

SAN BENITO COUNTY PLANNING COMMISSION

September 3, 2008

Minutes

PRESENT: Bettencourt, Machado, Scattini, DeVries & Tognazzini

ABSENT: None

STAFF: Director of Planning (DoP) Art Henriquez; Assistant Director of Planning (ADoP) Byron Turner; Public Works Engineer (PWE) Art Bliss; Assistant Planner (AP) Michael Krausie; Senior Planner (SP) Chuck Ortwein; (DCC) Shirley Murphy and Clerk Janet Somavia.

Chair Machado opened the Meeting at 6:01 p.m. as he led the pledge of allegiance to the flag and reiterated the standing rules of order.

DIRECTOR'S REPORT

(DoP) Henriquez reported on recent Board of Supervisor meetings and information on the following items:

- Board of Supervisors meeting of August 26, 2008:
 - The Board finalized the General Plan Advisory Committee. The list of appointed members was given to the Commissioners.
 - Progress updates of the Advisory Committee will be given every three months to the Board and the Commissioners.
 - A presentation by the Staff of the Pinnacles Monument on their update of the General Management Plan.

- Board of Supervisors meeting September 2, 2008

A workshop with the Board on the County's Growth Management Ordinance.

Commissioner Scattini inquired as to when the Board and the Commission would have a joint meeting. DoP Henriquez asked if they wanted a meeting anytime soon. Commissioner Scattini stated that he understood the Board wanted another meeting in 6 to 9 months. DoP Henriquez stated that he would check into this and get back to the Commission.

PUBLIC COMMENT

Chair Machado opened the meeting to public comments. There being none Chair Machado closed the Public Comments.

CONSENT AGENDA

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of August 20, 2008

Commissioner DeVries moved to approve the Consent Agenda. Commissioner Bettencourt offered a second to the motion which **passed 5-0**

CONTINUED PUBLIC HEARING ITEM ~ COMMISSION ACTION

4. **Minor Subdivision No. 1210-07** REQUEST: The applicant proposes to subdivide an 11.41 acre parcel, identified as Assessor's Parcel Number 011-008-010, into two 5.34 net acre parcels. APPLICANT: Roger Silveira. LOCATION; Payne Road.
ZONING: Rural (R)
PLANNER: Michael Krausie (mkrausie@planning.co.san-benito.ca.us)

AP Krausie presented the staff report. The applicant proposes to subdivide an 11.41 acre parcel into two 5.34 net acre parcels. Current Zoning and General Plan designations required a 5 acres minimum building site, further subdivision at a later date is not possible given the current zoning designation of the project site. The project proposes to use conventional septic systems for sewage disposal. Storm water runoff will be directed to a proposed retention pond. Proposed grading associated with this project will be approximately 250 cubic yards of cut and 240 cubic yards of fill. The project site is located near the end of Payne Road, between Payne Road and Highway 129 in the Aromas area of San Benito County. A natural visual screen, located at the back of the project area exists and shall be utilized to protect scenic Highway 129. Building envelopes for the proposed lots are required and shall be shown on the Parcel Map to eliminate any development on slopes greater than or equal to 30%.

This project was originally scheduled to be heard August 20, 2008 and was continued at that meeting in order to make changes to the CEQA findings and the Conditions of Approval.

AP Krausie asked that the following changes be made to the CEQA findings:

CEQA Finding 2, Evidence: The Initial Study, staff report and verbal testimony was presented to the Planning Commission in preparation for, and during, the August 20, 2008 **and the September 3, 2008** Planning Commission **hearings**.

CEQA Finding 4, Evidence: The Planning Commission considered the initial study, staff report and all verbal testimony presented at the public **hearing** of August 20, 2008 **and September 3, 2008**. The Commission determined that the Mitigation Measurers and

the Conditions of Approval included in the staff report would reduce the impacts of the proposal to less than significant level.

CEQA Finding 5: That the changes in condition of approval number 19, which changes mitigation measure number 9, removing the obligation to improve the full frontage of the property along Payne Road, and provide the opportunity for the Planning Commission to waive portions of the requisite frontage improvements, **is equivalent or more effective in mitigating or avoiding potential significant effects and it in itself will not cause any potentially significant effect on the environment, and the substitution of mitigation measure number 9, as incorporated into revised condition of approval number 19, will not require the recirculation of the Initial Study/Mitigated Negative Declaration.**

AP Krausie then presented a power point presentation showing the road changes and the hammer head turn around.

Staff recommends approval of MS 1210-07 based on the required finding and subject to the Conditions of Approval contained in the staff report.

Commissioner Scattini stated for the record that he and Commissioner Bettencourt went out a viewed the site. He feels there is no way to widen this road. AP Krausie then explained that the revised plan would have full improvements on Parcel #1 and Parcel #2 would have partial improvements with a hammer head turn around for emergency vehicles.

Commissioner Machado then opened Public Hearing.

Matt Kelley – Engineer for the applicants. The applicants have agreed to the conditions, findings and mitigation measures and would appreciate your approval of this project.

Commissioner Bettencourt then asked if a condition could be added that water softeners should be commercial.

Matt Kelley replied that he felt that the County had a standard that all new water conditioners must be of the off site regeneration type and felt that the Applicants would not disagree with this condition.

Commissioner Bettencourt then asked if the Commission was going to waive the bonding for the road improvements. PW Engineer Art Bliss then explained that the improvements on Parcel 1 and partial improvements on Parcel 2 would be done now or would be bonded for up to the extent of improvements and from the hammer head on that would be waived.

AP Krausie read into the minutes the standard condition for water softeners. See Condition 28.

There being no further public comment, Chair Machado closed the public hearing.

There was discussion among the Commission regarding the bonding for improvements and the hammer head for emergency turn around. PW Engineer Art Bliss answered all the questions to the satisfaction of the Commission.

Commissioner DeVries made a motion to approve MS 1210-07, adopt the Mitigated Declaration based upon the required findings as amended in the September 3, 2008 memo by Michael Krause and subject to the Conditions of Approval contained in the Staff Report. Commissioner Tognazzini offered a second to the motion which **passed with a 5-0 vote.**

DoP Henriques stated that this decision will not be final until the 10 day appeal to the Board of Supervisors period has elapsed.

