kelley Engineering and Surveying. All trees shall have a minimum caliper of 2 inches at time of planting. [Planning MM1].
- 7. Construction/Pedestrian Safety:** A note shall be placed on the construction plans requiring the entire site be fenced. All fencing is subject to the approval of the Planning Director or his/her designee. During hours when the bike path is in high usage (before and after school) dust control measures through the application of water shall be increased as necessary. A Bike Path Monitoring plan shall be established and approved by the Planning Director or his designee to insure the bike path is monitored during hours of operation. The plan shall incorporate the use of crossing guards and flagmen to insure safe passage.[Planning MM 6]
- 8. Diesel Emissions:** A note shall be placed on the construction plans requiring that all diesel or gasoline powered machinery not in actual use must turn off engine when idle. During hours of high bike path usage all diesel or gasoline powered machinery shall be kept to a minimum. In order to reduce acrolein admissions the applicant shall be required to use diesel powered machinery that was produced after the year 2003 or equip the diesel powered machinery with Air Resources Board approved Catalysis Diesel Particulate filters or Diesel Orientated Catalysis Filter. The applicant may opt to use Bio-diesel fuels B99 or B100 as an alternative to the filters.[Planning MM 7]
- 9. Fugitive Dust Control:** The following note shall be placed in the improvement and construction plans to minimize particulate emissions:

 - a) “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 two times a day. If dust is not adequately controlled through the application of water, grading activities will be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed prior to the resumption of grading.”[Planning MM 3]
 - b) A note shall be included on all construction plans that involve site grading and/or improvements prohibiting all grading activities during periods when winds are over 15 miles per hour. [Planning MM4]
 - c) A note shall be placed on all construction plans requiring all trucks hauling dirt, sand or loose materials to be covered.[Planning MM5]
- 10. Compliance Documentation:** 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]

- 11. Conformity to Plan:** The development and use of the site shall conform substantially to the application site plan and Conditions of Approval as approved by the Planning Commission and filed with the Planning Department. Any increase in the nature or intensity of land use on the site shall be subject to further Planning Commission review and approval. [Building, Planning]
- 12. Cultural Resources:** If, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact or other evidence of an archaeological site is discovered, all further excavations and disturbances within 200 feet of the discovery shall cease and desist. If human and/or questionable remains have been discovered, the sheriff-coroner shall be notified immediately pursuant to County Ordinance 610. A note to this effect shall be placed on all construction, grading, or other improvement plans. [Planning MM 8]
- 13. Noise:** The applicant shall construct a soundwall along the northwest property line at a level to be determined by a sound engineer and the County to protect the neighboring property from exposure to increased ambient noise levels.[Planning MM 14]
 - a) A note shall be placed on the improvement plans for the project that states: “As required by County Ordinance, construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. [Planning MM 15]
 - b) Supply deliveries shall be limited to the hours of 8am and 5pm. Monday through Saturday. No delivery activities shall be allowed on Sundays or holidays [Planning MM 16]
 - c) The applicant shall post signs limiting the use of the pool and courtyard to the hours of 7 am. to 9pm [Planning MM 17]
 - d) The applicant shall post signs on site designating quiet hours of operation from 9pm to 7 am. [Planning MM 18]
 - e) The applicant shall post speed limit signs at the entrance to the property limiting vehicle speed to 10 miles per hour or less [Planning MM 19]
- 14. Public Safety:** The applicant will be required to post a sign at the exit to the parking lot, reminding drivers to be alert to bicyclists and pedestrians crossing the street. [Planning MM 23]
- 15. Caltrans Encroachment Permit:** Prior to any work to be performed within State highway right-of-way, applicant shall obtain the proper Caltrans Encroachment Permit. [Caltrans]
- 16. Public Works Encroachment Permit:** Prior to commencement of any improvements associated with this project, applicant shall obtain a Public Works Encroachment Permit for any work being preformed within the County road right-of-way. [Public Works]
- 17. Soils and Geology:** All structures shall be designed to resist seismic shaking in accordance with current California Building Code requirements. [Public Works MM 9]
- 18. Site Preparation:** All preparation, grading, foundations, site drainage and finish improvements shall be designed to the recommendations the Geotechnical Engineering Report (File No. SH-10642-SA) prepared by Earth Systems Pacific [Public Works MM 10]

