

SAN BENITO COUNTY PLANNING COMMISSION

September 5, 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 Krausie; Associate Planner (AP) Lissette Knight; Deputy Director of Public Works (DDPW) Arman Nazemi; Public Works Engineer (PWE) Art Bliss; Deputy County Counsel (DCC) Shirley Murphy (who arrived at 6:09 p.m.); and Clerk Trish Vieira Maderis.

Chair Tognazzini opened the meeting at 6:03 p.m. by leading the pledge of allegiance to the flag and reiterating the standing rules of order.

DIRECTOR'S REPORT:

DoP Henriques reported:

- there was no Board of Supervisors meeting during the current week
- Planning Commission members were invited to attend an informational meeting at the next Board meeting on the proposed High Speed Rail Project
- the Consultants for the General Plan are working with staff on the intended mailing and some challenge with rental properties (Commissioner Scattini asked when the mailing could be expected to commence? DoP Henriques responded that the information in the next couple of weeks including a note about additional community meetings.. Commissioner Bettencourt clarified the compilation of data for the mailing.

PUBLIC COMMENT:

Chair Tognazzini opened, and then closed, the opportunity for public comment as there were no persons in attendance indicating a wish to speak to the matter.

CONSENT AGENDA:

COMMISSIONERS MACHADO/ SCATTINI MOTIONED TO APPROVE THE CONSENT AGENDA:

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of August 1, 2007 Regular Meeting
4. **CERTIFICATE OF COMPLIANCE NO. 07-71** – APPLICANT: Elizabeth Campisi, LOCATION: Cienega Road, Hollister. APN: 21-25-23 & 21-11-27. REQUEST: To determine the number of legal parcels that comprise 65.78 acres. ZONING: Agricultural Productive (AP).

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 person aggrieved by the decision of the Planning Commission may appeal the decision within ten (10) calendar days to the Board of Supervisors. The notice of appeal must be in writing and shall specifically set forth the inappropriateness or lack of justification which the Planning Commission detailed in making the decision.

CONTINUED ITEM ~ COMMISSION ACTION

Commissioner DeVries was excused at 6:10 p.m. for the next agenda item due to the potential for conflict of interest as he had previously served as an attorney for the applicant.

Commissioners Bettencourt and Scattini disclosed individual visits to the site.

- 5. USE PERMIT NO. 969-07 – APPLICANT: Earthbound Farms. LOCATION: 1721 San Juan Highway, San Juan Bautista, APN: 12-02-16 & 12-05-10. REQUEST: To amend Use Permit No. 779-99 to treat their process water to a tertiary treatment quality level capable of being reclaimed. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.**

AP Knight presented the staff report, noting that the Conditions of Approval had been revised [handout detailing the Conditions was distributed to the sitting Commissioners]. AP Knight called attention to the inclusion of the ‘Hold Harmless’ Condition which had been added.

Commissioners discussed with staff:

- the eradication of the apple orchard
- employees living quarters
- percolation testing areas
- spraying of ag land (Joe Torquato spoke from the audience and said spraying did not occur currently but had been required in the past for production purposes during peak periods)
- route of water to McAlpine Lake
- issues of waste water [Mr. Torquato indicated intent to ‘hook up’ to San Juan Bautista for those utilities]
- questions regarding well locations on the map (Title 22 regulates water use on vegetable crops)
- roads
- ag production on the site
- drilling of test wells
- amount of land being taken out of production (Mr. Torquato explained the future plans for the site)
- current state of spray fields

Chair Tognazzini opened, and then closed, the public hearing as there were no persons in attendance indicating a wish to speak to the matter.

COMMISSIONERS BETTENCOURT/SCATTINI MOTIONED TO APPROVE USE PERMIT NO. 969-07 TOGETHER, WITH THE MITIGATED NEGATIVE DECLARATION, AS WELL AS THE MITIGATION MONITORING PLAN, AND INCLUSIVE OF THE FINDINGS AND MODIFIED CONDITIONS AS PRESENTED. THE MOTION PASSED (4-0-1) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, MACHADO, SCATTINI, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: DeVRIES.

