

**SAN BENITO COUNTY PLANNING COMMISSION**  
**August 29, 2007**  
**Minutes**  
***Special Meeting***

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, Deputy Director of Public Works (DDPW) Arman Nazemi; County Counsel (CC) Dennis LeClere; 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:

- C-Map will begin video taping the Planning Commission meetings and would September 19, 2007 work to start. The Commission agreed.

Recent actions by the Board of Supervisors (BoS) include:

- voted to support action in Sacramento to provide matching funds for impact fees currently are not eligible for matching funds
- the 2007-08 budget was approved
- PRGI (large project) Ordinance revisions were adopted and will become effective 30 days from the adoption

**PUBLIC COMMENT:**

Chair Tognazzini noted there was no public comment opportunity since this was a special meeting.

**CONSENT AGENDA:**

**COMMISSIONERS SCATTINI/BETTENCOURT MOTIONED TO APPROVE THE CONSENT AGENDA:**

1. Acknowledge Public Hearing Notice – published 8/17/07
2. 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**

3. **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.

SP Ortwein gave the staff report, noting this item had been continued from the August 15, 2007 Commission meeting. The Condition for the HOA to provide parks and recreation amenity was deleted, with the engineering accepted by the Department of Public Works, SP Ortwein reported.

PP Turner reminded that with recent PUD requirement changes, the recreation amenity now allows flexibility.

Commissioners discussed with staff:

- why the lots are located in the middle of the area with the remainder to the outside? [placement decided on flat area for building; also the building lots are on Grade 2 soils and the remainder – to the front – contains Grade 1 soils
- road maintenance will be by the CSA – and maintained by the County when accepted into the road(s) system
- the County Parks and Recreation Board will oversee the amenity in-lieu monies
- payment of in-lieu monies must be completed before map recordation
- revised Condition #32: Inclusionary housing [handout(s) to the Commissioners]
- add Condition #38 {Fire Suppression}
- questions of how soils determination made
- sources of water [PP Turner noticed that the applicant has to comply with County water requirements

- fire suppression [member of the audience said it is available from top of the hill on Colina Linda]
- landscaping provisions promised by applicant to provide privacy
- past flood problems should be mitigated by detention ponds
- issues of ringing small all-terrain vehicles on the property (private moto-cross tracks not allowed in AP (per Commissioner's directives)
- concerns of neighbors:
  - o mail boxes
  - o bus stops
- width of proposed road (roadway: 34 feet; pavement: 24 feet total)

Chair Tognazzini opened the public hearing.

Bob Wiltse, 3319 Colina Linda Road, complained about the 'lack of notification from the Planning Department' regarding these hearings.. He also encouraged the County to take responsibility for roads in the area, protesting that 30 residents were affected by a myriad of issues: trash build-up, irregular mail delivery, and safety concerns. SP Ortwein stated he is working the Post Office to relocate the mail boxes.

Anne Hall, San Benito Engineering, spoke to the Commissioners as a representative of the applicant. Engineer Hall said that, in reference to Condition #25 b: the County currently has required a 50-foot easement on an adjoining property, which would require 'only eight additional to meet the requirement of 60-foot right of way'.

Commissioners asked several questions of – and engaged in discussion with the Engineer regarding:

- explanation of the location of the easement/right-of-way
- if the ditch along side the road would remain in place [yes, it is a drainage ditch]
- width of road 'today' [20 feet of travel lane; proposal: 24 feet with 5-foot wide paving on each shoulder at the specified location]

DDPW Nazemi advised Condition #25 is a Standard Condition with the requirement being for a 30-foot (one-half road). He explained that the obligation may not be totally completed during the tentative map stage, but has to be completed at the final. DDPW Nazemi went on to explain that if the requirement has been partially in place previously, then the applicant would 'only to meet the total'. Responding to questions, DDPW Nazemi said it is the responsibility of the applicant and their Engineer to certify the existing conditions for the property.

