

SAN BENITO COUNTY PLANNING COMMISSION

November 15, 2007

Special Meeting

Minutes

PRESENT: Bettencourt, DeVries, Machado, Scattini

ABSENT: Tognazzini

STAFF: Art Henriques, Director of Planning (DoP); Principal Planner (PP) Byron Turner; Senior Planner (SP) Chuck Ortwein; Deputy Director of Public Works (DDPW) Arman Nazemi; Public Works Engineer (PWE) Art Bliss; Deputy County Counsel (DCC) Shirley Murphy; and Clerk Trish Maderis.

Vice Chair Machado opened the Special Meeting at 6:03 p.m. as he led the pledge of allegiance to the flag and reiterated the standing rules of order.

PUBLIC COMMENT

Vice-Chair Machado opened and then closed, the opportunity for public comment as there were no persons present to address matters not appearing on the agenda.

DIRECTOR'S REPORT

DoP Henriques reported on recent Board of Supervisors meetings and information on the following items:

- Board meeting on 10/23/07 a summary of community meetings held in October for the General Plan Update was presented
- Survey results and summary of notes from meetings have been forwarded to the General Plan consultant. Review of final documents will be presented to Commission and the Board in 2008 for comment and direction for Phase Two of the General Plan Update.
- Board of Supervisor approval of the Spur Hotel/Eade Zone Change on 10/23/07.
- ECivis Grant program funded for one year by Board to search for grant opportunities for San Benito County
- 11/20/07 Board meeting is a special meeting. A public hearing will be held to consider the Appeal for the May/Stafford subdivision.
- A letter of support for the Phase Two Blueprint Planning grant to CalTrans as recommended by AMBAG.

DCC Murphy added the Crowing Fowl Ordinance court trial has been set for December 10, 2007 in Superior Court.

NOTE: Commissioner DeVries arrived at 6:07 PM during the Director's report

CONSENT AGENDA

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Acknowledge Notice of Cancellation for 11-7-07 regular meeting
4. Acknowledge Notice of Cancellation for 11-21-07 regular meeting
5. Minutes of October 17, 2007

COMMISSIONERS SCATTINI/DEVRIES MOTIONED TO APPROVE THE CONSENT AGENDA ITEMS 1 THROUGH 5, WHICH PASSED UNANIMOUSLY BY ALL COMMISSIONERS PRESENT, CHAIR TOGANZZINI WAS ABSENT.

CONTINUED CONSENT AGENDA

6. Minutes of October 3, 2007

COMMISSIONERS BETTENCOURT/SCATTINI MOTIONED TO CONTINUE ITEM #6 TO THE REGULAR MEETING OF DECEMBER 5, 2007 ON THE CONTINUED CONSENT AGENDA DUE TO LACK OF VOTING QUORUM.

CONTINUED ITEM ~ PUBLIC HEARING ITEM

7. Update Report ~ Hillside Ordinance ~ Design Review guidelines

PP Turner offered a power point presentation and explained each slide to the Commission on the Hillside Design Ordinance. PP Turner explained that this item was near the final amendment stage and hoped to present to the Board of Supervisors before the end of the year.

PP Turner stated that after several field trips and viewing sensitive areas, staff recommends the 200 ft. viewshed range, that any distance lower than 200 ft. would affect parcels that should not be included in design review. PP Turner also stated the photographs shown in the slide presentation were only examples of dwellings located above the 200 ft. level and were not singled out for any other reason. Viewshed maps created by GIS were presented showing the line at the 200 ft. viewer's point on a variety of locations in the County. PP Turner stated that approximately 2,099 parcels fall into the design review areas and other Ordinances are already in place to ensure safe development on hillsides and emphasized that the Hillside Design Ordinance did not prohibit or discourage hillside development and is intended to only protect the sensitive viewsheds and require design review

Calling attention to Section 34.50.5 on Page 4 of the draft Ordinance, the sensitive viewshed determination, PP Turner stated there was a technical explanation of where information was taken from and confirmed the direction of the Commission was that design review would apply to all construction on hillsides, not just major subdivisions as previously required in the previous Hillside Ordinance. PP also stated that GIS maps would determine what parcels would fall into the design review requirement process.