- 19. Pollution Control:** The applicant shall be required to install and maintain oil/grease separators in the storm drainage system prior to receiving a building permit. The applicant shall also provide an annual parking lot sweeping program and separators maintenance schedule to the County for approval. [Public Works MM 12]
- 20. Drainage Standards:** The Applicant shall mitigate for drainage impacts related to the project, and comply with all applicable County Drainage Standards. Compliance with County Drainage Standards shall include but is not limited to:
- a) submittal of drainage plans displaying the drainage patterns from the site to any detention/retention facilities;
 - b) submittal of construction details and signed/stamped sizing calculations for drainage appurtenances;
 - c) submittal of drainage plans, details, and signed/stamped calculations for any pond facilities (for the 100- year storm event); and
 - d) submittal of drainage plans, details and signed/stamped calculations for any pond discharge and overflow appurtenances. [Public Works MM 13]
- 21. Irrevocable Offer of Dedication:** Prior to finalization of this project, applicant shall make an irrevocable offer of dedication to San Benito County, for half of a minimum 60-foot road right-of-way along Southside Road, along the property's frontage. [Public Works]
- 22. Water System:** Prior to finalization of this project, the applicant shall provide a water system designed to serve the proposed project as both a Fire and Domestic water supply.[Public Works]
- 23. Pro-rata Fairshare:** Prior to finalization of this project, applicant shall calculate and pay a pro-rata fairshare for the following cumulative impacts improvements to be made:
- a) SR25/Airline Highway at Union Road:
 - Implement East-West Left Turn Signal Phasing
 - Implement Appropriate Right-turn Overlap Signal Phases
 - Add Eastbound Right Turn Lane
 - Add Westbound Right Turn Lane
 - b) SR25/Airline Highway at Fairview Road:
 - Install Traffic Signal Control [Public Works MM 21]
- 24. Off-site Roadway Improvements:** As part of the engineered improvements to be made, the applicant shall make the following off-site roadway improvements;
- a) Realignment of the intersection of Southside Road at SR25/Airline Highway (to reduce skew);
 - b) Addition of a southbound right-turn/deceleration lane on SR25/Airline Highway at Southside Road;
 - c) Installation of a stop-sign on West Fifth Street and the project driveway approaches at Southside Road;
 - d) Install shoulder striping on Southside Road (at West Fifth Street) and West Fifth Street, to better define the intersection limits.
 - 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. [Public Works MM 20]

- 25. Roadway Improvements:** Prior to approval of occupancy of this project, applicant shall improve Southside Road frontage in one and only one of the following configurations:
- Make a half-road reconstruction of Southside Road, for the roadway lane fronting the project property, based on R-value section of AC on AB with a compacted subgrade (half-width 24 feet AC on 34 feet roadbed to rural standard;
- 26. Sewer and Water Systems:** The applicant shall be required to obtain sewer and water services from the Tres Pinos Water District at such time that services become available. Upon obtaining service from the District the applicant will be required to abandon the on site septic system and obtain all necessary permits from the Environmental Health Department.[Environmental Health MM 11]
- 27. Food Services:** The applicant shall be required to obtain a Health Permit from the Environmental Health office for each food service area (kitchen, snack bar, etc.). The applicant should be aware that the kitchen and all other food preparation and storage areas shall conform to the California Uniform Food Facilities Law.[Environmental Health]
- 28. Pool and Spa:** The applicant shall obtain a permit to construct the swimming pool and spa as shown on the plans with required fencing for safety.[Environmental Health]
- 29. Hazardous Materials:** The applicant shall be required to submit a Business Plan to the Environmental Health office for materials used in landscaping, and maintenance of the facility. The applicant shall provide an inventory of all hazardous materials and hazardous waste to be stored and/or generated on the property .[Environmental Health, Planning]
- 30. Water Service:** The property will be served by an on-site well. The applicant shall obtain a permit from the State Water Board for a commercial well. At such time that adequate water service is available, this property will be connected to the Tres Pinos County Water District water system. It will be the responsibility of the property owner at the time adequate water service is available, to do all of the following:
- pay all costs associated with service connection to the Tres Pinos County Water District water system;
 - ensure that, at time of service connection, all water mains and appurtenances conform to current TPCWD Standards and Construction Notes;
 - request water service and obtain approval by the TPCWD Board of Directors prior to connecting to TPCWD's distribution system;
 - ensure that all water fixtures are low flow models;
 - if an unapproved water source is available to this site with TPCWD water service, install backflow protection devices in accordance with TPCWD standards in effect at the time of service connection;
 - install water meters and related appurtenances in accordance with TPCWD standards in effect at the time of connection;
 - include utility plans with an attached copy of the most current TPCWD specifications and construction notes;
 - submit future water system improvement plan revisions to TPCWD for review and approval; and
 - pay all appropriate water connection fees prior to construction, including water used for construction. [Tres Pinos County Water District]

