

SAN BENITO COUNTY PLANNING COMMISSION

August 20, 2008

Minutes

PRESENT: Bettencourt, DeVries, Machado, Scattini, Tognazzini

STAFF: Director of Planning (DOP) Art Henriques; Assistant Director of Planning (ADOP) Byron Turner; Assistant Planner (AP) Michael Krausie; Assistant Planner (AP) Ann Dolmage; Associate Planner (AP) Lissette Knight; Senior Planner (SP) Chuck Ortwein; Public Works Engineer (PWE) Art Bliss; Assistant County Counsel (ACC) Barbara Thompson; Deputy County Counsel (DCC) Shirley Murphy and Clerk Trish Maderis.

Chair Machado called the regular meeting of the San Benito County Planning Commission to order at 6:02 p.m. as he led the pledge of allegiance to the flag. Clerk Maderis noted Commissioner Tognazzini absent during roll call.

DIRECTOR'S REPORT

DOP Henriques reported the following information:

- Pinnacles National Monument in process of updating their Master Plan
- Board of Supervisors appointment of 5 members to the General Plan Advisory Committee (GPAC), one from each District. Additional members will be selected by the Board creating a committee of 15.
- Progress report on consultant contract for Phase Two of General Plan Update
- Prop 218 and Public Works role in CSAs and Subdivision projects

NOTE: Commissioner Tognazzini arrived at 6:05 PM during the Director's Report

PUBLIC COMMENT

Chair Machado opened the opportunity for public comment. There were no persons wishing to address the Commission on items not appearing on the Agenda and Chair Machado closed the Public Comment period.

CONSENT AGENDA

- These items will be considered as a whole without discussion unless a particular item is requested by a member of the Commission, Staff or the public to be removed from the Consent Agenda. Approval of a consent item means approval of the recommended action as specified in the Staff Report.
 - If any member of the public wishes to comment on a Consent Agenda Item please fill out a speaker card present it to the Clerk prior to consideration of the Consent Agenda and request the item be removed and considered separately.
1. Acknowledge Public Hearing Notice
 2. Acknowledge Certificate of Posting
 3. Minutes of August 6, 2008

Commissioner Bettencourt moved to approve Consent Agenda Items 1, 2 and 3 Commissioner Scattini offered a second to the motion which passed 4-0-1; Commissioner Tognazzini abstained.

PUBLIC HEARING ITEMS ~ COMMISSION ACTION

- 4. USE PERMIT NO. 994-08** REQUEST: To obtain a Use Permit for a wireless communications facility, including a 70-foot monopole with 12 panel antennas, an equipment cabinet, and a backup generator. APPLICANT: Verizon Wireless. LOCATION: 2680 Buena Vista Road. ZONING: Agricultural Productive (AP).
PLANNER: Ann Dolmage (adolmage@planning.co.san-benito.ca.us)

AP Dolmage presented her staff report and explained the application aided by power point slides. AP Dolmage advised the Commissioner of corrections to Condition No. 1 to read Use Permit ~~Subdivision~~ and Condition No. 10 to correct to 10 years ~~5-years~~. AP Dolmage concluded her presentation stating approval was recommended by staff.

Commissioner Scattini questioned aerial and flight pattern concerns. AP Dolmage advised the proposed pole met FAA standard and ADOP Turner added the project site was outside the mapped safety zone.

Commissioner DeVries asked if any disguise was planned for the pole. AP Dolmage advised a 'tree' could be more obvious and a pole seemed to blend in for the site selected.

Chair Machado then opened the Public Hearing.

Katie Belmonte, 2009 U Street, Sacramento, representative for Verizon advised the Commission the proposed monopole would be constructed to offer co-locations and creating a tree may reduce the available co-locates. Ms. Belmonte also asked the Commission for direction on the color of the pole. Commissioner Bettencourt stated during his site visit he observed other poles in the area and felt the monopole was a better fit.

Commissioner Scattini asked if the pole would offer better cell service. Ms. Belmonte advised the location of pole would pick up some dead spots and also offer improved coverage.

Commissioner DeVries inquired as to the difference in costs to construct a tree instead of a monopole.

Alex Goetze, 2009 U Street, Sacramento, representative for Verizon advised the costs is double to construct a tree and that every project site is filed with the FAA.

Commissioner DeVries asked for clarification of the proposed fencing. AP Dolmage advised the area is currently a horse pasture and a chain link fence with slats would better serve the visual screening. Katie Belmonte and Alex Goetze both added that a chain link/slat fence was animal friendly and the ground equipment would blend in.