Commissioner Scattini turned to the subject of insecticides, asking if a condition could be added for surrounding growers? PP Turner said a deed notification could be attached, declaring a 'right to farm'. Chair Tognazzni joined the issue, noting that, "Ag needs to be done the right way. The Ag Department issues the necessary permits with some requirement for buffer zones." Commissioner DeVries asked if more action might be possible to assist ag producers? DoP Henriques spoke to a review process. Discussion ensued with Chair Tognazzini advising any rules should be flexible, depending on the applications required.

Belle Wiltse, 3319 Colinda Linda, told the Commissioners there were five families which would be affected as they have deeds for road easements and will face changes of ownership.

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

Having ascertained and reiterated Staff's recommendation, **COMMISSIONERS MACHADO/BETTENCOURT MOTIONED TO APPROVE THE MITIGATED NEGATIVE DECLARATION, THE MITIGATION MONITORING PLAN, TENTATIVE SUBDIVISION MAP NO. 06-72 AND ZONE CHANGE NO. 07-51, TOGETHER WITH THE FINDINGS AND CONDITIONS PRESENTED, AS WELL AS THE MODIFICATIONS NOTED. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVRIES, MACHADO, SCATTINI, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**CONDITIONS OF APPROVAL:**

- 1. Recordation-Section 66464 of the Subdivision Map Act (SMA); Section 17-36 of Ordinance 617:** A final map conforming substantially to the approved tentative map shall be approved by the Board of Supervisors and recorded with the County Recorder. The tentative subdivision will expire two 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 final map within the period of the approval or a period of extension shall terminate all subdivision proceedings. [PLANNING, PUBLIC WORKS]
- 2. Hold Harmless-Section 66474.9 of the SMA:** Pursuant to Section 66474.9 of the Government Code, (Subdivision Map Act) 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 proceedings against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of the subdivision and applicable proceedings. San Benito County shall be subject to Section 66474.9(b)(2). San Benito County reserves its right to prepare its own defense, pursuant to Section 66474.9 Government Code. [PLANNING, PUBLIC WORKS]

- 3. Mitigation Monitoring:** Prior to recordation of the final map or Planning Department approval of the improvement plans, which ever comes first, the applicant shall enter into a mitigation monitoring agreement with San Benito County. [PLANNING]
- 4. Compliance Documentation:** Prior to recordation of the final map, the applicant shall submit a summary response to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. The applicant shall also submit a response as to how this project complies with impact fees applicable to the following ordinances: Drainage, Benefit Areas, Park, and other applicable ordinances. [PLANNING, PUBLIC WORKS]
- 5. Assessment-Section 17-32(d) of Ordinance 617:** Prior to recordation of the Final Map, the applicant shall submit a statement or certificate with the County Public Works Department indicating that there are no liens against the subdivision for unpaid taxes or special assessment as required by Section 66492, 66493 and 66494. [PUBLIC WORKS]
- 6. Engineered Plans:** Prior to recordation of the Final Map, the applicant shall submit engineered improvement plans for review and approval to the Planning and Public Works Departments. As part of the submission of engineered improvement plans for the project, applicant shall comply with County Drainage Standards and provide erosion and drainage control details for the project sheet. Any drainage calculations submitted shall comply with the requirements of the County Drainage Standard, and shall be engineer signed and stamped. Applicant shall submit drainage calculations for any proposed or existing drainage courses to the proposed pond, the proposed pond, and any discharge lines for the proposed pond. [PUBLIC WORKS]
- 7. Easements and Dedications -Section 17-31(j) of Ordinance 617:** The Final Map shall include all easements and dedications for roads, utilities, and drainage or other public uses. [PUBLIC WORKS]
- 8. Encroachment:** Pursuant to §14-3 of the San Benito County Code, prior to commencement of any improvements associated with this project the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County right of way. [PUBLIC WORKS]
- 9. Street lighting-Appendix C of Ordinance 617:** Prior to recordation of a final map, the applicant shall submit to the County a street lighting plan for lighting of the project entry and the internal roads. Internal street lighting shall be minimized and shall comply with County Ordinance 748. The street lighting plan shall be subject to the review and approval of the County Public Works Department, and improvements specified in the plan shall be completed or bonded prior to filing of the final map. [PUBLIC WORKS, PLANNING]

