

SAN BENITO COUNTY PLANNING COMMISSION

April 2, 2008

Minutes

PRESENT: Bettencourt, Scattini, Tognazzini

ABSENT: DeVries, Machado

STAFF: Director of Planning (DOP) Art Henriques, Principal Planner (PP) Byron Turner; Associate Planner (AP) Lissette Knight; Senior Planner (SP) Chuck Ortwein; Deputy County Counsel (DCC) Shirley Murphy; and Clerk Trish Maderis.

Vice-Chair Bettencourt called the regular meeting of the San Benito County Planning Commission to order at 6:04 p.m. as he led the pledge of allegiance to the flag and reiterated the standing rules of order. Clerk Maderis noted Commissioners DeVries and Machado were absent.

DIRECTOR - STAFF REPORT

PP Turner reported on the March 25, 2008 Board meeting advising the Commission that the Reimbursement Agreement with El Rancho San Benito will be considered for approval on April 8, 2008 by the Board of Supervisors.

DOP Henriques reported Board of Supervisor meetings held on April 1, 2008 included the following items:

- Presentation to a student delegation from sister city Kato City, Japan
- Update report from County Counsel for the DMB Reimbursement Agreement
- Board has formalized their 2009 priorities and when received will be provided to the Commission. Some of the items include the completion of the General Plan Update, the Transfer of Development Credits program, Capital Improvements Program, Affordable Housing and continued work with the City of Hollister on the Water Master Plan.

Vice-Chair Bettencourt asked DOP Henriques if the priorities and concerns of the Planning Commission were included in the Board priorities. DOP Henriques advised once the summary was received it would be provided to the Commission for review and further discussion.

PUBLIC COMMENT

Vice-Chair Bettencourt 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 March 19, 2008
4. Minutes of March 6, 2008 Joint Board/Commission General Plan Workshop meeting

Clerk Maderis requested Item #3 be pulled and continued to the regular meeting of April 16, 2008 for corrections.

Commissioner Scattini requested Item #4 be pulled for discussion at the end of the regular Agenda.

Commissioner Scattini moved to approve Items #1 and #2, Commissioner Tognazzini offered a second to the motion which passed with a vote of 3-0-2; Commissioner's DeVries and Machado were absent.

CONTINUED ITEM ~ COMMISSION ACTION

PUBLIC HEARING ITEM

5. **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)**
(continued from 3-19-08)

SP Ortwein requested the project be continued to the regular meeting of April 16, 2008 in order to finalize Public Works conditions of approval. SP noted that staff from Public Works were not able to attend tonight's meeting due to a conference out of town.

Vice-Chair Bettencourt opened and closed the Public Hearing as there were no persons present to address the project.

Commissioner Scattini moved to continue Item #5 to April 16, 2008, Commissioner Tognazzini offered a second to the motion which passed with a vote of 3-0-2; Commissioner's DeVries and Machado were absent.

6 **TENTATIVE SUBDIVISION NO. 07-76** – APPLICANT: Andreas & Bernadette Abramson. LOCATION: Santa Ana Valley Road, Hollister. APN: 025-090-050 REQUEST: A proposal to subdivide a 41.22 acre parcel into eight parcels. Lot sizes of five acres have been proposed. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.
PLANNER: Lissette Knight (lknight@planning.co.san-benito.ca.us) (continued from 3-19-08)

AP Knight presented her staff report and explained the application aided by power point slides. AP Knight noted comments included in the packet received from San Benito County Water District and Environmental Health created Condition No. 34 which requires a water purveyor's permit. The permit allows for continual inspections and compliance for well standards. AP Knight concluded advising staff was recommending approval of the proposed project.

Commissioner Scattini asked if the 2 wells had enough capacity to support the proposed subdivision and if Blue Valve water was available. AP Knight stated the quantity was sufficient, Condition No. 34 conditioned the quality and Blue Valve water was not available on the property.

AP Knight stated she wished to correct language to Condition No. 5, changing words from 'final' to tentative and on Condition No. 36, correcting 'final' instead of parcel. The corrected language would be reflected in the final Conditions of Approval which follow the narrative of the minutes.

Commissioner Tognazzini clarified the responsibility for quantity of water was that of San Benito County Water. AP Knight confirmed that the quantity of water supply was that of County Water and the quality was that of Environmental Health.