Tom Dotta, 210 Windmill Drive, Hollister who owns parcels near the project site advised the Commission that crop dusters do in fact fly low over the area and requested the pole be set back the height of the pole from his property line. Katie Belmonte advised the proposed location of the pole was approximately 134 feet from Mr. Dotta's property line and structural and soil analysis is done before construction.

With no other speakers, Chair Machado closed the Public Hearing.

Commissioner DeVries stated he was concerned with the esthetics in the area and would like a tree design for the pole. Chair Machado concurred with Commissioner DeVries. Alex Goetze advised the Commissioner that a re-design would be done if so directed.

After some brief discussion, Commissioner Tognazzini moved to approve Use Permit 994-08 adding Condition No. 14, that the applicant shall incorporate stealth techniques to construct a monopole disguised as a tree and will not exceed 70 feet in height. Commissioner DeVries offered a second to the motion which passed unanimously.

Conditions of Approval:

1. Hold Harmless:

Upon written notice by the County, the applicant shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul the approval of the Use Permit and applicable proceedings. [PLANNING]

2. Compliance Documentation:

Prior to issuance of a building permit, 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. [PLANNING, BUILDING]

3. Conformity with Plan:

The development and use of the site shall conform substantially with the proposed site plan and the Conditions of Approval as declared by the Planning Commission. [PLANNING]

4. Improvement Plans: Prior to issuance of a building permit, the applicant shall submit building and improvement plans to the County Building Department for approval. [BUILDING]

5. Exterior Color: Any color applied to the exterior of the equipment shelter or generator shall be non-reflective. The exterior appearance of the equipment cabinets shall be maintained at all times. [PLANNING, BUILDING]

6. Lighting: Any exterior equipment lighting shall be installed with a manual on/off switch and shall only be lighted while maintenance personnel are working at the site. Exterior lights shall be shielded to direct light downward. [PLANNING, BUILDING]

7. Visual Screening: The applicant shall screen the facility to minimize the visual impact of the equipment cabinet and generator, either by installing landscaping around the proposed chain link fence, or by selecting a fencing type that is more opaque than chain link. If the applicant chooses to install landscaping, a landscaping plan shall be provided to the Planning Department before issuance of a building permit. Any introduced vegetation shall be native, drought-tolerant species and shall be visually compatible with existing vegetation in the vicinity. [PLANNING, BUILDING]

8. Fire: The project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, the Uniform Building Code, the San Benito County Code, and other related codes as they apply to a project of this type and size. [FIRE]

9. Equipment Removal: Applicant shall remove the equipment and equipment shelter no later than six (6) months after operation of the communication facility ceases. [PLANNING]

10. Renewal: Renewal of the Use Permit shall be required every 10 years from the date of approval. [PLANNING]

11. County Right of Way: 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]

12. Driveway Approach: The driveway approach shall meet County standards for residential driveways. These standards are available as a handout that will be part of the required Encroachment Permit. [PUBLIC WORKS]

13. Hazardous Materials: The applicant shall complete a Hazardous Materials Business Plan form and submit it to Environmental Health. [ENVIRONMENTAL HEALTH]

14. Visual Impact of Tower: The applicant shall incorporate stealth techniques to camouflage the tower as a tree without extending its height past 70 feet. The stealth design shall be approved by Planning Staff. [PLANNING]

5. **USE PERMIT NO. 996-08 REQUEST:** To construct a granny-unit over 100 feet from main dwelling structure. APPLICANT/OWNER: Brett Testaguzza LOCATION: 1411 Cole Road, Aromas. ZONING: Rural (R).
PLANNER: Chuck Ortwein (cortwein@planning.co.san-benito.ca.us)

SP Ortwein presented his staff report and explained the application aided by power point slides. SP Ortwein added that Condition No. 13 is added and provided a handout to the Commission and the public.

Commissioner Scattini asked if a second septic system would be installed. SP Ortwein confirmed a second system was required for this project.

Chair Machado opened and closed the Public Hearing as there was no one wishing to speak on the project.

Commissioner Bettencourt stated he conducted a site visit and the proposed location was the only area that would not interfere with the leach fields or have slope issues.

With no further discussion, Commissioner Bettencourt moved to approve Use Permit 996-08 adding Condition 13 as recommended by staff. Commissioner Scattini offered a second to the motion which passed unanimously.