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 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. **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]
9. **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]
10. **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]
11. **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. A note to this affect shall be placed on the Parcel Map. [Planning and Building]
12. **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]
13. **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, County Counsel]
14. **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 3 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 #2] [Planning and Building]
15. **Air Quality:** The following note shall be included in the improvement plans to minimize particulate emissions: “The contractor shall require water trucks to operate in conjunction with grading equipment and application of water shall be made as frequently as is

necessary to control dust at a minimum of three times a day. If the dust is not adequately controlled through the application of water, grading activities will be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed prior to the resumption of grading.” [Planning]

- 16. Archeological:** Prior to recordation of the Parcel map a note shall be placed on an additional sheet to the Parcel map that states: Any property owner who, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, discovers any human remains of any age, or any significant artifact or other evidence of an archeological site, shall:
- a. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
 - b. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of 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.[Planning]
- 17. Management and Conservation of Woodlands:** Prior to the recordation of the parcel map, the applicant shall place a note on an additional sheet to the parcel map that states: “If the property owner desires to cut down a tree on his/her property they must obtain approval from the Planning and Building Department to ensure compliance to the County and State regulations for tree protection.” [Planning]

Public Works Conditions

- 18.** Prior to recordation of the parcel map, the applicant shall make the following irrevocable offers of dedication:
- a) Half of a 60- foot right-of-way along the entire frontage of Payne Road and shall include standard county roadway slope easement.
- 19.** Prior to recordation of the Parcel Map, the applicant shall:
- a) bond for or complete half of a 24 foot AC on 34 foot road bed along the full Payne Road frontage of Parcel 1 and the westerly portion of Parcel 2 to a point that will accommodate an emergency vehicle hammerhead of sufficient dimensions to satisfactorily meet the Fire Department’s criteria, and as may be determined during the preparation of Improvement Plans by the County Engineer.
- 20.** Pursuant to Section 14-3 of the San Benito County Code, prior to commencement of any improvements associated with this project the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County right of way.
- 21.** As part of the submission of engineered improvement plans for this project, the applicant shall comply with County Drainage Standards and provide erosion control detail. Included in this will be drainage calculations and construction details for either a

retention or detention pond for impermeable surfaces created as part of this project. All drainage improvements must be installed or bonded for prior to recordation of the parcel map.

22. Prior to recordation of the parcel map, the recommendations of the Geotechnical Investigation (FILE # 1878SBO), prepared by Redwood Geotechnical Engineering Inc., shall be incorporated into the design of the improvement plans. A letter of geotechnical compliance shall be submitted upon completion of site improvements. A note shall be placed on the parcel map referencing the aforementioned reports for future reference by potential property owners. Additionally, the applicant shall submit addendum to the Geotechnical Investigation which establishes the design R-value of the native materials at the proposed subgrade elevation to allow proper design of the roadbed structural section and any roadbed foundation conditions.

Aromas Fire Conditions:

23. This project shall meet the standards set forth in the latest adopted editions of the Uniform Fire Code, Uniform Building Code, Public Resources Code 4290 and 4291 and other related codes as they apply to a project of this type and size. The applicant shall ensure there is adequate ingress and egress to any and all buildings. Roadways/Driveways shall be an all weather surface conforming to applicable codes and standards. Driveway(s) shall include turn outs and turnarounds as required. Driveway address shall be installed so they are visible to responding emergency personnel. Unless located within 1000 feet of approved water district fire hydrant, water storage will be as follows: 0-999 sq feet 3,000 gallons, 1000-1999 sq feet 5,000 gallons, 2000-2999 sq feet 7500 gallon and 3000+ sq feet 10,000 gallons. A final inspection will be required. A note to this affect shall be placed on the Parcel Map.

Environmental Health Conditions:

24. A note shall be placed on the Parcel Map stating: If any hazardous materials are to be stored in the proposed facilities, a Hazardous Materials Business Plan must be completed and submitted to this department.

San Benito County Department of Agriculture:

25. **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]

San Benito County Planning Department:

26. **Drainage Control:** The applicant's engineer shall implement sufficient measures to ensure drainage occurring to and through the southwest portion of the property is to be handled by the on site detention pond and away from the neighboring property. The measure(s) shall be made part of the engineered improvement plans.
27. **Landscaping Plan:** A note shall be placed on an additional sheet to the parcel map stating that, as part of the building permit process for any development on the property,

the property owner shall submit to the County Planning Department a landscaping plan for all structures. The review shall be based on, but not limited to the following criteria:

a. A landscaping plan that sufficiently screens views from the State Route 129 and is consistent with Ordinance No. 757 entitled "Management and Conservation of Woodlands. The plan should consist of native trees and plants and shall be arranged in a manner that maintains the natural appearance of the hillside.

28. Water Softeners: A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states: "The use of on site-regenerating water softeners is prohibited. Off site regeneration softening systems may be used subject to the approval of the San Benito County Water District".[Planning]

PUBLIC HEARING ITEM ~ COMMISSION ACTION

5. Minor Subdivision No. 1214-07 REQUEST; The proposed project results from a court ordered partition action. The court ordered the parties to make application to the County to subdivide the property. The order requires the subdivision of a 53.64 acre parcel into two parcels containing 31.14 and 22.50 acres respectively.

APPLICANT/OWNER: Thomas Hain LOCATION: 608 Bolado Road, Tres Pinos

ZONING: Agricultural Productive (AP)

PLANNER: *Michael Krausie* (mkrausie@planning.co.san-benito.ca.us)

AP Krausie presented the Staff Report. The property is located approximately one mile southwest of the community of Tres Pinos. Currently, proposed parcel 1 contains one single family dwelling and seven accessory structures; the use of accessory buildings is considered to be for processing of walnuts from the existing orchards located on the property. There are no residence or accessory structures located on proposed parcel 2.

