

SAN BENITO COUNTY PLANNING COMMISSION

April 16, 2008

Minutes

PRESENT: Bettencourt, DeVries, Machado, Scattini, Tognazzini

ABSENT: None

STAFF: Director of Planning (DOP) Art Henriques, Principal Planner (PP) Byron Turner; Associate Planner (AP) Lissette Knight; Assistant Planner (AP) Michael Krausie; Assistant Planner (AP) Michael Kelly; Public Works Engineer (PWE) Art Bliss; 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 and reiterated the standing rules of order. Clerk Maderis noted all Commissioners were present.

DIRECTOR'S REPORT

DOP Henriques reported on recent Board of Supervisor meetings and information on the following items:

- Board of Supervisor meetings will begin at 9:00AM effective May 6, 2008
- Both Planning and Public Works agenda items will typically be heard during the afternoon Board sessions.
- Approval of Reimbursement Agreement with El Rancho San Benito to fully recover consultant and staff time costs for the project review. (copy provided to Commission).
- Appeal of MS 1165-05A – Jeff Hall granted by Board. Resolution scheduled to be adopted on April 22, 2008.
- Announcement of Special Joint Meeting with Cities and County at Hollister City Hall on April 21 at 6PM to discuss the location of the proposed Courthouse. (copy of Agenda provided to Commission)

Commissioner Scattini confirmed with DOP Henriques and DCC Murphy that the Commission had no other choice other than to deny the Hall Subdivision Amendment application. DCC Murphy advised the design standards in the Subdivision Ordinance are to be followed and that only the Board of Supervisors can consider another action.

PUBLIC COMMENT

Chair Machado opened and closed the opportunity for public comment as there were no persons present to address matters not appearing on the Agenda.

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 April 2, 2008
4. Minutes of March 19, 2008
5. **CERTIFICATE OF COMPLIANCE NO. 06-64 and LOT LINE ADJUSTMENT NO. 06-486** – APPLICANT: David Addamo. LOCATION: 797 Orchard Road, Hollister. APN: 16-09-009 REQUEST: The applicant is requesting that the County determine the number of legal parcels that comprise 19.09 acres, identified as APN 16-09-009; subsequently, the applicant also proposes to adjust the three parcels, if determined to be legal. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: COC: This type of Certificate of Compliance has been determined to be exempt from CEQA; Listed under Section 15061(b) 3, review for exemption. LLA: This type of land use alteration has been determined to be exempt from CEQA; listed under Section 15061(b) 3. Section 15305, Minor alterations in land use limitations.
PLANNER: Michael Krausie (mkrausie@planning.co.san-benito.ca.us)

Commissioner Bettencourt requested Agenda Item #5 pulled from the Consent Agenda. Commissioner Scattini moved to approve Consent Agenda Items 1, 2 and 4, Commissioner Tognazzini offered a second to the motion which passed unanimously by all Commissioners.

Agenda Item #3: Minutes of April 2, 2008:

Commissioner Bettencourt moved to approve Agenda Item #3, Commissioner Scattini offered a second to the motion, Commissioners DeVries and Machado abstained and the motion passed with a vote of 3-2-0.

Agenda Item #5:

AP Krausie presented his staff report explaining the application. AP Krausie advised staff recommends approval of the Certificate of Compliance application.

Commissioner Bettencourt requested the Lot Line Adjustment application be returned to the Commission for consideration and that he was concerned with road easements to the neighboring properties. DCC Murphy advised Lot Line Adjustments were exempt from the Subdivision Map Act and only conditions imposed must be consistent with the General Plan, such as zoning, prepayment of taxes and other regulations at the discretion of the Commission.

Chair Machado asked what a Certificate of Compliance achieved. AP Krausie advised that Certificates of Compliance determine if lots were created legally under the laws in effect at the time the lots were created. AP Krausie added the lots in this application were in fact determined to have been created legally.

After some discussion between staff and the Commissioners regarding Lot Line Adjustments, Chair Machado opened the Public Hearing.

Doug Marshall, Attorney for the applicant requested approval of the Certificate of Compliance and advised he would like to review the Lot Line Adjustment application with staff prior to Commission consideration.

With no other speakers, Chair Machado closed the Public Hearing. Commissioner Bettencourt moved for approval of the Certificate of Compliance application with recommended conditions as stated in the staff report, adding that the Lot Line Adjustment application be submitted to the Commission for review at the regular meeting of May 7, 2008. Commissioner Scattini offered a second to the motion which passed unanimously.

CONDITIONS OF APPROVAL:

1. Recordation: The Certificates of Compliance shall be recorded with the County Recorder. [PLANNING]
2. 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 review and applicable proceedings. [PLANNING]

CONTINUED ITEM ~ COMMISSION ACTION

PUBLIC HEARING ITEM

6. **MINOR SUBDIVISION NO. 1195-06** – APPLICANT: Raul Prado. LOCATION: 4927 Fairview Road. APN: 017-150-002. REQUEST: A proposal to subdivide 20 acres into four parcels. Lot sizes of five acres have been proposed. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration. PLANNER: Chuck Ortwein (cortwein@planning.co.san-benito.ca.us)

PP Turner advised that staff was requesting a continuance to finalize conditions of approval to the regular meeting of May 7, 2008.

Commissioner Scattini moved to continue to May 7, 2008, Commissioner Bettencourt offered a second to the motion which passed unanimously.

7. **MINOR SUBDIVISION NO. 1177-05** – APPLICANT: Everett Grabeel. LOCATION: 4661 Fairview Rd, Hollister. APN: 017-150-049 REQUEST: A proposal to subdivide a 16 acre parcel into three parcels. Lot sizes of 6 acres and two 5 acre parcels are proposed. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.
PLANNER: Lissette Knight (lknight@planning.co.san-benito.ca.us)

AP Knight presented her staff report and explained the application aided by power point slides. AP Knight reminded the Commission of the previous presentation and the questions pertaining to access to Magladry Road and Magladry Court. AP Knight stated Attachment L in the staff report which is the recorded Parcel Map for MS1112-99 (Meyer/Enfantino) w the non-access strip. AP Knight stated the non-access strip was placed and recorded in front of Parcel No. 1 fully across the frontage of Magladry Road and that Parcel No. 1 could only access Magladry Court. A second non-access strip was recorded on either side of the driveway on Fairview Road. No other non-access strips were recorded.