Commissioner Scattini asked for clarification on site review and if that included planting of trees or other screening. PP Turner stated that Section 34.50.6 detailed the applicant requirements when submitting construction plans in sensitive viewshed areas. The Ordinance would allow for the County to review location, landscaping, building heights, elevations, colors and architectural design in order to offer a pleasant view from key baseline areas that have been identified. PP Turner reminded the Commission that if the building site cannot be seen from the viewer's point, design review would not be required.

PP Turner stated the process would begin in the planning phase and where applications are required to be approved by the Commission, neighbors would be notified and those projects would be presented on the Consent Agenda at a noticed Planning Commission hearing.

Commissioner Scattini asked if the Commission would decide on dwelling colors. PP Turner stated that a color palette would not be adopted, but the Ordinance would give the Commission the ability to decide. Commissioner Bettencourt stated landscaping could mitigate colors when considering applications. Commissioner DeVries suggested that the 200 ft. line should begin at the building pad site. After discussion, concurrence was reached with all Commissioners present that the 200 ft. range would be applied at the building pad site and that language would be added to the draft Ordinance. PP Turner suggested that language should also be added indicating a timeline for updating the list of effected parcels from Assessor's Parcel rolls.

PP Turner pointed out that the maps of viewer's points presented in his slides were accurate and prepared by GIS. DoP Henriques added that the factual parts of the Ordinance are the GIS, elevations and data locations and the design review guidelines provides flexibility for staff and the Commission when considering a specific project. PP Turner stated the Ordinance includes 'all projects' and requested if the Commission desired they could further define what a project is. Commissioner Scattini asked if there were any variance options in the Ordinance. DCC Murphy stated this Ordinance was part of the Zoning Ordinance which contains a variance procedure.

Commissioner Bettencourt stated he had concerns about structures that potentially are an eye sore. Commissioner DeVries concurred adding that the up front work and determinations would be done by staff before presentation to the Planning Commission.

Commissioner Bettencourt emphasized that design review would not prohibit construction but only guides an application to an aesthetically pleasant development. PP Turner added that structures such as Senior Seconds have requirements that include the structure must appear similar to the primary dwelling and that rule would also be considered during design review.

Vice-Chair Machado stated the residence on Santa Ana Valley Road shown in the slide presentation was a good example as it included numerous trees around the dwelling.

DCC Murphy advised that the final Ordinance and Resolution would be presented to the Commission at the December 5th meeting where the recommendation to rescind the original Ordinance is included. DCC Murphy reminded the Commission any additions, deletions or modifications should be made tonight. PP Turner stated he will include language detailing the 200 ft. viewer's point from the building pad site, language of how often to update the parcel list based on the Assessor's roll and language offering references to other County Ordinances.

Vice-Chair Machado opened and then closed, the opportunity for public comment as there were no persons wishing to comment on this item.

Commissioner DeVries stated that he wished it noted that he would like to see the viewer's standpoint at a level lower than 200 ft., however understood that may not be realistic. PP Turner pointed out that the 100 ft. level included many areas that appeared flat, but included the bottom of the foothills as they were somewhat sloped in certain areas and 200 ft. appeared to catch what someone would consider a hillside. Commissioner DeVries confirmed with staff that the ability to incorporate design review in subdivision applications where design review did not apply would still be an option.

PP Turner stated based on staff's timeline, the final Ordinance and Resolution would be presented to the Planning Commission on December 5, 2007. PP Turner also advised that the recommended Ordinance and final Resolution are anticipated to be presented to the Board of Supervisors at their regular meeting on December 18, 2007 for action.