Commissioner Tognazzini also questioned the Kit Fox fees contained in Condition No. 8. AP Knight explained the Condition is written per the language of the Ordinance.

Commissioner Scattini asked if the project was in the flood plain. AP Knight confirmed it was not.

Vice-Chair Bettencourt questioned Condition No. 19, stating he believed the calculations should reflect one less lot for affordable housing. AP Knight explained the calculations and stated that they were correct. Vice-Chair Bettencourt requested DCC Murphy research the Ordinance and then opened the Public Hearing.

Matt Kelley, Kelley Engineering representing the applicant stated the applicant agreed to the Mitigation Measures and Conditions of Approval and added some history on the wells, water quality and quantity on the property based on information from Baker Pump and Bolsa Analytical.

Vice-Chair Bettencourt confirmed the water permit would have to be obtained prior to final recordation. Mr. Kelley stated the permit would be a state permit issued by the local agency and would have to be obtained as a condition of recordation.

Commissioner Scattini asked if the quantity of water was sufficient. Mr. Kelley advised the pump tests reveal the quantity of water meets the requirements and has never been an issue in the area.

Bernadette Abramson, applicant, advised the Commission that the quantity of water was more than sufficient that she also had a one-third interest in a well on the Wynn property and other wells on the property. Mrs. Abramson added that she was very happy with the Planning Department and thanked staff for the hard work on her project.

DCC Murphy explained the Inclusionary Housing Ordinance formula showing the calculations was not available at this meeting to research for the previous question by Vice-Chair Bettencourt. Vice-Chair Bettencourt confirmed that if the calculations were incorrect that the County would reimburse the application.

AP Knight explained the differences in calculations for minor and major subdivision requirements for Affordable Housing and added she believed the calculations stated in the staff report were correct.

With no other speakers, Vice-Chair Bettencourt closed the Public Hearing.

Commissioner Scattini asked if Park fees would be collected. AP Knight advised Condition No. 20 requires dedication and improvements prior to recordation of the final map based on Ordinance No. 617.

Vice-Chair Bettencourt asked how the fees are calculated. AP Knight stated the fees are based on the ENR Cost Index and the fees would be calculated by both the Public Works Department and the applicant's Engineer for comparison to set a fair and equitable fee. PP Turner added the calculations are explained in the Subdivision Ordinance Section 17-59 which is contained in the Commissioner's packets.

With no further discussion, Commissioner Tognazzini moved to adopt the Mitigated Negative Declaration, Mitigation Monitoring and Reporting Program and approval of the Tentative Subdivision Map based on finding and subject to the corrected Conditions of Approval as amended by staff presentation. Commissioner Scattini offered a second to the motion which passed with a vote of 3-0-2; Commissioner's DeVries and Machado were absent.

CONDITIONS OF APPROVAL:

1. Hold Harmless: Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]

2. **Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and conditions of approval as approved by the Planning 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 final 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 final 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 Map is recorded. [Planning, Assessor]
5. **Recordation:** The applicant shall submit a final map to the County and the ~~parcel~~ final map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The ~~final~~ tentative 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~~ final 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 final 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] [Mitigation Measure #3]
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 final map, a habitat conservation plan mitigation fee of \$4800 (\$600 for each 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 final map, all unmet conditions of approval, mitigation measures, easements, and restrictions shall be noted on a separate sheet(s) and recorded with the final map. [Planning]
10. **County Service Area:** Prior to recordation of the final map, the applicant shall make application to LAFCO to join a County Service Area (CSA #43) for police and fire protection. All related processing fees, including State Board of Equalization fees, must be submitted prior to recordation of the final map. [LAFCO, Planning]

11. Improvement Plans: Prior to recordation of the final 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 #9]
13. Mitigation Monitoring: Prior to the recordation of the final map, the applicant/owner, County Counsel and the Planning Director shall agree to and sign the Mitigation Monitoring Program form(s).
14. Exterior Lighting: A note shall be placed on an additional sheet to the final map that states: "All exterior lighting for new development shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. All fixtures shall comply with County Ordinance #748 (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]
15. Building Envelope: Prior to recordation of the final map, the applicant/owner shall place building envelopes on parcels one through eight to restrict the location of development on the property in order to lessen the effects on surface run-off. [Mitigation Measure #7]
16. 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]
17. Cultural Resources: 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]