- 10. Exterior Lighting:** A note shall be placed on an additional sheet to the Final 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 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][MM 1]
- 11. Underground utilities-Section 17-65(f) and 17-B of Ordinance 617:** All utility service and distribution equipment shall be placed underground in conformance with the rules of the California Public Utilities Commission. Prior to recordation of a final map, the County Public Works Director shall ensure that the requirement for underground utilities is noted on subdivision improvement plans and that the subdivider has installed or bonded for installation of all applicable utility services to each lot, including sewer, water, electric power, gas, telephone, and cable service. [PUBLIC WORKS, PLANNING]
- 12. Fire Service:** Prior to recordation of a final map, the applicant shall submit written documentation to the Planning and Public Works Departments from the California Department of Forestry stating that all CDF Fire Safety Guidelines can be met, that a detailed plan for providing water for fire protection has been reviewed and approved by them, and that CDF has approved the proposed size and location of fire hydrants. [PUBLIC WORKS, PLANNING, CDF]
- 13. Drainage Plan: Section 17-65(b) and 17-B of Ordinance 617:** As part of the submission of engineered improvement plans for this project, the applicant shall comply with County Drainage Standards and provide erosion control details for the project. Included in this will be drainage calculations and construction details for either a retention or detention pond for impermeable surfaces created as part of this project. All drainage improvements must be installed or bonded for prior to recordation of the parcel [PUBLIC WORKS]
- 14. County Service Area – Ordinance 541:** Prior to recordation of the final map, the applicant shall annex to a CSA for fire and sheriff protection. [LAFCO, PLANNING]
- 15. Fish and Game Fees--Section 711.4 of the Fish and Game Code and Section 21089 (b) of CEQA:** Department of Fish and Game fees (Fish and Game Code Section 711.4 (d)) must be submitted to the County Planning Department within five days of the decision unless a De Minimis Finding has been made for the project. Should the fees not be paid within five days, the application is subject to actions described in Section 21167 of CEQA and the project is not operative, vested, or final until the fee is paid (21089 (b) of CEQA). [PLANNING]

- 16. Open Space Parcel:** Prior to recordation of the Final Map, the applicant shall grant an agricultural easement across the 25.94-acre Parcel 6 to a Land Trust to ensure the property remains undeveloped (not including the residence proposed for the caretaker) and remain in agricultural production.  
[PLANNING]
- 17. Cultural Resources:** A note shall be placed on the Final Map and the improvement plans stating: 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. The applicant shall contact the San Benito County Planning office to report the findings and to prepare the proper documentation and reports as determined by the Planning Director. If human and/or questionable remains have been discovered, the sheriff-coroner shall be notified immediately pursuant to County Ordinance 610 [PLANNING]  
[MM6]
- 18. Structural Design:** All structures shall be designed to resist seismic shaking in accordance with current California Building Code requirements.  
[PLANNING] [MM7]
- 19. Geology:** A note shall be placed on the Final Map and the improvement plans stating: "A Soils Engineering Report, dated August 18, 2005, was prepared for this property by Earth Systems Pacific Consultants (File No. SH-10642-SA) and is on file at the San Benito County Planning Department. The recommendations contained in said reports shall be followed in all development of the property." A letter of geotechnical compliance shall be submitted upon completion of site improvements. A note shall be placed on the Final map referencing the aforementioned reports for future reference by potential property owners. [PLANNING] [MM8]
- 20. Air Quality:** A note shall be placed on 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 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] [MM2]
- 21. Grading Activities:** A note shall be included on all improvements or construction plans that involve site grading and/or improvements prohibiting all grading activities during periods when winds are over 15 miles per hour.  
[PLANNING, PUBLIC WORKS] [MM3]
- 22. Truck Hauling:** A note shall be placed on all improvement or construction plans requiring all trucks hauling dirt, sand or loose materials to be covered.  
[PLANNING] [MM4]

**23. Diesel Emissions:** A note shall be placed on the improvement or construction plans requiring that all diesel or gasoline powered machinery not in actual use must turn off engines when idle. 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 Resource Board approved Catalysis Diesel Particulate Filters or Diesel Orientated Catalysis Filter. The applicant may also opt to use Bio-diesel fuels B99 or B100 as an alternative to the filter. [PLANNING] [MM5]