CONTINUED ITEM ~ WORKSHOP

8. Update Report ~ Potential Future Commercial Districts

DoP Henriques advised the Commission that the Board of Supervisors have directed a jump start on economic development for the County and it is a very high priority. DoP Henriques added that additional funding had also been created by the Board. DoP Henriques offered a Powerpoint presentation explaining the recent Gateway project workshops to the Commission which many local business groups in San Benito County have attended.

DoP Henriques explained the slides showing expenditures, sales and leakage of retail trade to other counties. DoP Henriques pointed out that well located development, additional commercial zone opportunities, and reasonably sized locations for long term tenants were items for consideration. DoP stated that a consultant may be considered for an economic analysis of potential sites. DoP added that if San Benito County was not proactive, the leakage of San Benito County spending to neighboring counties would continue to grow. DoP concluded that he hopes to report back any Planning Commission comments to the Board of Supervisors at their December 18th meeting.

PP Turner stated that the previously identified sites would be presented again on December 5th.

Vice-Chair Machado stated he had received information by mail on the Gateway project and felt like a lot of the material and information related to city issues pertaining to retail and commercial and that infrastructure needed to be in place. Vice-Chair Machado stated he felt the traveling public needed to be considered in identified zones.

Commissioner Bettencourt asked if zone changes would be required. DoP Henriques stated that a process would have to be followed which may include a Zone Change and General Plan Amendment. Commissioner Bettencourt stated that zones or areas could be identified but not be changed until an application is made. DoP Henriques stated that level of interest areas could be identified and no action may be taken in the near-term unless the property owner agrees to a Zone Change or General Plan Amendment.

Vice-Chair Machado asked what type of overlay or focus be used when there is no interest by the property owners at a certain location. DoP Henriques stated the first step would be a study that is adopted by the Planning Commission and the Board of Supervisors that could be followed by discussion with property owners and neighbors and placing an overlay on certain areas. DCC Murphy added that currently the General Plan and Zoning Ordinances dictate a Zone Change and General Plan Amendment would have to be done, but the Board could also study or consider a new zoning category or new General Plan designation to allow for continued agricultural operations during a transition.

PP Turner stated that either a text or map amendment would have to occur. DoP Henriques stated that a category such as a commercial opportunity zone could be created.

Commissioner Bettencourt suggested that the community be made aware of future commercial areas in a way to accommodate the real estate market. DoP Henriques stated that an overlay zone or overlay General Plan designation would show the flexibility or intent of the County.

Commissioner Scattini asked if commercial zones were targeted only at intersections. DoP Henriques stated that initially the sites considered were to minimize impacts on too many properties and agricultural parcels.

Vice-Chair Machado stated he agreed with the concept, but questioned the mechanism to accomplish the task. DoP Henriques stated that some alternatives would be provided to the Planning Commission on December 5th. DoP Henriques again noted that an economic consultant may be considered to provide input and assist in the process.

Commissioner Bettencourt requested that Hwy 101 at Betabel Road be included in the study areas. Commissioner Bettencourt stated he also believed the areas identified are in prime ag land which is protected in the General Plan. PP Turner again stated that any change would require a General Plan Amendment. DoP stated that smaller commercial opportunities are being considered not big box development which would affect larger parcels of agricultural land.

Vice-Chair Machado asked for input from the public. No one wished to address the Commission on the item.

Clerk Maderis advised the Commission she has encouraged interested parties who have visited the Planning Department to attend the Commission meetings and provide their input.

Commissioner DeVries stated he understood the urgency of the Board's direction but believed that anything permanent would fall into a General Plan Update. DoP Henriques stated that the study of potential commercial zones would send the message that San Benito County is willing to consider these options.