18. Association Formation: Prior to the recordation of the final map, the applicant shall form a Homeowner's Association for the purposes of street lighting, street sweeping and maintenance of road, drainage, open space and landscaping improvements. The applicant shall also be responsible to initiate the formation of a County Service Area for the same through LAFCO, and the County Planning department shall ensure that the service area is concurrently approved with the approval of the final map as a fail safe mechanism. [Public Works, LAFCO & Planning] [Mitigation Measure #10]
19. Inclusionary Housing: Inclusionary Housing: Prior to recordation of the parcel map the applicant/owner shall pay Inclusionary Housing fees. Developments of 5-20 units shall pay the full fee. For developments with 5-20 units/lots, the applicant shall pay the In-Lieu fee for each lot and/or unit created. $[27,019.60 \times (\text{Number of created lots} - 2)] = \$162,117.60$ total] [Chapter 35 of the San Benito County Code]
20. 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]

Public Works Conditions

21. Dedication: Prior to the recordation of the final map, the applicant shall make an irrevocable offer of dedication for:
 - a. 60 foot full road right-of-way for the proposed Rodeo Drive,
 - b. 60 foot full road right-of-way for the proposed Millennium Court,
 - c. a 50 foot right-of-way radius must be provided at the proposed cu-de-sac where the turnaround facility is provided to meet Public Works as well as County fires turning radius,
 - d. Adequate right-of-way radius along Santa Ana Valley Road property frontage to accommodate a minimum of 55 mile per hour roadway design speed. (See Section 17-53 of the SBC Subdivision Ordinance)
22. Roadway Improvements: Prior to the recordation of the final map, the applicant shall make roadway improvements for:
 - a. Widen and improve Santa Ana Valley Road to 28 foot AC on 38 foot road bed for the entire northerly property frontage,
 - b. Widen and improve the existing Rodeo Drive to 24 foot AC on 34 foot road bed for the entire westerly frontage,
 - c. 24 foot AC on 34 foot road bed for the entire length of the proposed court. (See Section 17-64, 65(a) of SBC Subdivision Ordinance)
23. Encroachment Permit: Pursuant to § 14-3 of the San Benito County Code, prior to commencement of any improvements associated with this project, the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County right of way.
24. Soil Recommendations: Prior to the recordation of the final map, the recommendations of the Soil Engineering Investigation (PROJECT #LSS-0522-01), prepared by Landset Engineers, Inc., and shall be incorporated into the design of the improvement plans. The report has identified that the near surface soil is highly expansive and deep remedial grading is considered necessary for foundation areas. Native Soil materials shall be sub-excavated to a depth of four feet below the existing ground surface, and be replaced with non-expansive select structural fill. A letter of geotechnical compliance shall be submitted upon completion of site improvements. A note shall be placed on the final map referencing the aforementioned reports for future reference by potential property owners.

25. **Geology and Soil:** Prior to the recordation of the final map, the applicant/owner shall comply with the County Drainage Standards and provide erosion control details for the project. Included in this shall be drainage calculations and construction details for either a retention or detention pond for impermeable surfaces created as part of this project. All drainage improvements must be installed or bonded for prior to recordation of the final map. [Public Works] [Mitigation Measure #5]
26. **Street Names:** Pursuant to §17-18(a) of the San Benito County Code, the applicant must submit a list of proposed street names for the unnamed court to the County Communication Department for road name and approval.
27. **Street Lighting Plan:** Prior to recordation of the final map, the applicant shall submit to the County a street lighting plan for lighting of the project entry and the internal roads. Internal street lighting shall be minimized and shall comply with County Ordinance 748. The street lighting plan shall be subject to review and approval of the County Public Works Department, and improvements specified in the plan shall be completed or bonded prior to filing of the final map.
28. **Utility:** Prior to the recordation of the final map, the applicant shall be required to provide one or more appropriate cable television systems the opportunity to construct, install and maintain on land identified on the map as dedicated or to be dedicated to public utility use, and equipment necessary to extend cable television services to each residential parcel in the subdivision.
29. **Underground Utilities:** All utility service and distribution equipment shall be placed underground in conformance with the rules of the California Public Utilities Commission. Prior to recordation of the final map, the County Public Works Director shall ensure that the requirement for underground utilities is noted on subdivision improvement plans and that the subdivider has installed or bonded for installation of all applicable utility services to each lot, including sewer, water, electric power, gas, telephone, and cable service. [Public Works, Planning] [Section 17-65(f) of Ordinance 617]
30. **Fair Share Contribution:** Prior to recordation of the final map, the applicant shall pay a fair share contribution to the County for improvements to be made to the Fairview Road/Santa Ana Valley Road intersection. The fair share contribution shall be \$14,538.32 (8 x 1,817.29/lot).