CONDITIONS OF APPROVAL

Standard Conditions:

1. **Hold Harmless:** Upon written notice by the County, 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 minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense. [Planning]
2. **Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Commission. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
3. **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]
4. **Notice of Determination (Fish & Game Fees):** The applicant/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval for each project that requires a Negative Declaration. Department of Fish and Game fee (\$1,850.00 – 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]
5. **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 associated with this Use Permit shall be required to place a note to this effect on all construction plans. [Mitigation Measure #11]

Public Works Conditions

6. **Drainage and Erosion Plan:** As part of the submission of the engineered improvement plans for this project, the applicant shall comply with the County Drainage Standards and provide erosion and drainage control details for the project sheet.
Drainage calculations shall be submitted, and shall be engineer signed and stamped. As part of the submission of engineered improvement plans for this project, the applicant shall submit drainage calculations for: The proposed and existing drainage courses to the proposed ponds and the discharge lines for the proposed ponds.
7. **Structural Integrity:** Prior to obtaining a building permit a licensed engineer shall establish adequate setback from San Justo Road to preserve structural integrity due to the presence of water in settlement ponds.
8. **Encroachment Permit:** Pursuant to Section 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.
9. **Dedication:** Prior to obtaining a building permit, the applicant shall dedicate a 30 foot half road right of way along San Justo Road property frontage or show evidence that an adequate right of way has already been provided.
10. **Geotechnical Compliance:** Prior to issuance of the building permits for construction of the treatment ponds and subsequently the percolation ponds, the applicant shall submit a letter from a qualified geotechnical soils engineer verifying that the structural design of the pond complies with the recommendations in the Earth Systems Preliminary Soils Engineering report, File No: NIS 7389-01. [Mitigation Measure #7]
11. **Parking Lot:** Low Impact Development (LID) design techniques for the proposed parking lot expansion shall be used. LID for the parking lot expansion or equivalent methods are necessary to mitigate stormwater runoff pollution and stream erosion and sedimentation impacts that result from significantly increased downstream flows due to introduced impermeable surfaces. [RWQCB]

Planning Conditions:

12. **Exterior Lighting:** A note shall be placed on all construction, grading or improvement plans 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] [Mitigation Measure #1]
13. **Flood Damage Protection:** The percolation ponds will be protected from damage by a 100 year flood by building surrounding berms 2 feet higher than the 100 year flood elevation. [Planning, Public Works] [Mitigation Measure #2]
14. **Aerator Damage Protection:** In the event of a mechanical failure of an aerator, the treatment plant will have a spare aerator available at all times. [Mitigation Measure #4]
15. **Emergency:** In the event of a power outage, the existing Earth Bound Farms emergency generator will be used to operate the treatment plant while outage is being repaired. [Mitigation Measure #5]

- 16. 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).
- 17. 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 #6]
- 18. 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 29,000 cubic yards of cut grading and fill is authorized. All grading will conform to the plans submitted for Grading Permit 07-380 and Grading Permit 99-190. [Planning]
- 19. 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]
- 20. 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]
- 21. 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]
- 22. 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 GR 07-380, 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, all 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 #3]
- 23. 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]

- 24. 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]
- 25. 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]
- 26. 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 reseeded 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]
- 27. 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]
- 28. LAFCO:** The proposed emergency connections to the City of San Juan Bautista's Municipal Wastewater Treatment Plant for overflow wastewater discharges via the domestic sewer system shall have LAFCO approval for the expanded extra-territorial service.
- 29. Consistency Measures:** Consistency with previous mitigation measures and/or conditions of approval (UP 799-99 and GR 99-190) for the project site shall be required for project approval. [Planning]
- 30. Approval Placement on Plans:** The conditions of approval shall be placed on the Grading Plans and Building Plans that are submitted to the Building department to minimize water quality impacts from construction to sedimentation. [Planning, Building] [Mitigation Measure #8]
- 31. Conversion to Ag Land:** After the Botelho property is converted to disposal of treated effluent, and equal area of the existing NSF irrigation disposal area shall be converted back to an agricultural use. [Mitigation Measure #15]

32. Issuance of Grading Permits: Prior to issuance of each grading permit for construction of each pond system, a note or change shall be placed on the grading plan that requires the following measures or equivalent to minimize sedimentation on and off site:

- 1.* Dirt from grading equipment and activities shall be contained on site through a combination of practices including:
 - a.* Access during construction shall be limited to one location.
 - b.* Eight inches thick of 200 mm aggregate shall be placed at the selected access entrance for a distance of 20 feet over a geotextile fabric or thickness of aggregate recommended by a soils engineer based on the heaviest vehicle that will use the access point of grading.
 - c.* A temporary sediment trapping device shall be placed at the entrance to contain runoff and at wash down areas.
 - d.* A temporary area to wash tires on grading equipment shall be established to minimize the amount of dirt and mud tracking on to public roads.
 - e.* A silt fence, fabric rolls, or a sand bag barrier shall be placed along the perimeter of San Justo Road and San Juan Road to minimize the amount of dirt and mud tracking on to public roads.
 - f.* Dirt on paved areas on the site shall be swept at least once a day.
- 2.* Only areas proposed for pond construction shall be disturbed and shall be clearly labeled on each grading plan.
- 3.* All new grading proposed that exceeds 50 cubic yards shall require approval from the Planning Department prior to obtaining a grading permit. If approval is made and the grading permit is obtained the applicant shall implement the following erosion control and re-vegetation measures:
 - a.* The topsoil shall be reapplied on cut and fill slopes and fertilized.
 - b.* All disturbed areas shall be retained on site and shall be prevented from flowing into drainage features. Sediment catchment barriers shall be inspected by the applicant immediately after any significant rainfall and at least daily during any period or prolonged rainfall.

If monitoring of the total dissolved solids in the groundwater monitoring wells and/or nearby surface water bodies as required by the Water Board shows a significant degradation of groundwater or surface water quality, the applicant will either discharge wash water to an alternate area that will not be adversely impacted, allowing the affected area to recover, or will reduce the level of minerals, salts, and metals in the wash water by the use of an advanced water treatment system and/or sufficient quantities of low salt municipal and industrial water in the applicant's processing facility to remedy the groundwater and/or surface water body degradation. [Planning, Building] [Mitigation Measure #9]

County Fire

33. Fire: The project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, the Uniform Building Code, San Benito County Code Chapter 17, Public Resources Codes 4290 and 4291 and all other related codes as they apply to a project of this type and size. [County Fire Department]

Environmental Health

- 34. Ordinance 598 Compliance:** The proposal of the treated wash water into percolation ponds shall be in compliance with Ordinance 598, Section 5.2 (A) & (B):
- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
 - B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. [Mitigation Measure #10]
- 35. RWQCB Approval:** In order to ensure that there is a sufficient waste water capacity for future production expansion at Earth Bound Farms, the applicant shall receive approval from the Regional Water Quality Control Board to amend the waste discharge permit for the proposed treatment and disposal system prior to issuance of a building permit for the treatment ponds. [Mitigation Measure #12]
- 36. Sludge Guidelines:** The applicant shall obtain approval from the Regional Water Quality Control Board prior to disking of any sludge from the treatment plan into the irrigation area soil and shall follow the guidelines in the proper application of sludge to this agricultural land. [Mitigation Measure #14]

San Benito County Water District

- 37. Management and Operation Plan:** A condition shall be placed on Use Permit 969-07 and Grading Permit 07-380 prohibiting the release of wash water or wastewater onto adjoining property or into surface water bodies bordering or within 500 feet of the disposal fields and percolation ponds. Prior to issuance of Building Permits or Grading Permits, the applicant shall be required to prepare a wash water management and operation plan. The wash water management and operation plan shall be incorporated into the mitigation monitoring agreement for this project. The purpose of the management and operation plan will be to verify that excess wash water or wastewater will not be released onto adjoining property or into nearby surface water bodies and/or contribute to a deterioration of groundwater quality over existing levels. The plan shall include the following requirement:
- 1. The applicant shall install four shallow (twenty-five feet deep) monitoring wells each around the existing irrigation disposal field and the percolation pond site at location to be approved by the San Benito County Water Board and the San Benito County Planning Department. Yearly reports shall be forwarded by the applicant to the San Benito County Planning department and the San Benito County Water District. Annual reports will include water level monitoring and water quality data.

In order to ensure that there is not a localized deterioration of groundwater quality from the irrigation or percolation pond systems and/or a localized elevated water table, the applicant shall sign the Mitigation Monitoring Agreement that requires an annual review of the groundwater level and water quality monitoring required in Mitigation Measure 3 from the previous MND for Use permit 779-99 (Attachment E). [Planning, San Benito County Water District] [Mitigation Measure #13]

- 38. Discharge Allowance:** The Regional Water Quality Control Board shall require upstream samples of the San Benito County River prior to allowing any discharge unto the Botelho Property. [RWQCB] [Mitigation Measure #16]
- 39. Irrigation and Landscaping Plan:** An updated 'Irrigation and Landscaping Plan' shall be required for any new landscaped area/s that demonstrate the project's compliance with the County's Water Conservation Ordinance including, but not limited to, the use of drought tolerant plantings. Any proposed reuse/recycling or treated wastewater for irrigation should be incorporated. [per Mitigation Measure #13 from UP 977-07 and GR 99-190]
- 40. Water:** There shall be no sale of groundwater or treated water, transfer of water through the San Felipe system, or water recycling efforts without the express consent of the County and the San Benito County Water District. The SBCWD shall have first right of refusal for use of any Title 2 treated water.
- 41. Separators:** Pursuant to Mitigation Measure #12 for Use Permit 799-99, oil/grease separators or the equivalent should be installed in new paved areas subject to motor vehicle traffic in order to prevent groundwater contamination from urban pollutants. The applicant shall be required to provide a maintenance program for such devices.