AP Knight stated that research showed there was no recorded riparian corridor or FEMA flood plain designation as previously questioned by the Commission. AP Knight stated approval of the project is recommended by staff.

Commissioner Bettencourt asked for clarification of the photos contained in the staff report. AP Knight stated the photos were taken during the winter season and were determined not to have a bearing on the subdivision application as they were a separate matter being investigated and corrected by Environmental Health and Public Works.

Commissioner Scattini asked if the subdivision had access to San Felipe Water or if the subdivision was served by wells. AP Knight stated that wells on the property have the ability and capacity to serve the parcels being created.

Commissioner Machado asked about the widening of Magladry Court. AP Knight explained the Public Works condition requiring partial widening applies as five lots would be accessing onto Magladry Court.

Commissioner Tognazzini asked why the non-access strip was added. AP Knight stated the Meeting Minutes from the Meyer/Enfantino subdivision briefly indicated that there were concerns from the neighbors about the narrowness of Magladry Road and the number of driveways accessing Magladry Road.

Commissioner Tognazzini asked PWE Bliss if there was any criteria for non-access strips. PWE Bliss advised that non-access strips are usually imposed by the developer for safety reasons to protect or limit traffic onto major roadways or the number of driveways created onto roads. PWE Bliss added that if the non-access strip had not been imposed on Magladry Road, additional improvements would have been required.

Commissioner Bettencourt asked if the previous map could be changed. AP Knight explained only the owner of the recorded map could change their final map. DCC Murphy added that it was more difficult to amend a recorded map versus a tentative map as specific findings must be made which are very stringent.

Commissioner Bettencourt asked about detention ponds. AP Knight explained that one designated pond was required and the subdivision was designed for the other lots to divert to that one pond. AP Knight added the detention pond would be designed in compliance with both Public Works and the Ag Commissioner for mosquito abatement requirements.

Commissioner Machado asked if the non-access strip was being complied with. AP Knight advised the lot was vacant. PWE Bliss added there was a non-permitted driveway and culvert on Parcel No. 1 onto Magladry Road which should not be there.

Commissioner Scattini asked who owned Magladry Court. AP Knight explained that Magladry Court has been offered but not accepted by the County and the road is maintained by the Meyer/Enfantino Subdivision owners and considered a private road.

With no further questions for staff, Chair Machado opened the Public Hearing.

Applicant Everett Grabeel, 4661 Fairview Road, Hollister addressed the Commission stating he has reviewed the recorded map for the Meyer/Enfantino subdivision and the non-access strip contains special designations showing the start and stop points and skips over the driveway. Mr. Grabeel also stated that the driveway was installed before the subdivision development. Mr. Grabeel stated that improving Magladry Court would require moving utilities and requested consideration of not requiring those conditions.

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

Commissioner Bettencourt referenced the Minutes from the Meyer/Enfantino subdivision application on Page 21 and stated those Minutes did not reflect what Mr. Grabeel had stated during the Public Hearing. AP Knight advised the Commission that Condition No. 23 required Parcel No. 3 can only access from Magladry Court and Parcel No. 4 has a driveway on Fairview Road.

Commissioner Tognazzini asked PWE Bliss about the driveway access for Parcel No. 1 onto Magladry Road. PWE Bliss confirmed this was not a recognized driveway or entrance for Parcel No. 1.

With no further discussion, Commissioner DeVries moved for approval, adoption of the mitigated negative declaration and mitigated monitoring and reporting program based on the findings and subject to the conditions of approval contained in the staff report. Commissioner Scattini offered a second to the motion which passed unanimously by all Commissioners.

Standard Conditions for Minor Subdivision:

- 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 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:** Prior to recordation of the parcel map, the applicant shall submit a summary response in writing to all conditions of approval within their approval notice, 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; this includes pre-payment of taxes for the current year the Final Parcel Map is recorded. [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:** Prior to recordation, 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 (\$1,926.75 – 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]
- 8. Habitat Conservation Plan Impact Fees:** In accordance with County Ordinance 541, which sets fees for the 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 \$1200 (\$300 for each parcel 1-5 acres in size plus \$600 for the parcel that is 5.1 or greater). [Planning & Department of Fish and Game]

9. **Conditions of Approval, Easements, and Restrictions:** Prior to recordation of the parcel map, all unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the parcel map. [Planning]
10. **County Service Area:** Prior to recordation of the parcel map, the applicant shall make application to LAFCO to join a County Service Area (CSA #43). All related processing fees, including State Board of Equalization fees, must be submitted prior to recordation of the parcel map. [LAFCO, Planning]
11. **Improvement Plans:** Prior to recordation of the parcel map, the applicant shall submit for approval by the County Public Works Department, improvement plans for the proposed subdivision. [Public Works]
12. **Construction Hours:** As required by County Ordinance #667, 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. [Mitigation Measure #5]
13. **Inclusionary Housing:** Prior to recordation of the parcel map the applicant/owner shall pay Inclusionary Housing fees. Developments of 3-4 units shall pay a fractional fee. A three-unit/lot development shall pay 3/5ths of the required fee for the third lot. [$3/5 \times 27,019.60 \times 1$ (lot three) = **\$16,211.76 total**] [Chapter 35 of the San Benito County Code]
14. **Park Fees:** Prior to recordation of the Parcel Map the applicant shall pay in-lieu fees for park dedication and improvements. [Section 17-59 of Ordinance 617 and Section 25 of Ordinance 479] [Planning and Public Works]
15. **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).
16. **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 (along with the requirements of Zone II regulations set within 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." [Mitigation Measure #1] [Planning]
17. **Building Envelope:** Prior to the recordation of the parcel map, the applicant shall place a building envelope on both Parcel Two and Three to ensure that development shall only take place within the recorded building envelope. [Mitigation Measure #3]
18. **Air Quality:** A note shall be placed on the improvement plans for the proposed subdivision which states that the following actions shall be incorporated into site improvements:
If and when grading occurs for property improvements and/or development the owner shall:
 - a. Water all graded areas at least twice daily. If dust is not adequately controlled, then a more frequent watering schedule shall be incorporated.
 - b. All grading activities during periods of high wind (over 15 mph) are prohibited. [Mitigation Measure #2]