31. Fish and Game: Applicant shall pay all appropriate environmental filing fees as required under Fish and Game Code section 711.4(d) to the San Benito County Clerk. [DFG]

32. Fire Protection: Prior to the issuance of any permits for new development, the applicant shall comply with all requirements of the California Department of Fire, including the provision of an adequate water supply and flow for fire suppression. This may require the installation of one or more above ground water storage tanks and fire hydrants. [County Fire]

33. Egress and Ingress: The applicant shall insure that the access drive complies with the County Fire Standards. [County Fire]

34. Emergency Entrance: The applicant shall be required as a safety measure to install a gate limiting access to the entrance along Highway 25 to all traffic except for emergency vehicles. The applicant shall be required to install a Knox Box System in accordance with County Fire Standards. [Planning, County Fire MM 22]

3. 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.

SP Ortwein presented the staff report, noting this matter had been continued from the meeting of August 1, 2007, when it had been announced that clarification was needed from the Department of Public Works regarding Conditions of Approval {items 12 – 19} (off-site road improvements).

Commissioners discussed with staff:

- density issues
- ‘fair share’ for widening of road / concerns of viability of widening road as required
- questions of road improvement requirements / ‘benefit area’
- location of bridge (?at County line)
- clarification of statement that there would be no additional impact due to the two houses which already exist on the proposed parcels
- the request is to bring the parcels into conforming use

Chair Tognazzini opened the public hearing.

Anne Hall, San Benito Engineering, was present to represent the applicant. Ms. Hall advised of agreement with the Conditions of Approval which are required.

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

COMMISSIONERS BETTENCOURT/MACHADO MOTIONED TO APPROVE MINOR SUBDIVISION NO. 1187-06, TOGETHER WITH THE FINDINGS AND CONDITIONS NOTED. THE MOTION CARRIED (5-0) BY THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, MACHADO, SCATTINI, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Conditions of Approval:

- 1. Hold Harmless:** Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]
- 2. Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Department. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
- 3. Compliance Documentation:** Prior to recordation of the parcel map, the applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
- 4. Assessment:** Prior to recordation of the parcel map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act. [Planning, Assessor]
- 5. Recordation:** The applicant shall submit a parcel map to the County and the parcel map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The tentative parcel map shall expire two (2) years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a parcel map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]
- 6. Fire Protection:** A note shall be placed on an additional sheet to the Parcel Map that states: "Prior to the issuance of any permits for new development, the applicant shall comply with all requirements of the California Department of Fire, including the provision of an adequate water supply and flow for fire suppression. This may require the installation of one or more above ground water storage tanks, residential fire sprinkler systems and fire hydrants." [County Fire]
- 7. Easements:** The parcel map shall show all easements for access, utilities, and drainage. All future development shall maintain a ten (10) foot setback from the noted easements. [Public Works, Planning]

8. **Notice of Determination (Fish & Game Fees):** The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval of the tentative map. Department of Fish and Game fee (\$1,875.00 – 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]
9. **Conditions of Approval, Easements, and Restrictions:** All unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the parcel map. [Planning]
10. **County Service Area:** Prior to recordation of the final map, the applicant shall make application to LAFCO to join a County Service Area (CSA #43) for fire and sheriff protection. All related processing fees, including State Equalization fees, must be submitted prior to recordation of the final map. [LAFCO, Planning]
11. **Improvement Plans:** As a condition approval, the applicant shall be required to submit and have approved, by the County Public Works Department, improvement plans for the proposed subdivision.

Public Works Conditions:

12. Prior to recordation of the parcel map for this project, applicant shall make an irrevocable offer of dedication for the project driveway within the subdivision boundaries as follows:
 - a. 30 feet road right-of-way for the driveway/easement where it serves 2-4 dwellings including standard County road slope easement.
13. Prior to recordation of the parcel map for this project, applicant shall improve the project driveway per the following requirements:
 - a. 16 feet AC on 18 feet road bed on driveway within subdivision and out side subdivision to Carr Ave.
14. Prior to commencement of any improvements associated with this project, applicant shall obtain a Public Work Encroachment Permit for any work being performed within the County road right-of- ways.
15. As part of the submission of any improvements associated with this project, applicant shall comply with County Drainage Standards and provide erosion and drainage control details for this project. Drainage calculations shall be submitted, and shall be engineer signed and stamped.
16. Prior to recordation of the parcel map, applicant shall insure that this subdivision complies with the County Fire Standard and the requirements of the Aromas Fire department.
17. 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.