The property is held within a Williamson Act contract; however, as part of the court order, the applicant has applied for and received permission from the Board of Supervisors to divide the contract into 2 new agricultural preserves. In accordance with Subdivision Map Act 66411.5b, there is no grading, new utility or road improvements proposed for this project at this time. All such required improvements will be deferred until such time as the Williamson Act contract terminates or is cancelled.

Staff recommends approval of MS 1214-07 based on the required findings and subject to the Conditions of Approval contained in the staff report.

The Commission asked regarding their role. DCC Shirley Murphy explained that this is an inheritance issue, however the court cannot use it to subvert the Subdivision Map Act. So as part of the court order they are required to apply for this subdivision. The Commission has discretionary power to approve or deny a subdivision map.

DCC Shirley Murphy clarified that in the Subdivision Map Act the offer of dedication or road improvements shall be deferred until the Williamson Act contract runs out.

Chair Machado then opened the public comment.

Ann Hall – Engineer for Applicant. Would like to request on Condition 20 to change from a Recordation of Deed Restriction to **Place a Note on Map as Follows**. In answer to Commission question regarding Williamson Act split, this split has already been approved but not signed they are waiting on the approval of this subdivision.

ADoP Byron Turner stated they Staff would prefer it on the Map to having a Deed Restriction.

Condition 20 then shall read: **Applicant shall place a note on the Map for Parcel #1 and Parcel #2 as follows:**

Chair Machado then closed the public hearing.

Commissioner Bettencourt moved to approve MS 1214-07, adopt the Mitigated Negative Declaration, approved the findings and Conditions of Approval with the change to Condition #20. Commissioner Scattini offered a second to the motion with **passed with a 5-0 vote**.

DoP Henriques stated that this decision will not be final until the 10 day appeal period to the Board of Supervisors has elapsed.

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 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 a habitat conservation plan mitigation fee of \$1200 (\$600 per parcel). This condition shall be deferred until such time as the LCA contract, applicable to the parcels, is terminated or canceled. [Planning & Department of Fish and Game]
9. **Conditions of Approval, Easements, and Restrictions:** Prior to recordation of the parcel map all unmet and/or deferred 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:** The applicant shall enter into a Deferred Improvement Agreement with the County of San Benito. This agreement shall include deferred improvements and requisite improvement plans which shall be submitted for approval by the County engineer. [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 #4]
13. **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). This condition shall be deferred until such time as the LCA contract, applicable to the parcels, is terminated or canceled.
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] This condition shall be deferred until such time as the LCA contract, applicable to the parcels, is terminated or canceled.

- 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 2 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]
- 16. Grading Exclusionary Zone:** The Parcel Map shall show an exclusionary zone in compliance with Chapter 7A of the San Benito County Code and a note shall be placed on the Parcel Map stating: "All grading activity shall not take place within 50 feet (measured horizontally) from the top of a bank of a stream, creek, river or within 50 feet of a wetland or a body of water." [Planning]
- 17. 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.
- 18. Archeological:** Prior to recordation of the Parcel map a note shall be placed on an additional sheet to the Parcel Map that states: 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:
1. 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.
 2. 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.
 3. 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.
- 19. Management and Conservation of Woodlands:** Prior to the recordation of the parcel map, the applicant shall place a note on an additional sheet to the parcel map that states: "If the property owner desires to cut down a tree on his/her property they must obtain approval from the Planning and Building Department to ensure compliance to the County and State regulations for tree protection."
- 20. Seismic and Flood Hazards:** Prior to recordation of the Parcel map a note shall be placed on an additional sheet to the Parcel Map that states:

Parcel 1 includes areas where no base flood elevation has been determined, as designated by FEMA. Access to buildable areas may require traversing environmentally hazardous areas. Further investigation may be required prior to County approval of access, building sites, or new structures.

Parcel 2 includes areas designated by the State of California to be located within a Fault Zone. Future investigation, such as a qualified geological report, may be required prior to County approval of access, building sites, or new structures. This parcel also includes areas where no base flood elevation has been determined, as designated by FEMA. Access to buildable areas may require traversing environmentally hazardous areas. Further investigation may be required prior to County approval of access, building sites, or new structures.

Public Works Conditions

21. Applicant shall make an irrevocable offer of dedication to county and public for public use, half of 60-foot road right of way along Bolado Road. This condition shall be deferred until such time as the LCA contract, applicable to the parcels, is terminated or canceled.
22. Applicant shall make an irrevocable offer of dedication to county and public for public use, 60-foot road right of way along easterly boundary of Parcel2 terminating at boundary of Parcel 1 providing access to both Parcel 1 and Parcel 2. This condition shall be deferred until such time as the LCA contract, applicable to the parcels, is terminated or canceled.
23. Applicant shall improve common driveway access to Parcel 1 and Parcel 2 with 16-foot of pavement over 20-foot or road bed that terminates to a CDF approved turn around facility. This condition shall be deferred until such time as the LCA contract, applicable to the parcels, is terminated or canceled.
24. Applicant shall improve Bolado Road to half of 24-foot pavement over 34-foot roadbed. This condition shall be deferred until such time as the LCA contract, applicable to the parcels, is terminated or canceled.
25. All new developments are subject to county drainage standards. This condition shall be deferred until such time as the LCA contract, applicable to the parcels, is terminated or canceled.

San Benito County Water District:

26. Should the applicant choose to seek permission from the SBCWD to use a San Felipe Blue Valve for connection to a fire suppression water supply, the applicant shall complete an agreement of supplemental fire protection with the SBCWD and provide evidence of such agreement to the County prior to issuance of a building permit. The applicant shall work in cooperation with the SBCWD if modifications or upgrades to San Felipe Distribution System equipment are required.[SBCWD]
27. The applicant shall work with SBCWD to determine how the existing entitlement to San Felipe water will be affected by the proposed subdivision. Should extension of San Felipe infrastructure be required, written documentation from the SBCWD shall be obtained prior to recordation of the Parcel Map, to confirm that the property owner has

worked in cooperation with the SBCWD to meet any requirements for extension and/or modification of San Felipe infrastructure. [SBCWD]

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]

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

APPLICANT: Guerra Nut Shelling. LOCATION: 500 John Smith Rd., Hollister.