With no further discussion on this item, Vice-Chair Machado called for a brief break at 7:22 PM. The Commission reconvened at 7:33 PM

PUBLIC HEARING ITEM ~ COMMISSION ACTION

9. Tentative Subdivision Map No. 06-74 and Zone Change No. 07-153:

APPLICANT: Guerra Nut Shelling. LOCATION: 500 John Smith Rd., Hollister. APN: 025-190-061. The applicant is requesting a Zone Change and approval of a Tentative Subdivision Map for the property located at 500 John Smith Rd., Hollister. The property is currently zoned Rural (R). The applicant is requesting to rezone the property to a Rural/ Planned Unit Development (R/PUD) for the purpose of subdividing 55.91 acres into five one acre lots, designating 20 acres as agricultural Open Space, and designating a remainder lot of 30.91 acres.

SP Ortwein presented his staff report for Commission consideration noting that the proposed subdivision on John Smith Road would consist of five one-acre lots to be constructed on Grade 2 soils, the water source would be a private well and each unit would have individual septic systems. SP Ortwein also explained that there would be 20 acres of designated agricultural open space and a remainder lot of 30.91 acres.

Commissioner Scattini asked if the well was large enough for all homes proposed and if blue valve (San Felipe water) was available. SP Ortwein stated the well tested at adequate capacity for all proposed dwellings and that an application had been submitted for blue valve services. SP Ortwein also stated staff had received documentation that indicated San Felipe water boundaries are not expected to be expanded in the near future.

Vice-Chair Machado opened the public hearing.

Jason Guerra, 509 Bobby's Lane, Hollister, co-applicant of the project reminded the Commission that when this project was considered during the preliminary allocation process, the project ranked the highest in scoring and provided the pluses of approving the application:

- More than adequate water supply and quality
- Vineyards & olive groves on open space with low usage of irrigation systems
- Provides permanent ag easement of previously designated rangeland
- Not in a flood plain or has landslide hazards
- Not in a high fire hazard zone
- Miles from nearest earthquake fault
- Ability to conserve water with dual distribution systems
- Provision for fire sprinklers
- Reasonably sized building envelopes to prevent urban sprawl
- Funds affordable housing
- Provides bus stop
- Job creation
- Exercise trails, hilltop park
- Protects seasonal creeks and esthetic water features
- Design standards for architectural and landscaping
- Solar
- Desirable views and would not impact ridgelines
- Benefit to San Benito County

Vice-Chair Machado closed the Public Hearing as there were no other speakers.

Commissioner DeVries asked if the costs associated with the recreation trail could be contributed to the Parks and Recreation Commission for a regional trail. SP Ortwein advised that the applicants are planning future projects which would connect this trail to the trails in those projects, if approved.

Vice-Chair Machado questioned if Condition #42 was necessary. SP Ortwein stated that the requirement is contained in the Subdivision Ordinance and since the trail is being constructed, no fees would be collected. SP Ortwein also noted that should the subsequent projects not be approved the applicants would contribute to the Parks Commission in lieu of installing the recreation trail.

Commissioner Bettencourt asked if the need for water softeners should be an added condition of approval. Commissioner Bettencourt also stated he had spoken to the applicant who had no issue of requiring commercial water softeners due to high salts in the water. SP Ortwein stated he had the language prepared to add this condition should the Commission require it be added.

SP Ortwein read the following additional condition of commercial water softeners: “A note shall be placed on the subdivision improvement plans and on an additional sheet to the final map that states the use of an on-site regenerating water softener is prohibited, off-site regenerating softening systems may be used subject to the approval of San Benito County Water District”. After discussion, Condition #46, requiring commercial water softeners was added to the Conditions of Approval.

Commissioner Bettencourt stated he wanted to confirm that the applicants had the “right to farm”. DCC Murphy stated that all property owners have the right to farm in San Benito County.

Vice-Chair Machado asked about the location of the recreation trail. Co-Applicant Al Guerra explained that the trail was designed to tie into trails planned in other applications. Mr. Guerra also added that should the other projects not be approved, they would pay the in-lieu fees instead of creating the trail. But if the other allocations and the Santana Ranch project are approved, before final map recording, the trail design would be completed to tie all together.