- 19. Archeological:** Any property owner who, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, discovers and 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 no 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.
 - d. 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. [Mitigation Measure #4]

Public Works Conditions

- 20. Dedication:** Prior to the recordation of the parcel map, the applicant shall make an irrevocable offer of dedication for:
- a. Half of a 60 foot right-of-way along the new Magladry Court, to San Benito County;
 - b. Half of 110 feet road right-of-way along Fairview Road, to San Benito County, along property frontage of proposed parcel one. [See Section 17-53 of the SBC Subdivision Ordinance]
- 21. Roadway Improvements:** Prior to the recordation of the parcel map, the applicant shall make roadway improvements for:
- a. Widening of the new Magladry Court (full-width 24 feet AC on 34 feet road bed);
 - b. Fairview Road frontage of parcel one (1/2- width of 32 feet AC on 42 feet road bed to rural standard) [See Section 17-64, 65(a) of SBC Subdivision Ordinance]
- 22. Encroachment Permit:** 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 dedicated road right-of-way.
- 23. Drainage:** 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 this project. Drainage calculations shall be submitted, and shall be engineer signed and stamped. As part of the submission of said calculations, but not limited to, the applicant shall submit drainage calculations for:
- a. Any proposed or existing drainage courses to the proposed pond
 - b. The proposed pond
 - c. And the discharge lines for the proposed pond. [See Section 17-68(a) of the SBC Subdivision Ordinance: Section 2.5.A.2 & 4 of the SBC General Improvement Standard].

- 24. Water System Design:** Prior to the recordation of the parcel map, the applicant shall provide as water system designed to serve the proposed project as both a Fire and Domestic water supply. *[Section 17-B.4 (w) & (x) of the SBC Subdivision Ordinance, Chapter 2 of the SBC Water System Design Standards]*
- 25. Fair Share Contribution:** Prior to the recordation of the parcel map, the applicant shall pay a pro-rata share toward the following:
- a. Fairview Road/ Lone Tree Road intersection improvements and,
 - b. Toward the widening of the existing portion of Magladry Road to 24 feet AC on 34 feet road bed.
- 26. Maintenance and Reimbursement Agreement:** Prior to the recordation of the parcel map, the applicant shall provide a substantiate agreement for access to the existing Magladry Court.

County Fire Conditions:

- 27. County Fire:** The above mentioned project shall meet the standards set forth in the latest adopted editions of the California Fire Code, California Building Code, Public Resource Codes 4290 and 4291 and other related codes as they apply to a project of this type and size.
- 28. Ingress/Egress:** The applicant shall ensure that there is adequate ingress and egress to any and all buildings. Roadways/Driveways shall be all weather surface conforming to applicable codes and standards. Driveway(s) shall include turnouts and turnarounds as required. Driveway addresses shall be installed so they are visible to responding emergency personnel.
- 29. County Fire Standard Compliance:** Prior to the recordation of the parcel map for this project, the applicant shall insure that this subdivision complies with the County Fire Standard. Specifically, but not limited to the following:
- a. The applicant shall insure that there are proper turnaround and turnout facilities,
 - b. And that the water system for the proposed project has adequate capacity. *[See Section 17-B.4 of the SBC Subdivision Ordinance]*

Department of Environmental Health

- 30. Sewage Disposal:** Prior to the issuance of a building permit, the applicant shall obtain any sewage disposal system permits from the Department of Environmental Health.
- 31. Water Quality:** Prior to the recordation of the parcel map, the applicant shall place an additional note to the parcel map that states:
- a. *“The maximum contaminant level of Iron is exceeded by this constituent.”*
- 32. Local Small Water System:** Prior to the recordation of the parcel map, a local small water system permit shall be obtained and the applicant shall install or bond for all components of the water system as required by the Department of Public Works.

San Benito County Water District Conditions:

- 33. Water Supply:** Prior to recordation of the parcel map, the applicant shall obtain a letter from a San Benito County Water District Engineer stating the proposed Local Small Water System is in compliance with the San Benito County Groundwater and Aquifer Protection Ordinance #664 (Chapter 7C of the San Benito County Code), specifically as it pertains to “Permits Required” and “Radius of Influence”. [San Benito County Water District]

PUBLIC HEARING ITEMS ~ COMMISSION ACTION

8. **USE PERMIT NO. 989-08**– APPLICANT: Brian Adair LOCATION: 560 Brown Road APN: 011-230-039 REQUEST: The applicant is applying for Design Review of his single family dwelling that in the future will become a accessory senior dwelling ZONING: Rural (R) ENVIRONMENTAL EVALUATION: Statutory Exemption. PLANNER: *Lisette Knight* (lknight@planning.co.san-benito.ca.us)

AP Knight presented her staff report and explained the application to the Commission. AP Knight provided history of the original subdivision, subsequent amendments and explained that the applicant was required to obtain design review and Commission approval due to the original Minor Subdivision No. 661-84 requirements.

AP Knight provided the Commission with a handout of additional findings for the project and pointed out Condition No. 9 contained in the staff report should be corrected to state the garage shall not exceed 550 square feet in area, and Condition No. 12 be amended to state the main single family dwelling be designed in a manner to be visually consistent and compatible with the principle residence on the site and other residences in the area. AP Knight concluded per presentation advising approval was recommended.

Commissioner Scattini stated he understood that senior units were not allowed to have more than one story. AP Knight explained the design complied with the requirements for a senior unit as the living amenities were located on the first floor and the second floor was designed with a loft type area and a bedroom.

Commissioner DeVries questioned the opposition by the neighbor Robert Russell who stated the construction of the dwelling was too close to their property line. AP Knight advised the applicants were within the setback and building envelope requirements and wished to construct the dwelling on the flattest portion in order to minimize grading.

AP Knight advised the landscaping plan (Attachment C) provided by the applicant includes the planting of pine trees between the Russell property and also to the rear of the property.

Commissioner DeVries asked if the landscaping plan included a size of the trees that would be planted. AP Knight stated tree size was not specified by the applicant. Commissioner DeVries stated he believed mature trees or additional trees should be planted.