APN: 025-100-007. REQUEST: The applicant is requesting a Zone Change and approval of Tentative Subdivision Map for the property located at 500 John Smith Road. The property is currently zoned Rural (R). The applicant is requesting to rezone the property to a Rural/Planned Unit Development (R/PUD) for the purpose of subdividing 200.78 acres into 17 one acre lots, designating 68 acres as agricultural Open Space and designating a remainder lot of 115.36 acres.

Planner: Chuck Ortwein (cortwein@planning.co.san-benito.co.us)

Senior Planner Ortwein presented the staff report. The 17 one acre lots will be clustered near the northwestern section of the property. The building envelopes are located outside areas that have been identified as being generally or mostly susceptible to landslide hazards. The 68 acres designated as an agricultural open space parcel are proposed to be used as vineyard and olive grove. The remaining 115.36 acres are located on slopes of greater than 15% that have been identified as being susceptible to landslide hazards and are not generally suitable for development. A chiseled seasonal tributary to Santa Ana Creek is situated near the eastern property boundary. The property does contain areas where slopes are 30% or greater. These areas are located within the area defined as the remainder parcel. The subdivision will be accessed off of Ponderosa Trail a 60 foot private drive and utilities easement that connects to John Smith Road. Ponderosa Trail was established as part of TSM 06-74. Water service for the site will be provided via a private well. The applicant will be required to obtain a permit from the San Benito county Environmental Health Department for a State small water system. Septic service will be provided by use of on site septic systems. All new single family dwellings on site will be required to install automatic fire suppression systems along with appropriately sized water storage tanks to be determined by County Fire. A dual water distribution system will be installed to conserve water. The system will use separate delivery systems for potable water and irrigation water. A storm water drainage easement and detention area located on site to reduce the volume and flow of storm water runoff.

The Senior Planner then presented a power point showing the project. He also reported that the findings in the Resolution 2008-04 were changed to reflect the same wording as in the Staff Report.

SP Ortwein added Condition #55 as follows: **Storm Water:** Prior to any construction taking place, the applicant shall be required to enroll in the Construction Storm Water General Permit through the California Environmental Protection Agency State Water Resource Control Board (PUBLIC WORKS) (MM 16)

SP Ortwein request that instead of in-lieu fess under Condition 28 regarding Park Fees, the applicant would like to establish a park that will connect to an existing park for TSM 06-74 and it would also connect to a proposed linear park that will come forward with the Santana Ranch Specific Plan.

There was some discussion by the Commission regarding in-lieu fees, establishing a park that would be open to the public and the wording that would be used for Condition 28.

DoP Henriques informed the Commission that Staff had a member attending the Parks and Recreation Master Plan meetings and they would be made aware of these parks so that they may be included in the master plan.

Chair Machado opened the Public Hearing.

Jason Guerra, Symmetry Design & Build – Representing the owner. Mr. Guerra handed out maps showing Phase I and Phase II of this proposed development. Mr. Guerra explained that the park was being built over gas line easement as well as the proposed Santana Ranch park and could not be used for anything else. He then asked for questions.

Commissioner Bettencourt asked regarding the dual water system. Mr. Guerra stated that this was something in the future and they did not have any current plans.

There was a great deal of discussion and questions regarding the recreation trails and public access to the parks.

DoP Henriques reminded the Commission that the County can only require a certain amount of land for public parks per project. Also, each project is seen on it own merit and one project does not guarantee the same thing for future projects.

Al Guerra – Owner/Applicant – Mr. Guerra stated that eventually, the public access to the parks would be thru Santana Ranch and that the recreation trails would be private. Until such a time as there was public access, they would be sure that there was public access thru the gated entrance.

Jason Guerra stated that the changes made to Condition 28 that references the Park Code and if they cannot meet those requirements of the public park, then they will have to pay the in-lieu fees in order to finalize their map.

Al Guerra –Owner/Applicant asked if they would be willing to approve the project with the wording that if the park proposed does not meet the County standards they would pay in-lieu fees? Would this give them enough of a guarantee? One other item he would like to address regarding the remainder property of 115 acres is just a remainder parcel. But the 68 acres is an agricultural easement.

The Commission continued to discuss the possibilities of in-lieu fees versus the actual park and its accessibility to the public.

With there being no further public comment, Chair Machado closed the public hearing.

ADoP Turner then read the new wording for Condition #28 as follows: **Prior to recordation of the final map the Applicant shall either dedicate and improve or bond for a park or pay in-lieu fees consistent with Section 17-59 of the Subdivision Ordinance.**

Commissioner DeVries had questions regarding the remainder be sub dividable. SP Ortwein explained that thru Condition #30 and #31 they would need to do a Certificate of Compliance and do extensive improvements if they were to apply for a subdivision on the remainder parcel.

Commissioner Tognazzini moved to approve TSM 08-78 and ZC 08-161; to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; approve Resolution #2008-04, with the changes, recommending the Board of Supervisors' approval of Zone Change 08-161; direct Staff to forward the Mitigated Negative Declaration, Mitigation Monitoring and Report Program, the Zone Change petition, project application and the complete administrative record to the Board of Supervisors for consideration and tentatively approve TSM 08-78, pending the Board of Supervisors' approval of Zone change 08-161, subject to the attached findings and conditions of approval with the revisions of Condition #28 and the addition of Condition #55 as read into the record by Staff. Commissioner Scattini offered a second to the motion **which passed with a 5-0 vote.**

DoP Henriques stated the recommendation to the Board of Supervisors will be scheduled in the near future and if there are any questions, please contact the Planning Office for more information.