Commissioner DeVries returned to the meeting at 6:49 p.m. and was seated on the dais.

- 6. MINOR SUBDIVISION NO. 1196-06 – APPLICANT:** Jack Tyler.
LOCATION: 1810 Santa Ana Valley Road, Hollister. APN: 25-09-39.
REQUEST: To subdivide one 29 acre parcel into three parcels; two parcels of 5-acres each and one remainder parcel of 19 acres. **ZONING:** Agricultural Productive (AP). **ENVIRONMENTAL EVALUATION:** Mitigated Negative Declaration.

SP Ortwein presented the staff report, giving the background of the request and detailing the subdivision.

Commissioners asked questions and made comments regarding the potential for development of the remainder [Condition #15 was referenced, wherein a Certification of Compliance would be required]. Commissioner Bettencourt asked about Condition #17, which DDPW Nazemi explained as the 'far share contribution' for the established lots. In this case, staff and Commissioners agreed, the total 'fair share' would be for the two lots (total: \$3,634.58) but would not apply to the remainder.

Chair Tognazzini opened, and then closed, the public hearing as there were no persons in attendance indicating a wish to speak to the matter.

COMMISSIONERS BETTENCOURT/SCATTINI MOTIONED TO APPROVE MINOR SUBDIVISION NO. 1196-06 ALONG WITH THE MITIGATED NEGATIVE DECLARATION, AND THE MITIGATION MONITORING PLAN, AND INCLUSIVE OF THE FINDINGS AND CONDITIONS WITH MODIFICATION TO CONDITION #17, TO REFLECT THAT NO 'FAIR SHARE CONTRIBUTION' WOULD BE ASSESSED TO THE REMAINDER. 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. Hold Harmless:** Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]
- 2. Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Department. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
- 3. Compliance Documentation:** Prior to recordation of the parcel map, the applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
- 4. Assessment:** Prior to recordation of the parcel map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act. [Planning, Assessor]
- 5. Recordation:** The applicant shall submit a parcel map to the County and the parcel map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The tentative parcel map shall expire two (2) years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a parcel map within the period of approval or a period of extension shall terminate all subdivision proceedings. [Public Works, Planning]
- 6. Easements:** The parcel map shall show all easements for access, utilities, and drainage. All future development shall maintain a ten (10) foot setback from the noted easements. [Public Works, Planning]

- 7. Notice of Determination (Fish & Game Fees):** The applicant/developer/owner shall file the Notice of Determination, provided by the County Planning Department, with the County Clerk within five (5) days of approval of the tentative map. Department of Fish and Game fee (\$1,875.00 – Fish & Game Code section 711.4(d)) must be submitted with the filing. A copy of the filed notice shall be submitted to the County Planning Department. Should the Notice not be filed and the fee not paid within five (5) days, the application is subject to action described in Public Resource Code section 21167 and the project is not operative, vested, or final until the Notice is filed and the fee is paid (Public Resources Code section 21089(b)). [Planning]
- 8. Conditions of Approval, Easements, and Restrictions:** All unmet conditions of approval, 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. Dedication:** Prior to the recordation of the parcel map, the applicant shall make an irrevocable offer of dedication to the County of San Benito:
 - 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. Half of a 60 foot right-of-way along the entire frontage (Lot one and remainder) of Santa Ana Valley Road. [Public Works]
- 13. Access Easement:** Applicant shall provide a 30 foot access easement through proposed lot one (1) to proposed lot two (2). [Public Works]
- 14. Improvement Agreement:** Prior to the recordation of the parcel map, the applicant shall enter into a deferred improvement agreement for the following roadway improvements:
 - a. Half of 28 foot AC on 38 foot road bed along the portion of Lot one (1) abutting Santa Ana Valley Road.[Public Works]