County Fire Conditions:

31. **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.
32. **Fire Protection:** Prior to recordation of the final map, a note shall be placed on an additional sheet to the final map that states: “prior to the issuance of any permit for new development, the applicant shall comply with all requirements of the San Benito County Fire Department, including the provision of an adequate water supply and flow for fire suppression. Required fire flow for this project shall be in accordance with the California Fire Code. All residential structures shall be equipped with NFPA 13D sprinkler systems.” [Mitigation Measure #6]

Department of Environmental Health

- 33. 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.
- 34. Water System: Prior to the recordation of the final map, the applicant shall obtain a water purveyors permit from this department.
- 35. Water Quality: Prior to recordation of the final map, a note shall be placed on an additional sheet to the final map that states the following:
 - a. “The owner shall notify the successor in interest that the concentrations of Arsenic exceed the maximum contaminant levels established by the San Benito County Code.”

San Benito County Water District Conditions:

- 36. Water Supply: Prior to recordation of the ~~Parcel~~ final 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

- 7. **USE PERMIT NO. 976-07**– APPLICANT: Jose & Rocia Garcia LOCATION: 766 Riverside Road APN: 021-050-016 REQUEST: The applicant is requesting a Use Permit to conduct pallet storage and repair business on their property. 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 explained the project had previously been operated without appropriate permits and added the applicants removed the violation in a timely manner and applied for the Conditional Use Permit being considered at this meeting. AP Knight stated no comments were received from County agencies during the Initial Study public review period, but several letters had been received from neighboring properties opposing the project. AP Knight stated the project is recommended for approval.

Commissioner Tognazzini asked if the Commission could only condition the Use Permit with regulations set forth in the Ordinance. AP Knight explained that the Conditional Use Permit could be conditioned according to Planning Commission’s direction.

DCC Murphy added that Section 18-206 allows the Planning Commission broad authority to condition a project. Commissioner Tognazzini stated he would like to see specific Planning Department conditions listed based on input received during the comment period. Commissioner Tognazzini added he felt more restrictive conditions should be listed.

AP Knight explained the new Fire Codes are very restrictive and the applicants are limited on what could be done on the property and added that trip ends could be added along with any other conditions the Commission wished to impose.

After some discussion regarding the decibel noise levels and the ability to measure noise between staff and the Commission, Vice-Chair Bettencourt opened the Public Hearing.

Linda Nolan, 772 Riverside Road, advised the Commission that she is a neighbor to the project and is opposed to approval. Ms. Nolan stated the property owners did not reside on the property, hours of operation, traffic and noise level was not appropriate for the area.

Bill Morgan, 748 Riverside Road addressed the Commission asking the Commission not approve the project, that he has lived next to the subject property and stated the project could be a nightmare. Mr. Morgan stated the traffic and noise were unacceptable to him.

Ava Morgan, 748 Riverside Road asked the Commission to deny the project adding the noise level is unacceptable and felt the business should be located in an industrial area. Mrs. Morgan also stated that she had safety concerns with added traffic.

A. J. Moley, 281 Richardson Road asked the Commission to not approve the application stating he could hear the noise at his residence which was a quarter mile away. Mr. Moley stated he felt the pallet business was a nuisance, the road was too dangerous for added traffic and water for fire protection was needed

Nereyda Garcia (Neddie), 766 Riverside Road, daughter of the applicant/property owner confirmed that there would only be 2 workers for the proposed pallet business. Ms. Garcia stated that the property has only been owned for approximately 6 years and the business that was stopped by Code Enforcement has only been conducted for approximately 1 ½ years. Ms. Garcia stated she felt her family business was being confused with another neighboring property who was conducting a pallet business along with other illegal activities and the Garcias did not have any part in those activities. Ms. Garcia stated the trips would be limited to a flat bed truck and would only be 4 per day. Ms. Garcia stated she was aware of the restrictions based on the Fire Codes and the business would comply with those codes. Ms. Garcia again emphasized the illegal activity in the area were not theirs.