CONDITIONS OF APPROVAL

1. **Zone Change:** The tentative subdivision map (TSM 08-78) shall not be operative or in effect unless and until the San Benito County Board of Supervisors approves the zone change petition (ZC 08-161) associated with this project. Should the Board of Supervisors deny the zone change petition, conditional approval of the tentative map shall be automatically nullified and voided by the Board of Supervisor's denial. In the event the Board of Supervisors makes changes to the proposed P.U.D. zone change petition, the tentative subdivision map shall return to the Planning Commission for

further review and approval of any changes to conditions of approval, consistent with the Board of Supervisors' revisions to the zone change petition. [PLANNING]

2. **Recordation-Section 66464 of the Subdivision Map Act (SMA); Section 17-36 of the Subdivision Ordinance:** A final map conforming substantially to the approved tentative map shall be approved by the Board of Supervisors and recorded with the County Recorder. The tentative subdivision will expire two years after the Planning Commission approval date, unless extended as provided by the Subdivision Map Act and the County Subdivision Ordinance. Failure to record a final map within the period of the approval or a period of extension shall terminate all subdivision proceedings. [PLANNING, PUBLIC WORKS]
3. **Hold Harmless-Section 66474.9 of the SMA:** Pursuant to Section 66474.9 of the Government Code, (Subdivision Map Act), upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceedings against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of the subdivision and applicable proceedings. San Benito County shall be subject to Section 66474.9(b) (2). San Benito County reserves its right to prepare its own defense, pursuant to Section 66474.9 Government Code. [PLANNING, PUBLIC WORKS]
4. **Mitigation Monitoring:** Prior to recordation of the Final Map or Planning Department approval of the improvement plans, whichever comes first, the applicant shall enter into a mitigation monitoring agreement with San Benito County. [PLANNING]
5. **Compliance Documentation:** Prior to recordation of the Final Map, the applicant shall submit a summary response to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. The applicant shall also submit a response as to how this project complies with impact fees applicable to the following ordinances: Drainage, Benefit Areas, Park, and other applicable ordinances. [PLANNING, PUBLIC WORKS]
6. **Assessment-Section 17-32(d) of the Subdivision Ordinance:** Prior to recordation of the Final Map, the applicant shall submit a statement or certificate with the County Public Works Department indicating that there are no liens against the subdivision for unpaid taxes or special assessment as required by Section 66492, 66493 and 66494. [PUBLIC WORKS]
7. **Street lighting-Appendix C of the Subdivision Ordinance:** Prior to recordation of a final map, the applicant shall submit to the County a street lighting plan for lighting of the project entry and the internal roads. Internal street lighting shall be minimized and shall comply with County Ordinance 748. The street lighting plan shall be subject to the review and approval of the County Public Works Department, and improvements specified in the plan shall be completed or bonded prior to filing of the final map. [PUBLIC WORKS, PLANNING]
8. **Construction Material:** Prior to recordation the applicant shall provide detailed architectural drawings for review and approval. These drawings shall include detailed

descriptions of the structures and grounds. A list of Finish Materials for use in construction shall be provided. [PLANNING] [MM1]

9. **Exterior Lighting:** A note shall be placed on an additional sheet to the Final map that states: “All exterior lighting for new development shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. All fixtures shall comply with County Ordinance 748. Prior to the issuance of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan which shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture.[PLANNING] [MM 2]
10. **Underground utilities-Section 17-65(f) and Sections 2.16 and 2.21 of Chapter 1 of Appendix D to the Subdivision Ordinance:** All utility service and distribution equipment shall be placed underground in conformance with the rules of the California Public Utilities Commission. Prior to recordation of a final map, the County Public Works Director shall ensure that the requirement for underground utilities is noted on subdivision improvement plans and that the subdivider has installed or bonded for installation of all applicable utility services to each lot, including sewer, water, electric power, gas, telephone, and cable service. [PUBLIC WORKS, PLANNING]
11. **Inclusionary Housing:** Prior to recordation of the Final Map, the applicant shall comply with the requirements of Ordinance 766 (Inclusionary Housing Regulations) by entering into an inclusionary housing agreement to pay an in-lieu fee of a minimum of \$27,019.60 per lot, or as otherwise required by Ordinance 766. The total amount of in-lieu fees to be collected for this project is \$459,333.20 [PLANNING]
12. **Air Quality:** A note shall be placed on the improvement plans to minimize particulate emissions: “The contractor shall require water trucks to operate in conjunction with grading equipment and application of water shall be made as frequently as is necessary to control dust at a minimum of two times a day. If dust is not adequately controlled through the application of water, grading activities will be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed prior to the resumption of grading.” [PLANNING] [MM3]
13. **Grading Activities:** A note shall be included on all improvements or construction plans that involve site grading and/or improvements prohibiting all grading activities during periods when winds are over 15 miles per hour. [PLANNING, PUBLIC WORKS] [MM4]
14. **Truck Hauling:** A note shall be placed on all improvement or construction plans requiring all trucks hauling dirt, sand or loose materials to be covered. [PLANNING] [MM5]
15. **Diesel Emissions:** A note shall be placed on the improvement or construction plans requiring that all diesel or gasoline powered machinery not in actual use must turn off engines when idle. In order to reduce Acrolein emissions the applicant shall be required to use diesel powered machinery that was produced after the year 2003 or equip the diesel powered machinery with Air Resource Board approved Catalysis Diesel Particulate

Filters or Diesel Orientated Catalysis Filter. The applicant may also opt to use Biodiesel fuels B99 or B100 as an alternative to the filter. [PLANNING] [MM6]