Commissioner Bettencourt asked if the park would be maintained by the family. SP Ortwein stated the park would be in a Homeowner’s Association. Al Guerra added the Homeowner’s Association would be responsible for everything but the agricultural open space.

Vice-Chair Machado asked about two ponds shown on the map. SP Ortwein stated one pond had been removed as it was not needed.

Both Commissioners Bettencourt and Scattini complimented the applicants on a very well planned and thought out application and how the project was very aesthetically pleasing.

Commissioner DeVries then motioned to approve Resolution No. 2007-08 recommending approval of Zone Change No. 07-153 to the Board of Supervisors, and conditionally approving TSM 06-71 pending approval of the Zone Change with conditions and findings of staff, addition of Condition of Approval No. 46 requiring commercial water softeners, approval of the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program. Commissioner Bettencourt offered a second to the motion, which passed unanimously by all Commissioners present, Chair Tognazzini was absent.

Conditions of Approval:

- 1. Zone Change:** The tentative subdivision map (TSM 06-74) shall not be operative or in effect unless and until the San Benito County Board of Supervisors approves the zone change petition (ZC 07-153) associated with this project. 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. In the event the Board of Supervisors makes changes to the proposed P.U.D. zone change petition, the tentative subdivision map shall return to the Planning Commission for further review and approval of any changes to conditions of approval, consistent with the Board of Supervisors’ revisions to the zone change petition. [PLANNING]

2. **Recordation-Section 66464 of the Subdivision Map Act (SMA); Section 17-36 of the Subdivision Ordinance:** 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]
3. **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]
4. **Mitigation Monitoring:** Prior to recordation of the final map or Planning Department approval of the improvement plans, whichever comes first, the applicant shall enter into a mitigation monitoring agreement with San Benito County. [PLANNING]
5. **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]
6. **Assessment-Section 17-32(d) of the Subdivision Ordinance:** 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]
7. **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]
8. **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]

9. **Encroachment Permit:** 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]
10. **Street lighting-Appendix C of the Subdivision Ordinance:** 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]
11. **Construction Material:** The applicant shall provide detailed 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. [PLANNING] [MM1]
12. **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 2]
13. **Underground utilities-Section 17-65(f) and Sections 2.16 and 2.21 of Chapter 1 of Appendix D to the Subdivision Ordinance:** 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]
14. **Drainage Plan: Section 17-65(b) and Appendix D to the Subdivision Ordinance:** 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]
15. **County Service Area – Ordinance 541:** Prior to recordation of the final map, the applicant shall annex to CSA 43 for extended fire and sheriff services. [LAFCO, PLANNING]

16. **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] [MM3]
17. **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] [MM4]
18. **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] [MM5]
19. **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 emissions 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 Biodiesel fuels B99 or B100 as an alternative to the filter. [PLANNING] [MM6]
20. **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]
21. **Open Space Parcel:** Prior to recordation of the Final Map, the applicant shall grant an agricultural easement across the 20-acre Parcel 6 to a Land Trust to ensure the property remains in agricultural production. [PLANNING]
22. **Endangered Species Buffer:** A 100 foot, no build and no disturbance buffer shall be delineated around all wetland, ponds, and drainages. The final map shall clearly indicate these areas. [PLANNING] [MM7]
23. **Streambed Alteration:** For any and all work that will occur within the bed, bank, or channel or within the riparian vegetation of Dry Creek, the applicant shall submit a Notification Package to the California Department of Fish and Game. The Department of Fish and Game will then determine if the action requires a Streambed Alteration Agreement under Section 1600 of the Fish and Game Code. [PLANNING] [MM8]