Ava Morgan again addressed the Commission confirming that this applicant was not the property that the neighbors were complaining about. Mrs. Morgan stated the next door neighbors to the applicant were the subject of their complaints and they also had a pallet business along with rodeos.

Bill Morgan again addressed the Commission and stated that the illegal pallet business was conducted on the same location as the current applicant is requesting and felt the Garcia's were associates of the former illegal pallet business.

With no other speakers, Vice-Chair Bettencourt closed the Public Hearing.

Commissioner Scattini advised he had visited the site and stated the road was very narrow, that he had previously observed more than 2 workers but believed this was at the neighboring pallet business. Commissioner Scattini asked AP Knight how many letters were received from the neighbors on this application. AP Knight stated that notices were sent to neighbors bordering the property within 300 ft. from a list obtained from the Assessor's Parcel Roll.

PP Turner cited new fire requirements and read them into record from the new Fire Code:

From Fire Code, Section 316 – Storage of Idle Pallets:

- c. Idle pallets stored outside shall be stored in accordance with Section 316.3 of this code with the following conditions:*
- 1. Idle pallet stacks shall not exceed fifteen feet (15') in height*
- 2. Idle pallets stacks shall not cover an area of greater than 400 square feet*
- 3. Idle pallet stacks shall be arranged to form stable piles*
- 4. A distance of not less than twenty feet (20') shall separate stacks.*
- 5. Stacks shall be no closer than twenty feet (20') to any property line.*
- 6. Stacks shall be no closer than twenty feet (20') to any other yard storage.*

PP Turner also pointed out that pallet operations are listed as an agricultural use that is conditionally permitted and that the subject property is an agricultural zone. PP Turner also stated that Planners had received many complaints about properties in the area but not this particular property. PP Turner added should the application be approved, this and any other condition of approval would be subject to continuing operations and should those conditions be violated, the Conditional Use Permit would be re-submitted to the Commission for possible revocation.

Commissioner Scattini stated that consideration should be given to the neighbors and the business should be located in an industrial area. AP Knight stated that a pallet business was a conditional use in the Agricultural Zoning District.

Commissioner Tognazzini asked if a decibel level had been established. AP Knight stated that Condition No. 16 could be added to include the decibel level during hours of operation and could not exceed the levels contained in Table 1 of the San Benito County General Plan Noise Element.

Commissioner Tognazzini stated he would like to limit the trips to 4 per day round trip in the conditions. Commissioner Tognazzini stated he would also like to limit the hours of operation.

AP Knight stated that Condition No. 7 could be amended and suggested hours be limited to 9AM to 5PM and no business conducted on Sundays or State and Federal holidays. AP Knight added that Condition No. 17 could be added to limit 4 trip ends per day.

DCC Murphy clarified that trip ends are defined as round trips and apply to the employees only.

Commissioner Tognazzini asked the applicant's daughter if these conditions were agreeable. Neddie Garcia stated the conditions were agreeable and again emphasized the neighboring property at 758 Riverside Road is the property that is the subject of the neighbor's complaints, not theirs.

DOP Henriques advised the Commission that not this property, but other properties in the area are currently being pursued through legal avenues including submission of a case to the District Attorney's Office.

Commissioner Tognazzini suggested a 5 day per week operation and a 6 month review of the operation if approved and that this should be added to Condition No. 7.

Vice-Chair Bettencourt asked if the applicants were fully aware of the costs that would have to be incurred for the conditions if the project was approved. AP Knight stated the application fee was \$2,250; all conditions must be met and the fire conditions would require final sign-off by County Fire before business is commenced. AP Knight added that the applicants understood the requirements and indicated they wished to move forward with their application.

After some discussion among staff and the Commission regarding the required costs related to the project's conditions, Vice-Chair Bettencourt allowed Bill Morgan to again address the Commission.

Bill Morgan stated he didn't feel a 2 man operation would make any money in this business.

Commissioner Scattini and Commissioner Tognazzini discussed the economics of this business. Commissioner Scattini asked AP Knight when the original stop work order was issued. AP Knight advised a Code Enforcement Stop Work Order was issued April 11, 2007, the final inspection was done July 30, 2007 and the Conditional Use Permit application was filed August 24, 2007.

At this time, Vice-Chair Bettencourt called for the question.