16. **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]
17. **Open Space Parcel:** Prior to recordation of the Final Map, the applicant shall grant an agricultural easement across the 68-acre Parcels B and C to a Land Trust to ensure the property remains in agricultural production. [PLANNING]
18. **Endangered Species Buffer:** A 100 foot, no build and no disturbance buffer shall be delineated around all wetland, ponds, and drainages. The Final Map shall clearly indicate these areas. [PLANNING] [MM7]
19. **Streambed Alteration:** Prior to the recordation of the Final Map the applicant shall submit a Notification Package to the California Department of Fish and Game for any and all work that will occur within the bed, bank, or channel or within the riparian vegetation of Dry Creek. The Department of Fish and Game will then determine if the action requires a Streambed Alteration Agreement under Section 1600 of the Fish and Game Code. [PLANNING] [MM8]
20. **Preconstruction Survey:** A preconstruction survey for burrowing owl and San Joaquin Kit Fox shall be conducted prior to ground disturbance. If any San Joaquin Kit Fox is reported on site, the applicant shall notify the California Department of Fish and Game to see if an Incidental Take Permit is required. [PLANNING] [MM9]
21. **Wetland Disturbance:** If any onsite wetlands are to be disturbed or developed, the applicant shall survey the project site for Western Spadefoot Toads prior to any construction activity. The California Department of Fish and Game has a no-net-loss policy regarding impacts to wetlands. When wetland habitat cannot be avoided, impacts to wetlands shall be compensated for with the creation of new habitat, preferably on-site, at a minimum of an acre-for-acre basis. Potential impacts to Special Status Resources posed by the creation of wetlands shall be considered. Man-made ponds as well as wetlands that have been inadvertently created by leaks, dams or other structures, or failures in man-made water systems are not exempt from this policy. [PLANNING] [MM10]
22. **Cultural Resources:** A note shall be placed on the Final Map and the improvement plans stating: “If, at anytime in the preparation for or process of excavation or other ground disturbance, any human remains of any age, or any significant artifact or other evidence of an archaeological site is discovered, all further excavations and disturbances within 200 feet of the discovery shall cease and desist. The applicant shall contact the San Benito County Planning office to report the findings and to prepare the proper

documentation and reports as determined by the Planning Director. If human and/or questionable remains have been discovered, the sheriff-coroner shall be notified immediately pursuant to County Ordinance 610.” [PLANNING] [MM11]

23. **Geology:** A note shall be placed on the Final Map and the improvement plans stating: "A Soils Engineering Report, dated August 31, 2006, was prepared for this property by Landset Engineers INC. (File No. LSS-0525-02) and is on file at the San Benito County Planning Department. All preparation, grading, foundation, site drainage and finish improvement recommendations contained in said reports shall be followed in all development of the property." A letter of geotechnical compliance shall be submitted upon completion of site improvements. A note shall be placed on the Final Map referencing the aforementioned reports for future reference by potential property owners. [PLANNING] [MM12]
24. **Structural Design:** All structures shall be designed to resist seismic shaking in accordance with current California Building Code requirements. [PLANNING] [MM13]
25. **Grading:** Prior to the issuance of the grading permit, the applicant shall provide a detailed erosion control plan that complies with County standards and shows the location of erosion control devices on the site. The erosion control plan shall be submitted to the County Planning and Public Works Departments for review and approval. [PLANNING, PUBLIC WORKS] [MM14]
26. **Noise:** A note shall be placed on an additional sheet to the Final Map that states: “As required by County Ordinance, construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans.” [PLANNING] [MM17]
27. **Building Permits:** All development on the property shall require approved building permits. Applicant shall pay all associated fees for said building permits. [PLANNING, BUILDING]
28. **Parks:** Prior to recordation of a Final Map the application shall either dedicate and improve or bond for a park or pay in-lieu fees consistent with Section 17-59 of the Subdivision Ordinance. [PUBLIC WORKS, PLANNING]
29. **Planned Unit Development Legal Requirements:** Pursuant to Section 26.6 of the Zoning Ordinance, the applicant shall:
 - a. Legally create an automatic membership in a nonprofit homeowners association or another approved entity for the purpose of maintaining common improvements for which the title is held by the homeowner’s association or other approved entity which is legally obligated to provide designated services to the owners of the lots created by the P.U.D.
 - b. Place title to the common improvement areas in the homeowner’s association or other approved entity, which gives each owner of the lots created by the P.U.D. the right to use and enjoyment of the common improvements.

- c. Appropriately and permanently govern the use of common open space and improvements.
 - d. Give each owner of the lots created by the P.U.D. the right to use and enjoyment of the common improvements subject to subsection (f) of this condition.
 - e. Give the homeowner's association or other approved entity responsibility for operation and maintenance of the common property.
 - f. Place association charges on each lot created by the P.U.D. so that sufficient funds are assured for maintenance and operation of common improvements and which charges shall be a lien on the property and provide adequate safeguards for the owners of lots created by the P.U.D. against undesirable high charges. The homeowner's association shall provide the County Planning Department with an annual financial report and a copy of the CCR's for review. Where title to common open space is held by an approved entity other than the homeowner's association, each owner of lots created by the P.U.D. may elect to use and enjoy such common property subject to the charges levied by the approved entity responsible for the ownership, maintenance and operation of the common property. [PLANNING]
30. **Remainder Parcel:** Per Government Code § 66424.6 and County Ordinance 617§ 17-67 (b), a note shall be placed on the Final Map or by separate instrument that shall indicate its relationship to the final map stating the following: "The designed remainder parcel shall not be sold, leased, or financed until a certificate of compliance is issued for the parcel by the Planning Commission." [PLANNING]
31. **Remainder Parcel Improvements:** Prior to recordation of the Final Map, the subdivider shall enter into an agreement with the County to construct improvements within the remainder. The agreement shall require the improvements be installed at a future date and when any application for development of the remainder is submitted to the County and prior to issuance of any permit for the remainder. A note shall be placed on the Final Map stating the following: "A permit or other grant of approval shall not be issued by the local agency until all the improvement requirements applied to Tentative Subdivision Map 08-78 are installed for the designated remainder parcel. The subdivider has entered into an agreement with the County to construct improvements within the remainder when there is any application for development of the remainder parcel and prior to issuance of a permit or other grant of approval for development of the remainder." [PLANNING]
32. **Water Softeners:** A note shall be placed on the subdivision improvement plans and on an additional sheet to the Final Map that states: "The use of on site-regenerating water softeners is prohibited. Off site regeneration softening systems may be used subject to the approval of the San Benito County Water District" [PLANNING]

Public Works Conditions

33. **Dedication:** Prior to recordation of the Final Map, the applicant shall make the following irrevocable offers of dedication to San Benito County and the public for public use:

- a. *60-foot full right-of-way for the proposed Ponderosa Trail, Winchester Trail, and the common driveway connecting Ponderosa and Winchester Trail.*
 - b. *30-foot full-road right-of-way for the proposed Gunsmoke Trail.*
 - c. *50 foot radii as shown for proposed cul-de-sac at every end of the proposed roads, where turnaround facilities is provided to meet Public Works and County Fire minimum turning radius. [PUBLIC WORKS]*
34. **Roadway Improvements:** Prior to recordation of the Final Map the applicant shall bond for or make the following roadway improvements:
 - a. *24-foot AC on 34-foot roadbed for the entire length of the proposed Ponderosa Trail, Winchester Trail, and the common driveway connecting Ponderosa Trail and Winchester Trail.*
 - b. *16-foot AC on 20-foot road bed for the proposed Gunsmoke Trail. [PUBLIC WORKS]*
35. **Street Names:** The proposed street names shall be submitted to County Planning and County Communications department for approval unless already approved in Phase 1. [PUBLIC WORKS]
36. **Geotechnical Recommendations:** As part of the submission of the Improvement Plan for this project, the recommendations of the Geologist of Landset Engineers, Inc., included in their report titled Soil Engineering Feasibility Investigation and percolation Testing (Project #LSS-0525-02), shall be incorporated into the design of the improvement plans. [PUBLIC WORKS]
37. **Geotechnical Compliance:** Prior to recordation of the Final Map, 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. [PUBLIC WORKS]
38. **Non-buildable Areas:** Areas in excess of 30% slope shall be shown on the Final Map and labeled as non-buildable areas. [PUBLIC WORKS]
39. **Drainage Standards:** As part of the submission of engineered improvement plans for this project, the applicant shall comply with County Drainage Standards and provide erosion control details for the project. Included in this will be drainage calculations and construction details for either a retention or detention pond for impermeable surfaces created as part of this project. Since detention for Phase 1 is to be removed for this (Phase 2) development, proposed detention pond for Phase 2 should be designed to accommodate both Phase 1 and Phase 2 runoff, and should be considered and shown in the calculations. Drainage swales or other drainage structures and direction of flows should be reflected on the plan. All drainage improvements must be installed or bonded prior to recordation of the Final Map. [PUBLIC WORKS]
40. **Engineered Plans:** Prior to recordation of the Final Map, the applicant shall submit engineered improvement plans for review and approval to the Planning and Public Works

Departments. As part of the submission of engineered improvement plans for the project, applicant shall comply with County Drainage Standards and provide erosion and drainage control details for the project sheet. Any drainage calculations submitted shall comply with the requirements of the County Drainage Standard, and shall be engineer signed and stamped. Applicant shall submit drainage calculations for any proposed or existing drainage courses to the proposed pond, the proposed pond, and any discharge lines for the proposed pond. [PUBLIC WORKS]

41. **Homeowner's Association:** Prior to or concurrent with approval of a Final Map, the applicant shall form or join an existing Homeowner's Association already formed as part of Phase 1 development, for the purposes of street sweeping and maintenance of roads, drainage, open space, and landscape improvements. The applicant shall also be responsible to initiate the formation of the County Services Area for the same through LAFCO. [PUBLIC WORKS]
42. **Storm Water:** Prior to any construction taking place, the applicant shall be required to enroll in the Construction Storm Water General Permit through the California Environmental Protection Agency State Water Resource Control Board. [PUBLIC WORKS] {MM 16}
43. **Fair Share Contribution:** Applicant shall pay the following fair share contributions:
 - a **John Smith Road Realignment-** \$2,496.11 per lot ($\$2,496.11 * 17 = \$42,433.87$)
 - b **Airline Highway/Fairview Road Intersection-** $\$312.50 * 17 = \$5,312.50$
[Public Works]

Environmental Health Conditions

44. **Water System:** The proposed subdivision will require a small community water system permit and must be reviewed by the State Office of Drinking Water (ODW).

LAFCO Conditions

45. **County Service Area – Ordinance 541:** Prior to recordation of the final map, the applicant shall annex to CSA 43 for extended fire and sheriff services. [LAFCO, PLANNING]

County Fire Conditions

46. **Fire Standards:** The project shall meet the standards set forth in the latest adopted editions of the Uniform Building Code, California Fire Code, Chapter 17 of the San Benito County Code, Public Resources Code 4290 / 4291 and other related codes as they apply to a project of this type and size. [COUNTY FIRE]

47. **Fire Protection:** When Fire protection, including fire apparatus access and water supplies for fire protection, is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction [COUNTY FIRE]
48. **Fire Hydrant:** Fire Hydrant locations and distribution shall be provided in accordance with 2007 CFC Appendix C for the protection of buildings, or portions of buildings, hereafter constructed. Fire hydrants (Steamer Type) 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. Fire Flow Requirements for this water system shall conform to the 2007 CFC Appendix B [COUNTY FIRE]
49. **Ingress/Egress:** The applicant/owner shall ensure that there is adequate ingress and egress to any and all buildings. Roadways/driveways shall be all weather surfaced conforming to the applicable codes and standards. Driveway(s) shall include turnouts and turnarounds as required. If a gate is utilized on an access or egress driveway, a Knox system shall be required [COUNTY FIRE]
50. **Addressing:** Addresses shall be posted and installed to ensure that they are visible to responding emergency personnel coming from either direction and conforming to applicable codes and standards. [COUNTY FIRE]
51. **Temporary Addressing:** Prior to and during construction, temporary addressing shall be posted at the entrance to the project site. It shall be plainly visible for emergency equipment. [COUNTY FIRE]
52. **Fire Approval:** Upon completion of the above stated requirements and prior to occupancy of any building or structure specifically referred to in this project, the applicant shall request and receive a Project File Requirement Final Signature from San Benito County Fire. Contact Fire Prevention at (831) 636-2080 to make this request. [COUNTY FIRE]
53. **Water Supply:** Fire protection water supply and access shall be in place prior to any construction of residences. All residential structures shall be equipped with an NFPA 13D sprinkler system. Plans and Calculations shall be submitted to the San Benito County Fire Department prior to installation for review [COUNTY FIRE]
54. **Fire Service:** A note shall be placed on an additional sheet to the Final Map that states: "Prior to the issuance of any permits for new development, the applicant shall comply with all requirements of the County Fire Department, including the provision of an adequate water supply and flow for fire suppression. Required fire flow for this project shall be in accordance with 2000 UFC Division III, Appendix III-A-A-I. All residential structures shall be equipped with NFPA 13D sprinkler systems." [COUNTY FIRE] [MM15]

55. **Storm Water:** Prior to any construction taking place, the applicant shall be required to enroll in the Construction Storm Water General Permit through the California Environmental Protection Agency State Water Resource Control Board [PUBLIC WORKS] [MM16]

Chair Machado asked for a brief break at 7:31 p.m.