With no further questions for staff, Chair Machado opened and closed the Public Hearing as no one wished to address the Commission.

Commissioner Bettencourt moved for approval, based on findings 1 through 5 and the additional findings contained in the handout provided by AP Knight, adding Condition No. 17, to specify five planted pine trees shall be a minimum of 15 gallons and Condition No. 16 amended to include the trees shall be planted prior to issuance of the Building Permit. Commissioner DeVries offered a second to the motion which passed unanimously by all Commissioners.

Conditions of Approval for Adair:

Required Conditions for Senior Units under Section 52.2 f.:

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:** 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]
3. **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]
4. **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]
5. **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]
6. **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]
7. **Declaration of Permit Restriction:** Before the issuance of a building 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]

8. **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]
9. **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]
10. **Building Permit:** The applicant shall obtain a building permit to construct the new senior 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]
11. **Rear Deck Design:** Prior to obtaining a building permit, the applicant will have to re-design the rear deck in order to comply with the setback regulations for the Rural Zoning District. [Planning, Building]
12. **Visual Compatibility:** Prior to obtaining a building permit for the main single-family dwelling the applicant shall ensure that the main single-family dwelling 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]

Environmental Health

13. **Environmental Health:** Prior to obtaining a building permit the applicant shall complete a septic system application and obtain a valid septic permit for installation of the new septic system for the proposed "Senior Unit." [Environmental Health]

Aromas/County Fire

14. **Fire Department:** 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 429, Ordinances 822 and 823 of the San Benito County Code and any other related codes as they apply to a project of this type and size. [County Fire]
15. **Fire Protection:** Prior to final sign off on the building permit from the Fire Department the applicant shall install a NFPA 13D Sprinkler System in the senior residence. Plans and calculations shall be submitted to the fire department prior to installation. These plans shall include all piping and plumbing from the water source to the riser (NFPA 1142).
16. **Water Supply:** Prior to final sign off of the building permit by the Fire Department, the applicant shall install a wharf hydrant, which shall be connected to the existing 10,000 gallon water supply tanks by means of a 4" pipe and hydrant shall be located as notated on the red lined site plan.

Additional Requirements

17. **Landscaping:** The trees indicated on the site plan shall be at a minimum of 15 gallons each and shall be planted prior to issuance of the building permit. [Planning, Planning Commission]

Added Findings for Adair:

Finding 3: The accessory senior dwelling unit is located on a parcel in a district that allows residences as a permitted use, which either contains one existing single-family dwelling or on a parcel upon which one attached or detached single-family dwelling will be constructed concurrently with the proposed accessory senior dwelling unit.

Evidence: *The parcel is located within the Rural zoning designation which permits a single-family dwelling and a additional dwelling (senior unit) through the approval of a Use Permit application [Section 18-20, San Benito County Code].*

Finding 4: All development standards for the applicable zoning district have been met and the development is free of environmental hazards and is consistent with all County policies and ordinances.

Evidence: *The applicant has been approved through Minor Subdivision No. 661-84B to build within his new designated building envelope only. The applicant has applied for a grading permit application (GR 07-387), which was approved by the Planning Department on March 7th, 2008. This application conducted extensive review on the grading to prepare the lot for construction to ensure that the proper precautions are taken during grading activity to ensure that the environmental impacts of future construction shall be less than significant. In addition the proposed landscaping of the property shall also ensure that any soil erosion shall be less than significant. The project is also consistent with all County policies and ordinances.*

Finding 5: The establishment of the accessory senior dwelling unit, under the circumstances of the particular application will not be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.

Evidence: *The senior unit is located within the property's recorded envelope and therefore maintains the required setbacks for the Rural zoning designation. Landscaping has been proposed that at a future date shall shield the home from view. In addition neutral colors for the exterior of the dwelling shall be used to aide in the home blending with the surrounding landscape.*

9. MINOR SUBDIVISION 1181-05 – APPLICANT: Jim Corotto. **LOCATION:** Southeast corner of Thomas Road and Southside Road. **APN:** 025-200-012. **REQUEST:** To subdivide a 35.0-acre parcel into two lots of 23.5 acres and 11.0 acres. **ZONING:** Agricultural Productive (AP). **ENVIRONMENTAL EVALUATION:** Mitigated Negative Declaration. **PLANNER:** Michael Kelly (mkelly@planning.co.san-benito.ca.us)

AP Kelly presented his staff report with and explained the application aided by power point slides.

Commissioner DeVries confirmed that the areas on Grade 1 soils outside the building envelopes which have been designated as non-buildable. AP Kelly explained the building would be restricted to a 10,000 square foot building envelope on Parcel 1 and all areas within 40 feet of Parcel 2's existing building. AP Kelly further explained the fault zone restricts construction only on the fault zone.

Commissioner Bettencourt asked how close to a fault zone construction could be built. AP Kelly explained construction in a fault zone first had to be studied by a geologist. Commissioner Bettencourt also questioned the road and the property across the road and if it was included in the 35 acres. AP Kelly explained the road was County Road right-of-way and across the road is land that is part of the same property. After additional discussion regarding future development, AP Kelly explained any further development would require Williamson Act approval prior to application and the minimum acreage would have to be greater than 11 acres.

With no other questions, Chair Machado opened the Public Hearing.

Allen Andrade, Kelley Engineering and representative for the applicant addressed the Commission and requested Conditions No. 19 (road widening), 21 (drainage), 22 (fire) and 23 (water) be deferred until construction or building permits were submitted. Mr. Andrade explained the division of land was being done for estate purposes, no construction was proposed and requested that the final map be allowed to be recorded without the improvements being required.

Kathy Lamoreaux, 6880 Southside Road, Hollister, a neighbor to the project questioned the construction on the proposed parcel and if labor camp housing would be constructed. AP Kelly pointed out the area where construction would be allowed on the power point slide to Ms. Lamoreaux and noted that no labor camp or even any new structures are proposed at this time.

With no other persons wishing to address the Commission, Chair Machado closed the Public Hearing.