- 15. Remainder Parcel:** Per Government Code §66424.6 and County Ordinance 617 §17-67(b), a note shall be placed on the parcel map or by separate instrument that shall indicate its relationship to the parcel map stating the following: “The designated remainder parcel shall not be sold, leased, or financed until a certificate of compliance is issued for the parcel by the Planning Commission.” Prior to recordation of the parcel map, the subdivider shall enter into an agreement with the County to construct improvements within the remainder. The agreement shall require the improvements be installed at a future date and when any application for development of the remainder is submitted to the County and prior to issuance of any permit for the remainder. A note shall be placed on the parcel map or by separate instrument that shall indicate its relationship to the parcel map stating the following: “A permit or other grant of approval shall not be issued by the local agency until all the improvement requirements applied to Minor Subdivision 1196-06 are installed for the designated remainder parcel. The subdivider has entered into an agreement with the County to construct improvements within the remainder when there is any application for development of the remainder parcel and prior to issuance of a permit or other grant of approval for development of the remainder.” [Planning]
- 16. Geotechnical:** A note shall be placed on the parcel map which reads, “A Geotechnical Engineering Report (File #SH-10548-SA), prepared by Earth Systems Pacific for this parcel map, is on file with San Benito County Planning Department.” [Planning]
- 17. Fair Share Contribution:** Prior to recordation of the parcel map, the applicant shall pay a fair share contribution, to the County, for improvements to be made to the Fairview Road/Santa Ana Valley Road intersection. The fair share contribution shall be \$3,634.58 (1* 1,817.29/lot) [Public Works]
- 18. Fire Protection:** Any and all future development on this property shall be required to meet the standards set forth in the latest editions of the Uniform Fire Code, the California Fire Code, Public Resources Codes 4290 and 4291, Chapter 17 of the San Benito County Code and other related codes as they apply to a project of this type and size.[County Fire]
- 19. 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]
- 20. Septic System and Leach Field:** Prior to commencement of the proposed use or during subdivision review, the applicant/owner shall coordinate with the County Environmental Health Department to insure that all existing and new septic systems and leach fields conforms to County standards.[Environmental Health]

- 21. Construction Hours:** As required by County Ordinance, any future 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. [Planning]
- 22. Archeological:** If, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact or other evidence for an archeological site is discovered, all further excavation and disturbances within 200 feet of the discovery shall cease and desist. If human and/or questionable remains have been discovered, the sheriff/coroner shall be notified immediately pursuant to County Ordinance 610. A note to this effect shall be placed on all construction, grading, or other improvement plans. [Planning]
- 23. Exterior Lighting:** A note shall be placed on an 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 includes catalog sheets for each fixture." [Planning]
- 24. Air Quality:** As a condition of MS 1196-06, 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." [Planning]

Commissioner DeVries disclosed a potential conflict of interest on the next agenda item. DCC Murphy advised this matter had been referred 'back to the Planning Commission' by the Board of Supervisors, and therefore the conflict was unlikely, since action in this matter would be a mere 'formality'.

REGULAR AGENDA

- 7. Use Permit No. 858-02 (A).** APPLICANT: Robert Enz. LOCATION: Limekiln Road. REQUEST: Staff is requesting direction from the Planning Commission regarding the environmental evaluation of this project.

PP Turner presented the staff report, noting the history and background of this matter. He said that it had been determined that environmental work is needed, and the issue at this meeting was to have the Commissioners to direct staff as to the extent of that work.

Commissioners asked questions of staff and made comments:

- amount of truck traffic
- the previous environmental work had become void as the land use had changed and thus the CEQA requirements were affected
- a Mitigated Negative Declaration is anticipated, with the request not having the scope for expansion to a full EIR
- time involved in preparation of the environmental information and documents[should be returned to the Commission within a 'couple of months']

Chair Tognazzini opened, and then closed, the public hearing as there were no persons in attendance indicating a wish to speak to the matter.

COMMISSIONERS BETTENCOURT/SCATTINI MOTIONED TO DIRECT STAFF TO PREPARE ENVIRONMENTAL WORK RELATED TO USE PERMIT NO. 858-02 (A) AND HAVE THE ITEM RETURNED TO THE COMMISSION FOR ACTION. THE MOTION PASSED (5-0) WITH THE FOLLOWING VOTE: AYES: BETTENCOURT, DEVRIES, MACHADO, SCATTINI, TOGNAZZINI; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

INFORMATIONAL – NON-ACTION ITEM

Commissioner Announcements ~ Reports ~ Discussions

C-Map will begin taping the Planning Commission meetings beginning September 19, 2007.

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 7:08 P.M. TO THE SCHEDULED REGULAR MEETING OF THE COMMISSION ON SEPTEMBER 19, 2007

*Minutes transcribed by:
Judi Johnson*

*Attest:
DoP Henriques*