Commissioner Tognazzini moved to approve the Conditional Use Permit with amendments to Condition No. 16; not to exceed 70 decibels; Condition No. 17, limit to 4 trip ends per day; Condition No. 7; hours of operation of 9AM to 5PM, 5 days per week and add Condition No. 18, a 6 month review. Vice-Chair Bettencourt offered a second to the motion, the vote was as follows:

| | |
|---------|--|
| Ayes: | Commissioner Tognazzini |
| Noes: | Commissioners Bettencourt and Scattini |
| Absent: | Commissioners DeVries and Machado |

Commissioner Scattini moved to deny Conditional Use Permit No. UP 976-76 based on public testimony, adverse effects to the neighborhood, traffic, nuisance and noise. Vice-Chair Bettencourt offered a second to the motion, the vote was as follows:

Ayes: Commissioners Bettencourt and Scattini
Noes: Commissioner Tognazzini
Absent: Commissioners DeVries and Machado

The application for Conditional Use Permit No. UP 976-76 was deemed denied and DOP Henriques advised the denial may be appealed to the Board of Supervisors within 10 days from this date.

Use Permit Finding(s) for Denial:

Finding 2: That the proposed use, if it complies with the conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard, or nuisance to persons or property.

Evidence: *Although the project complies with the conditions set forth in this project. The concern for noise, the proposed location of the pallet storage and repair business and the public testimony heard during the April 2nd, 2008 Planning Commission meeting shall cause this project to affect other properties in the vicinity through nuisance.*

Vice-Chair Bettencourt called for a break at 7:53 PM. The Commission returned at 8:04 PM.

WORKSHOP

8. San Benito County Subdivision Ordinance amendments

PP Turner reminded the Commission of their request to hold workshops to review the existing San Benito County Subdivision Ordinance. PP Turner explained it was the intent to review the entire Ordinance not just areas that have come into question recently and stated the staff report gives description of areas needing revisions. PP Turner recapped the staff report and offered take input from the Commission and the public.

PP Turner concurred with the Commission that the definitions should be consolidated into one location within the Ordinance. Other sections needing review for consistency with the Subdivision Map Act were explained as follows:

- Section 17-53 – Dedications
- Section 17-59 – Parkland Dedication
- Section 17-62 – Groundwater (section currently reserved)
- Section 17-63 – Waiving Vs. Deferring improvements
- Section 17-67 – Deferment only by County Engineer
- Section 17-68 – Design
- Section 17-68d – Private streets
- Parcel Mergers/Un-Mergers (section currently reserved)
- Certificates of Compliance

PP Turner stated there were also four appendices which include Appendix B, the new Fire Design standards which will be provided to the Commission at the next regular meeting. PP Turner also reminded the Commission that this workshop did not pertain to the Growth Ordinance and would not be holding discussions regarding allocations or growth. This workshop discusses the regulations and requirements after allocations are received and the subdivision application is submitted.

DCC Murphy added that there was a 5th appendix; Appendix E, pertaining to County Service Area No. 43 for extended Police and Fire Services which was adopted after Ordinance No. 617. DCC Murphy stated the Appendices are not currently codified in the County Code and difficult to research at this time. The Ordinance Re-Codification project is currently underway and should be done soon. The Code and Appendices will then be posted to the County website.

DOP Henriques added County Fire has recently reviewed the recent amendments to the Fire Code and provided their list of inconsistencies for the Subdivision and Zoning Ordinances.

Vice-Chair Bettencourt asked PP Turner who should participate in the workshops. PP Turner recommended Public Works and the local engineering firms along with any others expressing an interest. Vice-Chair Bettencourt stated he believed there should be a full Commission before any specifics are directed.

Brad Sullivan, Attorney with Lombardo & Gilles law firm stated this was a good start and suggested a Development Agreement which would accept or reject a development from the Subdivision Ordinance instead of amending the Code or Ordinance. Mr. Sullivan stated he felt a Development Agreement would allow flexibility, precaution and protection for the County and the applicants.

Matt Kelly, Kelley Engineering stated he would like a copy of the new Fire Code (Appendix B) and stated he is also concerned with dedicated access/easement regulations in the existing Ordinance. Mr. Kelly stated he would like to emphasize an Exception, not the Rule, adding that this would promote orderly development of property. Mr. Kelly stated that creating criteria for the Exception would be easier when a situation arises.