Commissioner Bettencourt asked PWE Bliss about the request to defer Condition No. 19. PWE Bliss advised deferment of improvements was acceptable to Public Works as improvements now could create a more dangerous situation and safety issues on Thomas Road. PWE Bliss added that any improvements along Southside Road would be a benefit, would make the roadway safer and would not be able to make findings to defer those improvements. PWE Bliss also stated should the Condition be deferred, it would allow a dangerous situation to continue when there is an opportunity to correct these issues.

Commissioner Bettencourt stated no additional end trips would be created as no construction was proposed. PWE Bliss stated he was aware of the intent, however the parcels could also be sold and the improvements were subdivision requirements. PWE Bliss also offered the option to continue or delay the project to a future date in the event this portion of the Subdivision Ordinance is amended during the Workshop process. PWE Bliss stated the conditions imposed are based on the regulations in place at this time and the ability to bond at 150% of the engineer's estimate of construction costs was also an option.

Referring to the power point slide of the map, Commissioner Bettencourt and PWE Bliss discussed the road improvements and determined that approximately one-third of 2,800 feet would have to be improved.

DCC Murphy advised the authority for deferring conditions by Public Works only applied to Condition No. 19 that the other Conditions (21, 22, 23) could not be deferred and the bonding option was available for Condition No. 19.

Commissioner DeVries stated he believed that Condition No. 21 (drainage) would be part of a submittal for a building permit as there would be no improvements unless a building permit was submitted. PWE Bliss pointed out that the roadway improvements included an element of drainage on either side of the road. Commissioner DeVries asked DCC Murphy if the Planning Commission had an ability to change the wording of the Conditions to state 'prior to application of a building permit' and by changing the wording, would only change the trigger and would not be deferring indefinitely.

DCC Murphy stated she was unclear on Condition 22 and when that improvement would be imposed. PWE Bliss stated Condition 22 (fire) that the intent may have been for new structures, fire flow, hydrants and emergency vehicle access be provided to the building site.

Commissioner Bettencourt pointed out Condition No. 25 specified "when developed" would be the trigger.

DCC Murphy added Condition 25A applied to the buildings. Commissioner Bettencourt asked if the word 'may' in Condition 19 could be changed to 'shall'. PWE Bliss stated he would be "reluctant to offer Public Work's position in backing away from what should be secured at this time".

Commissioner DeVries then offered a motion to adopt the Mitigated Negative Declaration, approve MS1181-05 based on the required findings and subject to the recommended conditions of approval contained in the staff report amended as follows: Condition No. 19 would be amended to state, "Prior to application for a building permit, the applicant shall

DCC Murphy stopped Commissioner DeVries and stated the Subdivision Ordinance states that all improvements shall be completed or an agreement must be entered into with the County to complete the improvements prior to approval of the parcel map.

Commissioner DeVries stated 'unless we waive them'. DCC Murphy stated findings must be made to waive the improvements and the findings must be incorporated into the motion. Commissioner DeVries stated he didn't want to make a motion for a waiver continued by stating "the condition amended as follows: Condition No. 19 would be prior to application for a building permit, the applicant shall improve and continue; Condition No. 22 would similarly state prior to application of a building permit, the applicant shall and continue; Condition No. 23 would be amended or modified to state prior to the application of a building permit, the applicant shall and would continue".

Commissioner Bettencourt asked for motion clarification on Condition No. 19. Commissioner DeVries stated 'changed it to state prior to application for a building permit, the applicant shall improve streets per the following requirements".

DCC Murphy stated the motion was still not consistent with Section 17-63, sub-section B of the Subdivision Ordinance which states no final map shall be presented to the Board of Supervisors or parcel map to the County Engineer for approval until the subdivider either completes the required improvements or enters into an agreement with the County to complete the improvements at the subdividers expense.

Commissioner Scattini asked DCC Murphy why the improvements are required if the property was only being divided. DCC Murphy stated these were the requirements of the Subdivision Ordinance and does not differentiate between the division of land with no improvements and other divisions of land where development is planned. DCC Murphy added she was obligated to advise the Commission of the current legal requirements on land use.

Commissioner Scattini stated he believed the Subdivision Ordinance need to be amended by the Board. DOP Henriques noted this evening's upcoming Workshop on this subject. He suggested that the Commission direct staff to amend the requirements in the Subdivision Ordinance and not make exceptions as they come up.

DCC Murphy added that decisions by the Commission are possibly subject to equal protection challenges, arbitrary and capricious challenges when applying different standards to different applications. Chair Machado reminded DCC Murphy and staff that the desire of the Commission was to change the authority for waiving and deferring improvements with the Board of Supervisors.

Commissioner DeVries stated he was making a motion to defer. Commissioner Tognazzini then offered a second to the motion and asked Commissioner DeVries for clarification. Commissioner Bettencourt asked if the project could be sent to the Board with recommendations to defer. DCC Murphy advised the project would have to be denied and if appealed, the Board would obtain jurisdiction and only legislative acts could be referred to the Board with recommendations. DCC Murphy added the Planning Commission could only approve or deny a subdivision map.

PWE Bliss asked for clarification and suggested the applicant continue the project to a future date and should the applicant not wish to continue, could the Planning Commission continue the project to a date uncertain in order to proceed with Subdivision Ordinance amendments. DCC Murphy stated the Planning Commission had the authority to continue the project.

Chair Machado confirmed with DCC Murphy that the motion was illegal. DCC Murphy again stated her recommendation and stated his motion would not be in compliance with the Subdivision Ordinance. Chair Machado asked if the motion passed what the next step would be. DCC Murphy stated she was not sure if the decision would be deemed a void action or voidable at someone's option and could be one option.

Chair Machado stated he believed this has been a recurring problem. Commissioner Tognazzini added that the inability to defer when the ability to waive better served the Commission as the improvements were necessary. Commissioner Tognazzini also stated that since there was no impact at this time, the Commission should be able to defer the road improvements. DCC Murphy stated she understood the Commission's position.

Commissioner DeVries stated that this recurring problem should be changed and maybe this action would make something change in the Subdivision Ordinance. Commissioner Tognazzini stated the improvements should be required when the impact occurs.

DOP Henriques stated the Commission should direct any proposed amended language to the Ordinance during the workshop on the Subdivision Ordinance to be made a priority to submit to the Board of Supervisors for action.