**24. Grading:** A note shall be placed on the improvement plans for the subdivision and an additional note on the Final Map stating the following: "As required by County Ordinance, subdivision construction and grading shall be limited to the hours of 7am and 7pm Monday through Saturday. No subdivision construction activities shall be allowed on Sundays or Federal holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans." [PLANNING, PUBLIC WORKS]

**25. Dedication:** Prior to recordation of the Final map, the applicant shall make the following irrevocable offers of dedication to San Benito County and the public for public use:

- a. *40 foot full road right-of-way along the portion of the project site abutting Colina Linda Road plus any additional area needed to accommodate the curve and to enhance intersection at Old Hollister-San Juan Highway,,*
- b. *30 foot half road right of way along the southwesterly boundary of project from Colina Linda to the corner at the intersection of the Destefanis and Trump properties*
- c. *60 foot full road right of way for the proposed cul-de-sac servicing parcels 1-5,*
- d. *50 foot right-of-way radius must be provided at proposed cul-de-sac where turnaround facility is provided to meet Public Works as well as County fire turning radius,*
- e. *30 foot emergency/agricultural access easement.*[PUBLIC WORKS]

**26. Roadway Improvements:** Prior to recordation of the Final map the applicant shall bond for or make the following roadway improvements:

- a. *Improve and realign Colina Linda Road to provide 24 foot AC on 34 foot road bed along its entire length,*
- b. *Improve the existing unnamed road to 24 foot on 34 foot road bed from Colina Linda to the most southerly corner of parcel five (5),*
- c. *Construct the proposed Christopher Court to County Urban Standards,*
- d. *16 foot AC on 20 road bed for the proposed emergency/agricultural access easement serving the open space parcel. Subject easement shall be extended to connect with the proposed cul-de-sac with a gate. [PUBLIC WORKS]*

27. **Water Source:** Prior to recordation of the Final Map, the applicant shall provide evidence to the Environmental Health and Public Works Departments that the water source utilized for the proposed project must meet the construction standards outlined in the Department of Water Resources Bulletins 74-81 and 74-90. [PUBLIC WORKS, ENVIRONMENTAL HEALTH]
28. **Water Quality:** Prior to recordation of the Final Map the applicant shall be required to obtain a Local Small Water System letter from the Environmental Health Department [ENVIRONMENTAL HEALTH] [MM 9]
29. **Noise:** A note shall be placed on an additional sheet to the Final Map 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. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans.” [PLANNING] [MM10]
30. **Deed Restriction:** A note shall be placed on an additional sheet to the Final Map that states: “The water analysis of the existing well indicates the following secondary contaminants exceed the Maximum Contaminant Level (MCL): Manganese, Iron, Total Dissolved Solids, Specific Conductance and Turbidity”. [ENVIRONMENTAL HEALTH]
31. **Water System:** Prior to recordation of the Final Map, the applicant shall provide documentation to the Environmental Health Department stating Coliforms are within the acceptable limits for a safe, potable, water system. [ENVIRONMENTAL HEALTH]
32. **Inclusionary Housing:** Prior to recordation of the Final Map, the applicant shall comply with the requirements of Ordinance 766 (Inclusionary Housing Regulations) by entering into an inclusionary housing agreement to pay an in-lieu fee of a minimum of \$27,019.60 per lot, or as otherwise required by Ordinance 766. The total amount of in-lieu fees to be collected for this project is \$108,078.40 [PLANNING]
33. **Building Permits:** All development on the property shall require approved building permits. Applicant shall pay all associated fees for said building permits. [PLANNING, BUILDING]
34. **Zone Change:** Prior to recordation of the Final Map, the zone change from AP to AP-PUD shall be approved and finalized by the Board of Supervisors. Should the Board of Supervisors deny the zone change petition, conditional approval of the tentative map shall be automatically nullified and voided by the Board of Supervisor’s denial. [PLANNING]
35. **Modification:** In the event the Board of Supervisors make changes to the proposed PUD zone change petition, the project shall return to the Planning Commission for further review and approval of any changes to conditions of approval of the tentative map consistent with the Board of Supervisors revisions to the zone change petition. [PLANNING]
36. **Park Fees-** Section 17-59 of Ordinance 617 and Section 25 of Ordinance 479 Prior to recordation of a final map the application shall pay in-lieu fees for park dedication and improvements [PUBLIC WORKS, PLANNING]