Commissioner Tognazzini and Matt Kelly discussed prescriptive easements for one parcel and how additional development creates additional access and agreed this is another area needing review. DCC Murphy added that State law does not mandate access only County Ordinance does.

Matt Kelly stated there was a need to establish language to explain and clarify easements. Commissioner Tognazzini added that the easement question/problem should be caught at the engineering level and before being submitted to the Planning Commission. Mr. Kelly stated that applicants usually rely on the Commission to exempt them from the Ordinance regulations even though they are aware of the requirements. Mr. Kelley thanked the Commission for the opportunity to be involved.

Anne Hall, San Benito Engineering stated that access could be handled in ways other than by requiring dedication to the County. Mrs. Hall stated that viable legal County access should be reviewed for other options.

Mrs. Hall stated she would like the Ordinance reviewed for requirements differentiating Minor and Major subdivision projects and the roadway improvements required. Mrs. Hall also requested that the language be established for Park fees so that figures could be available at the time a map is being considered for approval.

Mrs. Hall requested that storm drainage be addressed in the Subdivision Ordinance and not in the Zoning Ordinance. Mrs. Hall added that currently when a single residence is constructed and grading is needed, a detention pond is required which now also impacts the Mosquito Abatement Program.

Al Guerra addressed the Commission and encouraged learning from other communities stating that the suggestions by the previous speakers have already been done in other places. Mr. Guerra added that some requirements were outdated and could be done better.

Commissioner Tognazzini stated that recently in reviewing the Hillside Ordinance other jurisdictions were examined and has always believed this County shouldn't reinvent the wheel.

DCC Murphy stated that she and Planning staff have access with other jurisdictions throughout the State and consult regularly with them on legislative issues.

Commissioner Scattini stated he believed a full Commission should be present for further dialogue. PP Turner stated he intended to have this item on every agenda as a workshop topic until the time there is direction from the Commission to move forward on recommendations to the Board of Supervisors. Once that is done, a Public Hearing will be noticed.

Agenda Item No. 4: Minutes of March 6, 2008 Joint Board/Commission
General Plan Workshop meeting

Commissioner Scattini stated he was upset that the survey results did not reflect a fair representation of the County and the comments by CAO Thompson stating the Sphere of Influence had no bearing on the General Plan Update and requested DOP Henriques address his concerns.

DOP Henriques stated the data base addresses were obtained from County records and were used to create approximately 17,000 mailers. DOP Henriques stated the renter community was hard to establish, staff had mailed the surveys to local businesses and the next Phase will include additional advertising.

DOP Henriques stated that during Phase Two the County will work with both cities on issues related to their Sphere of Influence areas. Commissioner Scattini asked DOP Henriques to answer if he felt the General Plan Update had an impact on the City's Sphere of Influence. DOP Henriques stated they were areas of negotiation and as cities grow those areas could be absorbed but it would take many years.

PP Turner added that a city's Sphere of Influence area were very important in addressing the General Plan Update but during Phase One, information was only being collected and those areas didn't need to be addressed. PP Turner added that during Phase Two, the Sphere of Influence for the two cities would be an important component.

Commissioner Scattini stated overall the Sphere of Influence has a bearing on the County's General Plan Update.

DOP Henriques stated that during Phase Two if conflicts occur the County will work with the Cities.

Commissioner Tognazzini asked about the Consultant's input on the responses to the survey. DOP Henriques stated typically the response rate average goal is usually 8-10% in other communities. DOP Henriques noted he rate here was lower and our County database resources need help at this time.

Clerk Maderis advised the Commission that agencies such as PG&E would not allow the County to use their resources and the Consultant had to rely on County resources for addressing the surveys.

With no other comments, Commissioner Scattini moved for approval of the minutes, the motion was seconded by Commissioner Tognazzini and passed 3-0-2; Commissioners DeVries and Commissioner Machado were absent.

ADJOURNMENT

Vice-Chair Bettencourt moved to adjourn the regular meeting of April 16, 2008, Commissioner Scattini offered a second to the motion which passed 3-0-2; Commissioners DeVries and Commissioner Machado were absent and the meeting was adjourned at 8:56 PM.

Minutes prepared by:
Trish Maderis
Planning Commission Clerk

Attest:
Art Henriques
Director of Planning