Planning Conditions:

- 18. Woodland Conservation:** Tree preservation measures, to ensure the protection of existing oak trees within the project area, shall be incorporated into the grading plan. These measures shall include protection of tree root systems by prohibiting heavy equipment within the drip-line of these trees and having all work within the drip-line conducted only by hand tools. Prior to the issuance of the grading permit, construction fencing shall be placed along the drip-line of the oak trees adjacent to the grading area. The project contractor shall be required to meet with County Planning staff regarding the requirement to protect and preserve the oak trees on the site, prior to the start of grading activities. Any trees to be removed shall be replaced at a ratio of 3:1.
- 19. Tree Removal:** Should the removal of any trees be required for the improvement of any existing roadway to county standards, the applicant shall apply for a discretionary permit for the removal of woodlands as may be applicable.
- 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. Environmental Mitigation Measures:** The mitigation measures set forth in the initial environmental assessment are incorporated herein as follows:
- a. A note shall be placed on the improvement plans for the subdivision stating that all active construction areas shall be watered, at a minimum of twice a day to control fugitive dust.
 - b. If, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact or other evidence of an archaeological site is discovered, all further excavations and disturbances within 200 feet of the discovery shall cease and desist. If human and/or questionable remains have been discovered, the sheriff-coroner shall be notified immediately pursuant to County Ordinance 610.
 - c. Prior to commencement of any site improvement activities, the applicant shall have a site-specific soils report prepared by a qualified soils engineer for all proposed road improvements, and accepted by the County. The soils report shall address proposed grading and subdivision improvement activities, and shall make recommendations for the design and construction methods of the proposed roadway to county standards.
 - d. Prior to commencement of site improvement activities, the applicant shall provide a detailed erosion control plan that complies with 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 Departments for review and approval.
 - e. Prior to recording the final map, the applicant shall record deed restrictions stating "All areas with slopes greater than 30% shall be designated non-buildable." A note with this statement shall also be placed on the map.
 - f. Grading shall not occur at times when the material to be graded is exceedingly saturated, or when rain is imamate or when weather may result in unnecessary erosion.

- g. 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 on Parcel 1 or 2, the applicant shall provide sufficient information to demonstrate that drainage facilities which meet County standards will be provided for the site. Such information shall include flood information as well as the location, design, and supporting calculations for proposed drainage facilities.”
- h. The applicant shall submit to the Regional Water Quality Control Board a “Notice of Intent” associated with site improvement activity (including clearing, grading and disturbances to the ground). The applicant shall also develop and implement a Storm Water Pollution Prevention Plan listing Best Management Practices.

Commissioner Scattini disclosed he had visited the site of the next agenda item.

4. **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.

AP Kelly gave the staff report, calling attention this matter had been continued from the August 1, 2007 Commission meeting. This proposal, he said, would divide an unimproved 17.72 acre site into three parcels of 7.01, 5.46, and 5.25 acres each. AP Kelly reminded that the site has a Scenic Highway zoning designation, would require grading and subsequent delivery of fill dirt.

Commissioner Scattini said that during the site visit, he had not been able to ascertain what the {graded} slope would be. AP Kelly explained that the building pads would be flattened and the slope would vary from 15 ½ - 13 1/3%.

ET Herrera explained the roadway design, including the turn-around at the end, and the requirement of the road dedication. Responding to a question, ET Herrera clarified that the required dedications of rights-of-way could serve future subdivisions.

Chair Tognazzini opened the public hearing.

Anne Hall, San Benito Engineering, was present to represent the applicant, and protested that Condition #25 (Emergency Access) was 'vague', insinuating it might not be necessary.

Commissioner Bettencourt asked if the Condition could be deleted? [DCC Murphy said, "No."] ET Herrera explained that Condition #25 had been left 'open ended' to have the potential for connection to Cannon or Chateau be considered. "The County Engineer would have to determine a specific road for the connection," ET Herrera said. He went on to explain that the benefit of this 'open ended' policy would assist in having the feasibility of the route be the most esthetically pleasing when the County Engineer has completed a study of the entire project area. Commissioner DeVries said, "Then, in this case, Condition #25 is not specifying an access at this time, but it could ultimately go either way?" ET Herrera confirmed that fact.