Conditions of Approval:

- 1. Occupancy:** The accessory senior dwelling unit shall be restricted to occupancy of a one or two person household. The accessory unit or the primary residence must be occupied by one household member fifty five years of age or older. The owner of the unit shall annually send to the Planning Department the name and proof of eligibility of the current occupants. Failure of the owner to voluntarily submit the required proof of eligibility will result in the imposition of an administrative fee to cover the cost of the Staff inquiry to determine eligibility. Such fees shall be established from time to time by resolution of the Board of Supervisors. [Planning]
- 2. Parking:** Sufficient off-street parking shall be provided to meet the requirements of the parking section of the Zoning Ordinance for the main dwelling unit plus one space for the accessory senior dwelling unit. Any garage or carport constructed in connection with the senior citizen unit shall not exceed five hundred and fifty square feet in area and is not considered part of the area of the unit, but is considered in the overall lot coverage. [Building, Planning]
- 3. Design:** The senior citizen unit shall be designed in a manner as to be visually consistent and compatible with the principal residence on the site and other residences in the area. [Planning]
- 4. Declaration of Deed Restriction:** Before the issuance of a Use Permit the property owner shall file a Declaration of Permit Restriction with the County Recorder. This Declaration will incorporate the restrictions set forth in this section and any additional conditions placed on the Use Permit. These restrictions shall be binding upon any successor in ownership of the property. [Planning]
- 5. Building Permit:** The applicant shall obtain a building permit for the proposed single family residence. The applicant shall also be required to pay all applicable impact fees associated with the development of a second dwelling on the site. [Building, Planning]
- 6. Hold Harmless:** The permittee shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against San Benito County or its agents, officers, or employees to attack, set aside, void, or annul the approval of this Use Permit and applicable proceedings. [Planning]
- 7. Conformity with 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 change in the number, location and/or dimensions of the structures, or any increase in the nature or intensity of land use on the site, shall be subject to further Planning Commission review and approval. [Planning]
- 8. Compliance Documentation:** Prior to issuance of a Building Permit, the permittee 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, Building]

9. Periodic Review: In the event of a compelling public necessity, non-compliance, problems, concerns, or complaints, this permit will be subject to further review and conditioning or, if necessary, revocation by the Planning Commission. Violation of the permit, creation of a nuisance, or a compelling public necessity could cause the revocation of this permit. Any expansion of this use beyond what is currently proposed must first be reviewed by the Planning Director, and if necessary, shall require further Use Permit review by the Planning Commission. [Planning, Building]

10. Modification and Revocation: The terms and conditions of this permit may be modified or the permit as a whole may be revoked if the permittee fails to comply with the reasonable terms or conditions expressed in the use permit granted or if there is a compelling public necessity. [Planning, Code Enforcement]

11. Term of Permit: This Use Permit shall expire one year from the date of granting said permit unless construction and activities authorized by the permit for use of the subject property in conformance with the permit has commenced, in good faith, within one year of the approval date. If any such use ceases for a period of at least one year, the use permit shall become invalid and a new use permit must be obtained prior to continuing said use. If a use permit is denied, no new application for a use permit substantially the same as the one denied shall be considered for a period of one-year following denial. [Planning, Building]

12. Fire: Any and all development on this property shall be required to meet the standards set forth in the latest editions of the 2007 California Fire Code, Public Resources Codes 4290 and 4291, Ordinance 822 and 823 of the San Benito County Code and other related codes as they apply to a project of the type and size. [San Benito County Fire]

13. Environmental Health: Prior to obtaining a building permit for the main single family dwelling, the applicant shall obtain a letter from the County Health Department indicating that the existing water & septic system(s) are adequate. [Planning & Environmental Health]

ADOP Turner requested a brief recess to consult with Counsel on Agenda Item No. 6 before presentation to the Commission. Chair Machado called for a break at 7:07 PM.

Chair Machado reconvened the regular meeting, calling back to order at 7:18 PM.

6. MINOR SUBDIVISION NO. 1210-07 REQUEST: The applicant proposes to subdivide an 11.41 acre parcel, identified as Assessor's Parcel Number 011-08-10, into two 5.34 net acre parcels. APPLICANT/OWNER: Roger Silveira. LOCATION: Payne Road. ZONING: Rural (R). PLANNER: *Michael Krausie* (mkrausie@planning.co.san-benito.ca.us)

AP Krausie requested the Commission continue Agenda Item No. 6 to the next regular meeting to review conditions of approval for frontage improvements. AP Krausie also requested the Public Hearing be conducted as lawfully noticed.

Chair Machado then opened the Public Hearing. Matt Kelley, Kelley Engineering representing the applicant, advised the Commission he was agreeable with the continuance.

Commissioner Scattini moved to continue Agenda Item No. 6 to the regular meeting to be held on September 3, 2008, Commissioner Tognazzini offered as second to the motion which passed unanimously.