24. **Preconstruction Survey:** A preconstruction survey for burrowing owl and San Joaquin Kit Fox shall be conducted prior to ground disturbance. If any San Joaquin Kit Fox is reported on site, the applicant shall notify the California Department of Fish and Game to see if an Incidental Take Permit is required. [PLANNING] [MM9]
25. **Wetland Disturbance:** If any onsite wetlands are to be disturbed or developed, the applicant shall survey the project site for Western Spadefoot Toads prior to any construction activity. The California Department of Fish and Game has a no-net-loss policy regarding impacts to wetlands. When wetland habitat cannot be avoided, impacts to wetlands shall be compensated for with the creation of new habitat, preferably on-site, at a minimum of an acre-for-acre basis. Potential impacts to Special Status Resources posed by the creation of wetlands shall be considered. Man-made ponds as well as wetlands that have been inadvertently created by leaks, dams or other structures, or failures in man-made water systems are not exempt from this policy. [PLANNING] [MM10]
26. **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 other ground disturbance, 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] [MM11]
27. **Geology:** A note shall be placed on the Final Map and the improvement plans stating: "A Soils Engineering Report, dated August 31, 2006, was prepared for this property by Landset Engineers INC. (File No. LSS-0525-01) and is on file at the San Benito County Planning Department. All preparation, grading, foundation, site drainage and finish improvement 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] [MM12]
28. **Structural Design:** All structures shall be designed to resist seismic shaking in accordance with current California Building Code requirements. [PLANNING] [MM13]
29. **Grading:** Prior to the issuance of the grading permit, 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. [PLANNING, PUBLIC WORKS] [MM14]

- 30. Fire Service:** A note shall be placed on an additional sheet to the Final Map that states: “Prior to the issuance of any permits for new development, the applicant shall comply with all requirements of the County Fire Department, including the provision of an adequate water supply and flow for fire suppression. Required fire flow for this project shall be in accordance with 2000 UFC Division III, Appendix III-A-A-I. All residential structures shall be equipped with NFPA 13D sprinkler systems.” [COUNTY FIRE] [MM15]
- 31. 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. *30-foot half-road right-of-way along the portion of the project site abutting John Smith Road.*
 - b. *30-foot full-road right-of-way for the common driveway serving parcels one and two.*
 - c. *Adequate 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. In no case shall the proposed road width around the existing oak tree be less than 20 feet.* [PUBLIC WORKS]
- 32. Roadway Improvements:** Prior to recordation of the Final Map the applicant shall bond for or make the following roadway improvements:
- a. *Half of 28-foot AC on 38-foot roadbed along the portion of the property abutting John Smith Road.*
 - b. *24-foot AC on 34-foot roadbed for the entire length of the proposed road.*
 - c. *16-foot AC on 20-foot roadbed for the proposed common driveway serving parcels one and two.*
 - d. *Curb, gutter and sidewalks shall be provided throughout the subdivision.*
 - e. *Applicant shall add Agricultural Commercial-Industrial Driveway at the John Smith Road encroachment.* [PUBLIC WORKS]
- 33. 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]
- 34. Stormwater:** Prior to any construction taking place, the applicant shall be required to enroll in the Construction Storm Water General Permit through the California Environmental Protection Agency State Water Resource Control Board. [PLANNING, PUBLIC WORKS] [MM 16]
- 35. Water System:** Prior to recordation of the Final Map the applicant shall be required to obtain a State Small Water System permit from the Environmental Health Department and install or bond for all components of the water system as required by Public Works [ENVIRONMENTAL HEALTH]
- 36. Mosquito Management:** Prior to recordation of the Final Map the applicant shall be required to submit a plan to manage mosquito breeding. [ENVIRONMENTAL HEALTH]