Chair Machado stated this particular issue has frustrated the Commission and should have the highest priority.

Commissioner Scattini asked if the requirements for road improvements were State or local law. DCC Murphy stated the requirements were local and the actions taken by the Commission must be consistent with the Ordinance. DCC Murphy also added that any need to amend the Ordinance should be done prior to actions by the Commission so that those actions are consistent with the Ordinance in place.

Chair Machado stated the application before the Commission was to either approve or deny. Commissioner Tognazzini stated this would push the issue forward to amend. DCC Murphy stated that approval would give the applicant something of 'questionable value' and that should it be deemed void, then no approved subdivision exists.

With no further discussion, Chair Machado called for a vote. The vote passed as follows: Ayes: Commissioners Bettencourt, DeVries, Scattini and Tognazzini; Noes: Chair Machado.

AP Kelly clarified the motion and vote with DCC Murphy. DCC Murphy stated that Condition No. 19, Condition No. 22 and Condition No. 23 have inserted 'prior to application for a building permit' in lieu of 'prior to recordation of the parcel map'.

Commissioner Bettencourt asked if this would be referred to the Board. DCC Murphy stated only the Board would review if the project was appealed.

PWE Bliss asked for clarification that should an appeal be filed, would the same map be reviewed. DCC Murphy stated that should the subdivision be deemed void, it would be considered to have never happened and would be in limbo until brought back to the Commission.

Minor Subdivision 1181-05 CEQA Findings:

Finding 1: That the initial study for Minor Subdivision 1181-05 has been prepared in compliance with the provisions of the California Environmental Quality Act, the State CEQA Guidelines and the San Benito County Implementing Procedures for the California Environmental Quality Act.

Evidence: *All provisions including both State and County environmental guidelines and policies for the preparation of an initial study and proposed mitigated negative declaration have been followed. The documents in the preparation of the initial study are filed in the project record located at the San Benito County Planning Department in file number MS 1181-05. These documents include the Notice of Availability and the initial study. A public review period of the initial study was conducted from March 6 through March 25, 2008.*

Finding 2: That the Planning Commission has considered the Mitigated Negative Declaration together with all comments received from the public review process.

Evidence: *The initial study, written comments received on the initial study, as well as verbal testimony, were presented to the Planning Commission in preparation for and during the April 16, 2008, Planning Commission meeting. The Planning Commission considered all the evidence prior to adopting the mitigated negative declaration.*

Finding 3: The Mitigated Negative Declaration reflects the independent judgment of the Planning Commission.

Evidence: *The Planning Department prepared the initial study for the mitigated negative declaration. The Commission considered and reviewed the initial study and considered public comment prior to action on the mitigated negative declaration.*

Finding 4: That the Planning Commission has found that there is no substantial evidence that the proposed project will have a significant effect on the environment.

Evidence: *The Planning Commission considered the mitigated negative declaration, staff report, and all verbal testimony presented at the public meeting of April 16, 2008. They determined that the mitigated negative declaration provided adequate evidence that the project will cause no significant environmental effects, provided that mitigation measures, proposed in the mitigated negative declaration and recommended as conditions of approval, are fulfilled.*

Minor Subdivision 1181-05 Subdivision Findings:

Finding 1: That the proposed map is consistent with the General Plan or any applicable specific plan.

Evidence: *The site is designated as Agricultural Productive in the General Plan Land Use Element. The proposed parcels meet the minimum lot size of this designation. Natural hazards are either not present or mitigated by Mitigation Measure 3 (condition 31), which states that a note shall be placed on the parcel map requiring future development to follow recommendations of a geotechnical report prepared for this project.*

Finding 2: That the design or improvements of the proposed subdivision is consistent with the General Plan or any applicable specific plan.

Evidence: *The project proposes a septic system, a water line, drainage, and other infrastructure to serve the project. These have been reviewed by the appropriate County departments.*

Finding 3: That the site is physically suitable for the type of development.

Evidence: *To address seismic hazards, Mitigation Measure 3 (condition 31) states that a note shall be placed on the parcel map requiring future residential development to follow recommendations of a geotechnical report prepared for this project. The project site is away from other physical hazards, such as flooding.*

Finding 4: That the site is physically suitable for the density of development.

Evidence: The proposed parcels each meet the minimum building site area, five acres per parcel, defined for the site by the General Plan and Zoning Ordinance. Mitigation Measure 3 (condition 31) requires a note be placed on the parcel map stating future development shall follow recommendations of a geotechnical report prepared for this project. The project in itself would not substantially convert agricultural land to nonagricultural use, as both parcels would remain under Williamson Act contract and Mitigation Measure 1 designates almost the entire site as nonbuildable.

Finding 5: That the design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Evidence: The site is not within a specially designated wildlife habitat area.

Finding 6: That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Evidence: The project application, its proposed improvements, and its initial study have been reviewed by responsible agencies to ensure that the proposed subdivision would not have an impact on public health. Any risks of environmental impacts are addressed by the proposed mitigated negative declaration, from which mitigation measures have been incorporated into recommended conditions of approval.

Finding 7: That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Evidence: Any easements for public access or use have been identified on the tentative map and shall be maintained.

Finding 8: Subject to Section 66474.4 of the Government Code, that the land is not subject to a contract entered into pursuant to the California Land Conservation Act of 1965 and that the resulting parcels following a subdivision of that land are not too small to sustain their agricultural use.

Evidence: The property is currently subject to a Land Conservation Act (Williamson Act) contract but does not meet the Government Code §66474.4 criteria requiring denial of a tentative parcel map.

Finding 9: Subject to Section 66474.6 of the Government Code, that the discharge of waste from the proposed subdivision into an existing community sewer system would not result in violation of existing requirements prescribed by the Central Coast Regional Water Quality Control Board pursuant to Division 7 of the Water Code.

Evidence: The proposed parcels will not be served by an existing community sewer system and would instead use individual septic systems.