Engineer Hall then spoke to the neighboring properties, reading a letter from CalTrans, noting that in time of an urgent situation, an emergency vehicle could go through fencing from Highway 101 to the location. ET Herrera pointed out that reports from the Public Works Department had indicated the need to address *emergencies* in Condition #25.

Commissioner Machado led discussion on the requirements for second access. DCC Murphy advised that the length of a dead-end road and the fire [category] designation determined the need for a second access. ET Herrera said that the access road is 2,200 linear feet total, and the project site is in a high fire area.

Responding to questions from Commissioner Bettencourt, the applicant indicated the site of the water source on the map, and told the Commissioners that there was adequate potable water for the project.

AP Kelly said that before recordation of the map, a letter from the Water District indicating that there is ample space in the aquifer, as well as sufficient water available would be required. AP Kelly also addressed questions regarding septic and leach field requirements for each building site.

DCC Murphy returned to the issue of road standards, and reminded of the language in the County codes.

Commissioner DeVries discussed with DoP Henriques the identified need for sprinklering the housing units. Commissioner DeVries also led discussion regarding the availability of CDF water tanks, with Engineer Hall responding as well.

Engineer Hall suggested changing Condition #25 to read: "Applicant shall comply by installing NFPA approved sprinklers in all houses." The applicant agreed with this proposed change to condition #25.

Commissioner Scattini inquired if there is a requirement for fire hydrants at the site? [Yes, CDF requirement]

Commissioner Bettencourt reminded that any requirements of the Aromas Fire and/or Water District must have compliance.

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

COMMISSIONERS DEVRIES/MAHADO MOTONED TO ACCEPT THE MITIGATED NEGATIVE DECLARATION AND APPROVE MINOR SUBDIVISION NO. 1200-07, INCLUSIVE OF THE FINDINGS AND CONDITIONS SO LISTED, AND WITH THE FOLLOWING MODIFICATION TO CONDITION #25: Applicant shall install NFPA approved sprinklers in all dwelling units.

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

Commissioner DeVries disclosed he had twice visited the site of the next agenda item.

5. MINOR SUBDIVISION NO. 1203-07 – APPLICANT: Ken May. LOCATION: Chateau Drive, between Carr Road and Merrill Road. APN: 11-23-09 REQUEST: To subdivide 16.10 acres into three parcels of 5.5 acres, 5.51 acres and 5.09 acres. ZONING: Rural (R). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

AP Knight gave the staff report, noting this matter had been continued from the Planning Commission meeting of June 20, 2007. This proposal, she said, would subdivide a 16.10 acre parcel into three with the resultant sizes being five (+/-) acres each. Also involved, AP Knight said, would be the need for approximately 4,000 cubic yards to be cut and filled over three acres for minor improvements to the building areas and a detention pond.

AP Knight outlined the issues associated with the request as follows:

- frontage road improvement requirements (bonding required) [Condition #13]
- access [staff recommended access from Chateau {San Benito County Transportation Element}]; neighborhood concerns caused lack of support for access from Alexander Road]
- water availability [Condition #40 designed to address this issue]

Responding to comments by Commissioner Bettencourt, AP Knight explained the necessity of non-mix aquifers. She also explained the existing easement (a dirt road) will continue and most probably will be used for utilities.

Chair Tognazzini opened the public hearing.

Don Moses, 447 Alexander Lane, San Juan Bautista, spoke in opposition to access through Alexander Lane. Mr. Moses also provided some history of the easement road.

Julie High, 550 Alexander Lane, San Juan Bautista, spoke in opposition to access through Alexander Lane.

Engineer Hall spoke to the Commissioners as a representative of the applicant and addressed the following issues:

- not able to determine the preferences of roads, e.g., Chateau / Alexander
- Public Works Condition 12 b
- expansion of roadway area (she claimed this changed since a previous understanding)
- requested deferral of road improvements
- waiver to *not* connect to Chateau (preferred route would be Alexander)
- questioning that the County Code supports or required the dedication of land not belonging to the subdivider/applicant – requesting direction regarding the policy

Commissioner Scattini asked about the deferred road improvement agreement: who can grant this request? DCC Murphy responded the Planning Commission can ask the County Engineer to consider, and that an appeal could go to the Board of Supervisors.