**37. Legal Requirements:** Prior to recordation of the final map, the applicant shall make a contribution to a regional park account under the supervision of the Parks and Recreation Commission. The contribution shall be consistent with the cost of providing the recreational amenity. The applicant shall provide documentation stating the cost of the amenity to the Public Works Department for review and approval. [PLANNING]

**38. Fire Suppression:** If the applicant chooses to seek permission from the SBCWD to use a San Felipe Blue Valve for connection to a fire suppression water supply, the applicant shall complete an “Agreement for Supplemental Fire Protection” with the SBCWD and provide evidence of such agreement to the County prior to issuance of a building permit. The applicant shall work in cooperation with the SBCWD if modifications and upgrades to San Felipe Distribution Systems equipment are required. CDF approval is a prerequisite for use of San Felipe water for fire protection purposes.[SBCDW]

### **WORKSHOP ITEMS**

#### 4. San Benito County Hillside Ordinance

Commissioners, staff and members of the public discussed:

- when do the regulations apply?
- where do the regulations apply?
- role of design/review board/subcommittee in establishing the ‘rules’ for the Ordinance

PP Turner, answering a question, advised that the County could establish ‘what are hillsides’: basing the description on *sensitive view sheds* or *sizes of the parcels* and *locations of the parcels*.

DoP Henriques spoke on the need for appropriate design/review procedures.

Commissioners asked who were the members of the design/review board/sub-committee?

PP Turner explained that the Planning Commissioners sit as the Design/Review Committee, following staff determination of the issues.

Discussion ensued regarding a possible field trip to have on the ground experience with making determinations for the design/review board/subcommittee. Also discussed was the use of GIS decision making tool. Other issues of interest were:

- grading
- property owner’s rights
- percentage of slope in making decision of hillside

Chair Tognazzini opened the public hearing.

Speakers to the matter included:

Al Guerra, who elicited a history (from commissioner DeVries) of the Ordinance

Robert Brians, 747 Shore Road, urged the Commissioners to be concerned with views, trees, lighting issues, and concern with landslides. Mr. Brians presented jurisdictional legislation from other areas.

John Eade, 4760 Santa Ana Valley Rd., spoke to concerns of an elevation limit, saying, “an eyesore could be built on flat ground.”

Closing the public hearing, Chair Tognazzini remarked, “We are not here to reinvent the wheel. We are trying to preserve the view shed.”

Discussion evolved with a **CONSENSUS REACHED BY ALL COMMISSIONERS PRESENT – AND NONE WERE ABSENT – TO CONTINUE THE MATTER TO THE COMMISSION MEETING OF SEPTEMBER 19, 2007, WITH THE REQUIREMENT OF A PUBLIC HEARING.**

*The following items were given an overview by staff in attendance. Discussion was concluded efficiently as some of the items had been previously considered and modified during Commission meetings.*

**CONTINUED WORKSHOP ITEMS ~ from 8-15-07**

5. Review of San Benito County Code Section 5-32 – Agriculture Building Exemptions: information was presented by PP Turner and Clerk Maderis.
6. P R G I (large project) Update – had been approved by the Board of Supervisors and is currently in the 30-day period following the public hearing. Commissioner Machado requested information regarding the BoS vote; a member of the audience responded.
7. Crowing Fowl update – Code Enforcement continues to monitor; a system of dealing with violations is in place.
8. Update on future Planning Commission discussion items: PP Turner provided an overview of the potential for items which may be considered.

**INFORMATIONAL – NON-ACTION ITEMS:**

Commissioner Announcements/Reports/Discussions: No additional items were brought forward.

**ADJOURNMENT**

**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 9:37 P.M. TO THE REGULAR MEETING OF SEPTEMBER 5, 2007**

*Minutes transcribed by:  
Judi Johnson*

*Attest:  
DoP Henriques*