Minor Subdivision 1181-05 Conditions of Approval:

Standard Conditions for Minor Subdivision:

- 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 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:** 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; this includes pre-payment of taxes for the current year the Final Parcel Map is recorded. [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 (\$1,926.75 – 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]
8. **Habitat Conservation Plan Impact Fees:** In accordance with County Ordinance 541, which sets fees for the 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 \$1,200 (\$600 per parcel). [Planning & Department of Fish and Game]
9. **Conditions of Approval, Easements, and Restrictions:** Prior to recordation of the parcel map all unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the parcel map. [Planning]
10. **County Service Area:** Prior to recordation of the Parcel Map, the applicant shall make application to LAFCO to join a County Service Area (CSA #43). All related processing fees, including State Board of Equalization fees, must be submitted prior to recordation of the parcel map. [LAFCO, Planning]
11. **Improvement Plans:** Prior to recordation of the parcel map, the applicant shall submit for approval by the County Public Works Department, improvement plans for the proposed subdivision. [Public Works]
12. **Construction Hours:** As required by County Ordinance #667, 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]
13. **Park Fees:** Per County Ordinance 617 §17-59 and Ordinance 479 §25, prior to recordation of the parcel map the applicant shall pay in-lieu fees for park dedication and improvements. [Planning and Public Works]
14. **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). [Planning]

- 15. 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 (along with the requirements of Zone II regulations set within 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]
- 16. Archeological:** Any property owner who, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, discovers and human remains of any age, or any significant artifact or other evidence of an archeological site, shall:
- 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.
 - 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 no 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
 - 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]
- 17. Fault Zone:**
- In accordance with San Benito County General Plan Open Space and Conservation Element Policy 37 Action 4, and in order to advise prospective buyers of seismic hazard on the site, the parcel map shall include a note stating: “This property includes areas designated by the State of California to be located within the Calaveras Fault Zone. Compliance with the Alquist-Priolo Earthquake Fault Zoning Act shall be required prior to County approval of access, building sites, or new structures.”
 - Per Open Space and Conservation Element Policy 39 Action 2, the fault zone shall be clearly delineated on the parcel map. [Planning]

Public Works Conditions:

- 18. Road Dedication:** Prior to recordation of the parcel map for this project, the applicant shall make an irrevocable offer of dedication to San Benito County for
- a full 60-foot right-of-way along Southside Road along property frontages of proposed Parcels 1 and 2 and
 - half of a 60-foot road right-of-way along Thomas Road along property frontage of proposed Parcel 2. [Public Works]
- 19. Road Improvements:** ~~Prior to recordation of the parcel map for this project,~~ Prior to application for a building permit on this property, the applicant shall improve streets per the following requirements:
- The applicant shall make one-third of required frontage improvements (to serve two out of six potential lots) along Thomas Road and Southside Road at the discretion of the County Engineer.
 - The applicant shall enter into a deferred improvement agreement for remaining frontage improvements on Southside and Thomas Roads. [Public Works]

- 20. Encroachment Permit:** Per §14-3 of County Code, prior to commencement of any improvements associated with the project, the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County road right-of-way. [Public Works]
- 21. Drainage:** Per §17-68(a) of County Ordinance 617, as part of the submittal of engineered improvement plans for this project, the applicant shall comply with County Drainage Standards and provide erosion and drainage control details for this project. Drainage calculations shall be submitted and shall be engineer-signed and -stamped. [Public Works]
- 22. Fire Standard:** Per §17-B.4 of County Ordinance 617, ~~prior to recordation of the parcel map for this project,~~ prior to application for a building permit on this property, the applicant shall insure that this subdivision complies with the County Fire Standard. Specifically, but not limited to this, the applicant shall insure that there are proper turnaround and turnout facilities and that the water system for the proposed project has adequate capacity. [Public Works]
- 23. Water System:** ~~Prior to recordation of the parcel map,~~ Prior to application for a building permit on this property, the applicant shall provide a water system designed to serve the proposed project as both a fire and domestic water supply. [Public Works]
- 24. Non-access Strip:** Prior to recordation of the parcel map, the applicant shall provide a non-access strip along Southside Road to limit access to proposed Parcel 1 to 100 feet beyond the existing curve on Southside Road. Additionally, the first 250 feet from the Southside Road-Thomas Road intersection along proposed Parcel 2 frontage on Thomas Road must be designated a non-access strip. [Public Works]

County Fire Conditions:

25. Fire Protection:

- a. A note shall be placed on the parcel map that states that “when developed the project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, Uniform Building Code, Chapter 17 of the San Benito County Code, Public Resources Code 4290 and 4291 and other related codes as they apply to a project of this type and size. The Planning Department shall be provided with written verification that County Fire Department has approved all fire code requirements.”
- b. The applicant shall ensure adequate ingress and egress to any and all buildings. Roadways and driveways shall be an all-weather surface conforming to applicable codes and standards. Driveways shall include turnouts and turnarounds as required. If a gate is utilized on an access or egress driveway, a Knox System shall be required.
- c. Addresses shall be posted and installed to ensure they are visible to responding emergency personnel.
- d. If on or near an established and recognized water distribution system, fire hydrants (Steamer type) shall be provided in accordance with 2001 Uniform Fire Code Appendix III-B. Fire hydrants shall be provided along fire apparatus access roads and adjacent public streets. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads per Appendix III-B of 2000 Uniform Fire Code. Required fire flow for this project shall be in accordance with 2000 Uniform Fire Code Division III, Appendix III-A, Table A-III-A-I. All residential structures shall be equipped with an NFPA 13D sprinkler system.
- e. Access and water supply shall be in place and operable prior to any construction.
- f. Upon completion of the aforementioned stated fire requirements and prior to occupancy of any building or structure specifically referred to in this project, the applicant shall request and receive a Project Fire Requirement Final Signature from the County Fire Department. [Planning, Fire]

Environmental Health Conditions:

26. Water System: Per County Ordinances 564 and 592, the applicant shall obtain a permit for a Local Small Water System from the County Department of Environmental Health prior to recordation of the parcel map. [Environmental Health]

San Benito County Water District Conditions:

27. Water Supply: Prior to recordation of the parcel map, the applicant shall obtain a letter from a San Benito County Water District Engineer stating the proposed Local Small Water System is in compliance with the San Benito County Groundwater and Aquifer Protection Ordinance (County Ordinance 664, or Chapter 7C of County Code), specifically with respect to “Permits Required” and “Radius of Influence.” [County Water, Planning]