Ken May, the applicant, said he thought access from Alexander Lane would be best, as he provided an overview of the history of Alexander Lane and the easements. Mr. May asked the Commissioners to consider approval of access through Alexander Lane. He also asked that the road improvement requirements be either waived or deferred.

Anthony (Tony) Stafford, Chateau Road, San Juan Bautista, asked for preference to have access to the site ‘by way of Alexander Lane’.

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

Discussion ensued regarding:

- cul-de-sac on Stafford Road
- age of easements [1989]
- future potential development nearby the site
- rationale that roads would be routed from Alexander Lane

Commissioner DeVries said the visits he made to the site convinced him that the driveway should be on the subject property and that the required road improvements should be deferred.

DC Murphy explained that the road improvements cannot be deferred by the Planning Commission, but that the County Engineer can make the determination *or* the Board of Supervisors can declare a deferment for the road improvement requirement. Commissioner DeVries commented his belief that the Subdivision Ordinance needed to be changed in this area.

ET Herrera said the road placement meets fire standards. He also said that a deferment on a previously discussed project in the area had been permitted to 'avoid a lopsided road'. ET Herrera strongly stated this was not applicable in this request as it is anticipated that other properties will further subdivide in {possibly} the near future.

AP Knight called attention to Condition #28 b as she spoke on the possibility of oak tree removal.

At this point, there was a request to set this matter aside and take up agenda item 6 for the purpose of continuation of said item.

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.

BY CONSENSUS OF ALL COMMISSIONERS PRESENT, AND NONE WERE ABSENT, TSM NO. 06-72 & ZONE CHANGE NO. 07-51 WAS MOVED TO THE WORKSHOP SCHEDULED FOR AUGUST 29, 2007, due to the rules of the Commission (no new items to be taken up after 9:30 p.m.).

The regular order of the agenda was resumed with continued discussion of the matter.

ET Herrera stated there have been some problems with applicants who have agreed to deferred road improvements, then not being willing to place the improvements when notified by the County to begin doing so.

DCC Murphy stated that the deferred road improvement agreement is a legal document and can be enforced.

ET Herrera then explained the design of the existing Chateau Road easements and accesses. Responding to a question from Commissioner Scattini, ET Herrera said the road(s) will 'eventually connect'. He went on to explain that the frontage of the property where the subdivision is currently requested did not warrant a deferment (decision by the County engineer).

Commissioner Bettencourt asked if the road improvement is waived, who would pay? DCC Murphy said the County would be responsible in that case. Commissioner DeVries said the improvement could be required, but appealed to the Board of Supervisors.

Following discussion of various possible scenarios of preferred decisions, **COMMISSIONERS SCATTINI/BETTENCOURT MOTIONED TO ACCEPT THE MITIGATED NEGATIVE DECLARATION AS PRESENTED, AND TO APPROVE – WITH THE FINDINGS AND CONDITIONS AS PRESENTED - MINOR SUBDIVISION NO. 1203-07, USING CHATEAU ROAD FOR ACCESS, AND FURTHER TO DIRECT STAFF TO CONDUCT A SUPPLEMENTARY ANALYSIS OF THE ACCESS ROUTE. THE MOTION PASSED (4-1) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DeVRIES, SCATTINI, TOGNAZZINI; NOES: MACHADO; ABSTAIN: NONE; ABSENT: NONE.**

DUE TO THE LATENESS OF THE HOUR, THE FOLLOWING ITEMS WERE SUSPENDED TO THE SCHEDULED WORKSHOP OF AUGUST 29, 2007.

WORKSHOP ITEMS

7. Review of San Benito County Code Section 5-32 – Agriculture Building Exemptions
8. P R G I Update
9. Crowing Fowl update
10. Update on future Planning Commission discussion items

INFORMATIONAL – NON-ACTION ITEMS:

Commissioner Announcements/Reports/Discussions

ON A MOTION BY COMMISSIONERS BETTENCOURT/SCATTINI, WHICH PASSED UNANIMOUSLY BY THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT – WITH NONE ABSENT – CHAIR TOGNAZZINI ADJOURNED THE MEETING AT 9:56 P.M. TO THE SCHEDULED SPECIAL MEETING OF AUGUST 29, 2007

*Minutes transcribed by:
Judi Johnson*

*Attest:
DoP Henriques*