37. **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 and Specific Conductance”. [ENVIRONMENTAL HEALTH]
38. **Secondary Water Standards:** The applicant shall provide detailed plans for any proposed treatment for secondary standards to Environmental Health for review and approval prior to construction. [ENVIRONMENTAL HEALTH]
39. **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] [MM17]
40. **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 \$81,058.80 [PLANNING]
41. **Building Permits:** All development on the property shall require approved building permits. Applicant shall pay all associated fees for said building permits. [PLANNING, BUILDING]
42. **Park Fees- Section 17-59 of the Subdivision Ordinance and Section 25 of the Zoning Ordinance:** Prior to recordation of a Final Map the application shall pay in-lieu fees for park dedication and improvements. [PUBLIC WORKS, PLANNING]
43. **Planned Unit Development Legal Requirements:** Pursuant to Section 26.6 of the Zoning Ordinance, the applicant shall:
 - a. Legally create an automatic membership in a nonprofit homeowners association or another approved entity for the purpose of maintaining common improvements for which the title is held by the homeowner’s association or other approved entity which is legally obligated to provide designated services to the owners of the lots created by the P.U.D.
 - b. Place title to the common improvement areas in the homeowner’s association or other approved entity, which gives each owner of the lots created by the P.U.D. the right to use and enjoyment of the common improvements.
 - c. Appropriately and permanently govern the use of common open space and improvements.
 - d. Give each owner of the lots created by the P.U.D. the right to use and enjoyment of the common improvements subject to subsection (f) of this condition.
 - e. Give the homeowner’s association or other approved entity responsibility for operation and maintenance of the common property.

- f. Place association charges on each lot created by the P.U.D. so that sufficient funds are assured for maintenance and operation of common improvements and which charges shall be a lien on the property and provide adequate safeguards for the owners of lots created by the P.U.D. against undesirable high charges. The homeowner's association shall provide the County Planning Department with an annual financial report and a copy of the CCR's for review. Where title to common open space is held by an approved entity other than the homeowner's association, each owner of lots created by the P.U.D. may elect to use and enjoy such common property subject to the charges levied by the approved entity responsible for the ownership, maintenance and operation of the common property. [PLANNING]
- 44. **Remainder Parcel:** Per Government Code § 66424.6 and County Ordinance 617§ 17-67 (b), a note shall be placed on the final map or by separate instrument that shall indicate its relationship to the final map stating the following: "The designed remainder parcel shall not be sold, leased, or financed until a certificate of compliance is issued for the parcel by the Planning Commission."
- 45. **Remainder Parcel Improvements:** Prior to recordation of the final 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 final 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 Tentative Subdivision Map 06-74 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]
- 46. **Water Softeners:** A note shall be placed on the subdivision improvement plans and on an additional sheet to the Final Map that states: "The use of on site-regenerating water softeners is prohibited. Off site regeneration softening systems may be used subject to the approval of the San Benito County Water District".

INFORMATIONAL – NON-ACTION ITEM

10. Commissioners report on CCPCA Annual Conference

Commissioner Bettencourt stated he was glad he attended the Conference and enjoyed visiting with Commissioners throughout the State and sharing common concerns.

Commissioner Scattini stated there were a lot of good speakers and the Conference was very beneficial.

11. Commissioner Announcements/Reports/Discussions

Clerk Maderis provided the Commission and Counsel with the latest edition of the California League of Cities Planning Commissioners Handbook.

Vice-Chair Machado asked if a demonstration could be given by the GIS Analyst to the Commission and public at a future meeting. DoP Henriques stated that could be arranged and would be scheduled in early 2008.

Commissioner Bettencourt asked if staff could provide information to the Commission as it related to the options pertaining to C-District review applications. DoP Henriques offered a summary would be provided at the next Commission meeting.

PP Turner included that a brief C District Review presentation could be provided at the next meeting and reminded the Commission that a C District Review could be approved or denied and should be considered the same as any other project. PP Turner stated that a CDR applicant can be directed to change their application if desired by the Commission and that the Commission has the ability to approve or deny what is presented.

ADJOURNMENT

**ON A MOTION BY COMMISSIONERS SCATTINI/BETTENCOURT THE MEETING
ADJOURNED AT 8:05 P.M.**

Minutes prepared by:

Trish Maderis

Planning Commission Clerk

Attest:

Art Henriques

Director Planning