San Benito County Department of Agriculture:

28. Mosquito Control: Prior to recordation of the parcel map, the applicant shall contact the San Benito County Department of Agriculture and set up an inspection for the proposed detention pond as it relates to mosquito control. A note of determined mosquito abatement practices for the subdivision shall be reviewed and approved by the Planning Director and shall be placed on an additional sheet to the parcel map. [Department of Agriculture, Planning]

Mitigation Measures:

29. Agricultural Soils: The Minor Subdivision 1181-05 parcel map submitted for recordation shall include a note designating as nonbuildable

- a. all areas on Parcel 1 outside its defined building envelope as nonbuildable and
- b. all areas greater than 40 feet in distance from any structure in existence on the property as of Minor Subdivision 1181-05 project submittal on July 20, 2005. [Mitigation Measure 1]

30. Dust Control: A note shall be placed on the improvement plans for the subdivision stating that:

- a. Soils shall be watered during site grading and construction activities to minimize dust.
- b. Graded and excavated areas shall be watered at least twice daily. Frequency of watering shall be based on the type of operations, soil, and wind exposure.
- c. Grading activities during periods of winds over 15 miles per hour shall be prohibited.
- d. 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. [Mitigation Measure 2]

31. Geotechnical Investigation Recommendations: A note that shall be placed on the recorded parcel map shall state, “A geotechnical investigation, dated June 6, 2005, was prepared for this property by Pacific Crest Engineering, Inc. (file number 0530-M208-F21), and is on file at the San Benito County Planning Department. The recommendations contained in said report shall be followed in all development of the property.” [Mitigation Measure 3]

WORKSHOP

10. San Benito County Subdivision Ordinance amendments

PP Turner advised the Commission he would like to have the Commission consider two immediate recommendations:

1. Direct staff not to present any further minor subdivisions to the Commission temporarily until the waiver and deferment issues are resolved.
2. Direct staff to focus on Section 17-63 of the Subdivision Ordinance to amend findings on improvements and table the balance of the Ordinance review until a future date.

Commissioner DeVries asked the time frame for changes or amendments to an existing Ordinance. PP Turner stated that consistency and environmental impacts would have to be reviewed prior to submission to the Board and estimated that this Section could be completed in approximately three months. PP Turner stated the most time is in the review process, that any amendments will affect other areas such as water, fire and design standards and all must be consistent with each other.

Commissioner Bettencourt stated that he believed that the County should be responsible for making the roads safe. DCC Murphy added that the current standard requires a heightened finding by the Engineer, any lower standard could more easily be made.

Commissioner Tognazzini asked how State law addressed the issue. DCC Murphy advised that the Subdivision Map Act may or may not address the issue and added that the Business & Professions Code may factor into the County Engineer's responsibilities which outlines the duties and obligations of the County Engineer, County Surveyor and County Road Commissioner. DCC Murphy stated she would research state law.

Commissioner Tognazzini stated that the frustration was there was no flexibility on the Commissioner's part. DCC Murphy stated the County Engineer had to find that it was necessary to defer which places a higher burden.

Commissioner Bettencourt asked if placing a note on the deed would suffice. DCC Murphy stated that could be placed in the Ordinance and does not exist now.

Commissioner Tognazzini asked DCC Murphy who would declare a subdivision action void. DCC Murphy stated only a Judge could decide the subdivision void and could be declared at any time and could also be done in a quiet title action. DCC Murphy added that anyone could ask that the action be declared void.

Commissioner Bettencourt asked if any other applicant were to come forward and request that road improvements be waived based on the previous action, would the Commission be required to consider the request. DCC Murphy stated when standards are not conditioned consistently, others may ask for the same consideration.

PP Turner stated there were some applications currently in process that do not have any road improvement issues and will be brought to the Commission for consideration.

Commissioner Scattini acknowledging that he had been on the Commission less than a year and asked how many subdivisions have come forward with the same improvement issues. PP Turner advised that every subdivision has improvements that are either mitigated or negotiated.

Commissioner DeVries stated there will always be applicants wanting the Commission to exercise discretion and the answer would be the impacts differ from project to project. DCC Murphy added that some of those factors could be explained in the action. PP Turner stated he would like the ability to codify those circumstances when appropriate.

DCC Murphy stated she didn't advise to review the intent to develop or not develop as criteria for amending the Ordinance.

Commissioner Tognazzini stated the criteria for a subdivision had to be met and the Commission should not consider the intent of the applicant. Commissioner DeVries stated his motion earlier was intended to direct improvements be made when a building permit was applied for, that is when the impact is created and that there should be no consideration as to who owns the property at the time the permit is applied for.

Commissioner Bettencourt asked if the earlier actions would also apply to applicant Grabeel as he would be in the same situation on a second permit. Everett Grabeel addressed the Commission stating he did not want to exercise that option for his subdivision and the possibility of a void subdivision. Mr. Grabeel stated he would prefer working with Public Works and if warranted appeal to the Board of Supervisors.

PP Turner again asked if the Commission would direct staff to phase the proposed amendments to the Subdivision Ordinance and first focus on phase one, Section 17-63; before moving on to other sections. PP Turner added applications will continue to be processed and that only the projects with improvement issues will be held until the Ordinance is amended.

Everett Grabeel again addressed the Commission, adding that the land developer is required to make road improvements to County standards, required to pay impact fees when a building permit is issued, maintain the road and pay property taxes and requested that if dedication to the County is required, the County should accept those dedications.

By consensus the Planning Commission supported the Ordinance priority amendments.

INFORMATIONAL – NON-ACTION ITEM

Chair Machado stated he wished to complain about portable billboard signs along the roadways. PP Turner stated those type of signs require a permit and would research to determine if the sign was permitted and if not, Code Enforcement would handle. PP Turner added the County does allow those type of signs, but must be permitted.

ADJOURNMENT

Commissioner Scattini moved to adjourn the regular meeting of May 7, 2008, Commissioner Tognazzini offered a second to the motion which passed unanimously for adjournment at 9:17 PM.

Minutes prepared by:
Trish Maderis
Planning Commission Clerk

Attest:
Art Henriques
Director of Planning