7. **USE PERMIT NO. 975-07 REQUEST:** The applicant is requesting a permit to construct a third single family dwelling on their property. APPLICANT/OWNERS: Clyda Guggenberger. LOCATION: 2345 Salinas Rd, San Juan Bautista. ZONING: Rural (R). **PLANNER:** *Lisette Knight* (lknight@planning.co.san-benito.ca.us)

AP Knight presented her staff report and explained the application. AP Knight advised the Commission corrections to Condition No. 8 should read Fish & Game fees shall be paid and the CEQA findings provided in a handout to the Commission and the public be added to the recommendations. AP Knight added staff was recommending approval of the project.

Commissioner Scattini confirmed that this was a third unit and not a senior unit. AP Knight confirmed it was a third unit and met all requirements for the zoning district.

After some discussion regarding this type of Use Permit, Chair Machado opened and closed the Public Hearing as there was no one wishing to speak on the project.

Commissioner DeVries moved to approve Use Permit No. 975-07 with corrections to Condition No. 8 and inclusion of CEQA findings as recommended by staff. Commissioner Bettencourt offered a second the motion which passed unanimously.

Conditions of Approval:

1. **Hold Harmless:** The permittee shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void, or annul the approval of this Use Permit and applicable proceedings. [Planning]
2. **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 from Use Permit 975-07, Assessor's Parcel Number 012-150-007. Any increase in the nature or intensity of land use shall be subject to further Planning Commission review and approval. [Planning]
3. **Cultural Resources:** Any property owner who, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, discovers any human remains of any age, or any significant artifact or other evidence of an archeological site shall:
 - a. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
 - b. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of not less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals.
 - c. Notify the sheriff-coroner of the discovery if human and/or questionable remains have been discovered. The Planning Department Director shall also be notified.

Subject to the legal process, grant all duly authorized representatives of the coroner and the Planning Department Director permission to enter onto the property and to take all actions consistent with Chapter 5B of the San Benito County Code and consistent with Section 7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code. [Planning]

4. **Fire:** The project shall meet the standards set forth in the latest adopted additions of the Uniform Fire Code, Uniform Building Code, Chapter 17 of the San Benito County Code and other related codes as they apply to a project of this type and size.[California Department of Fire]
5. **Lighting:** All exterior lighting 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]
6. **Deed Recording:** Prior to obtaining a building permit, the owner/applicant shall record the following notification in the chain of title:
 - Well #3 indicated the following items exceed the Maximum Contaminant Level (MCL): Iron, Specific Conductance and Total Dissolved Solids. [Environmental Health]
7. **Hazardous Materials:** Prior to obtaining a building permit, the owner/applicant shall indicate whether or not any hazardous materials are to be stored in the proposed third residence. If hazardous materials will be stored, a Hazardous Materials Business Plan must be completed and submitted to this department. [Environmental Health]
8. **Notice of Determination (Fish & Game Fees):** Prior to obtaining a building permit, 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 (\$1,926.75 – 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]

DISCUSSION

8. Discussion of existing Sign Ordinance, verbal report and request for comments from Commission **PLANNER: Lissette Knight** (lknight@planning.co.san-benito.ca.us)

AP Knight provided an oral report on the existing Sign Ordinance and provided a power point presentation to the Commission. AP Knight explained the current Ordinance has not met the goals intended, limits or prohibits advertising of the County's amenities, is in need of an update and amendments and requested input from the Commission.

Commissioner Scattini suggested a workshop or study session on the item. Commissioner DeVries stated the Ordinance should be tailored to fit San Benito County and consideration of zoning areas, not zoning districts should be considered.

Chair Machado expressed his concerns on violations and enforcement of the Sign Ordinance adding that an Ordinance is only as good as its enforcement.

ACC Thompson advised the Commission that the Code Enforcement Ordinance was in the early stages of being reviewed and better methods of enforcement, streamlining the processes and other options were being discussed. ACC Thompson added that tonight's input would be considered in her review.

After Commission and staff discussion, Chair Machado directed staff to return to the Commission with recommendations to amend the Sign Ordinance.

INFORMATIONAL

Commissioner Announcements/Reports/Discussions

The Commission had no announcements or reports to share with staff or the public. DCC Murphy advised the Commission that recently legislation extended the length of tentative map recordings by 12 months.

Clerk Maderis advised the Commission a copy of SB1185 would be provided for their review.

ADJOURNMENT

On a motion by Commissioner Scattini and seconded by Commissioner Tognazzini Chair Machado adjourned to the Regular Meeting of September 3, 2008 at 8:10 PM.

Minutes prepared by:
Trish Maderis
Planning Commission Clerk

ATTEST:
Art Henriques
Director of Planning