Chair Machado reconvened the Commission at 7:42 p.m.

7. Minor Subdivision No. 1208-07 – APPLICANT: Edward Adamian. LOCATION: 833 Los Viboras Rd., Hollister. APN 016-150-022. REQUEST: A proposal to subdivide approximately 19.09 acres into three parcels. Lot sized of five acres or greater has been proposed. ZONING: Agricultural Productive (AP).

Planner: Chuck Ortwein (cortwein@planning.co.san-benito.ca.us)

Senior Planner Ortwein presented the staff report. The site contains an existing single family dwelling and approximately 18 acres of apricot orchard. The proposed project will involve the removal of the existing single family dwelling and approximately 9 acres of orchard. The orchard is not actively in the production of fruit for harvest. A portion of the proposed project is determined to be within the 100 year floodplain for Los Viboras Creek. A small portion of the eastern section of the proposed project lies within the special study zone for the Three Sister Quadrangle. The proposed project involves the establishment of building envelopes. The building envelopes and proposed improvements are located within Zone X and determined to be outside the 100 year floodplain and outside the special study zone. Sewage service will be provided via individual private septic systems. The site has been determined to have adequate space for leach fields. Water will be provided by an existing on site well. The project will include the construction of a 1200 linear foot asphalt road and bridge. Access to the proposed site is provided via a private road off of Los Viboras Road. The property is bordered on the northeast by Los Viboras creek. An 8.84 acre habitat conservation easement is proposed along the northwest section of the site. The project will involve approximately 1800 cubic yards of material cut and fill for minor improvements to the proposed building areas; all fill will be contained within the proposed building envelopes. The building envelopes are to be graded contains approximately 4.87 acres. This property does contain Grade 1 Soils. We allow for development on Grade 1 Soils were it has been developed on three sides at maximum density. SP Ortwein presented a power point showing this as well as the habitat conservation easement in the flood plain.

Staff recommends the adoption of Mitigated Negative Declaration and approve Minor Subdivision No. 1208-07 based on the findings and subject to the Conditions of Approval.

There being no questions of Staff, Chair Machado opened the public hearing.

There being no public hearing, Chair Machado closed the public hearing.

Commissioner Bettencourt asked regarding the testing of the well and approval of the bridge. SP Ortwein stated that the well passed all testing by Environmental Health and the approval of the bridge will come with the subdivision. However, they will need to get a stream bed alteration permit from the Department of Fish and Game.

Commissioner Scattini asked who would pay for the bridge? The applicant will pay for the bridge. Also asked regarding CSA annexation. See Condition #19.

Commissioner Bettencourt moved to adopt the Mitigated Negative Declaration and approve Minor Subdivision No. 1208-07 based on the findings and subject to the Conditions of Approval as presented by Staff and approve the Mitigation Monitoring and Report Program. A second was offered by Commissioner Tognazzini **which passed with a vote of 5-0.**

DoP Henriques stated that this decision would not be final until the 10 day appeal period has elapsed.

CONDITIONS OF APPROVAL

- 1. Hold Harmless:** Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]
- 2. Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and Conditions of Approval as approved by the Planning Department. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
- 3. Compliance Documentation:** Prior to recordation of the parcel map, the applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
- 4. Assessment:** Prior to recordation of the parcel map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act. [Planning, Assessor]
- 5. Recordation:** The applicant shall submit a parcel map to the County and the parcel map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The 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. Conditions of Approval, Easements, and Restrictions:** 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]
- 9. County Service Area:** Prior to recordation of the final map, the applicant shall make application to LAFCO to join a County Service Area (CSA #43). All related processing fees, including State Equalization fees, must be submitted prior to recordation of the final map. [LAFCO, Planning]
- 10. Improvement Plans:** As a condition approval, the applicant shall be required to submit and have approved, by the County Public Works Department, improvement plans for the proposed subdivision. [Public Works]
- 11. Habitat Conservation Plan Impact Fees:** In accordance with County Ordinance 541, which sets fees for habitat conservation plan financing, the applicant shall contribute, prior to recordation of the parcel map, a habitat conservation plan mitigation fee of \$1800 (\$600 for parcel 5 acres in size or greater). [Planning, Department of Fish and Game]
- 12. Construction Hours:** As required by County Ordinance, construction shall be limited to the hours of 7 a.m. to 7 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans. [Mitigation Measure #12] {Planning}
- 13. 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

- 14. Dedication:** Prior to the recordation of the parcel map, the applicant shall make an irrevocable offer of dedication to the County of San Benito for the public use to maintain;
 - a. 30 foot half road right of way for Los Viboras Road
 - b. 30 foot full road right of way for the proposed common driveway
 - c. 50 foot radius right of way to San Benito County for a turnaround facility [Public Works]
- 15. Roadway Improvements:** Prior to the recordation of the parcel map, the applicant shall bond for the following roadway improvements
 - a. Applicant shall provide 24 foot AC on 34 foot road bed along Los Viboras Road frontage.
 - b. Full 16 foot AC on 20 foot road bed for the proposed common driveway road plus 40 feet AC radius turnaround [Public Works]
- 16. Encroachment:** Prior to commencement of any improvements associated with this project the applicant shall obtain a Public Works Encroachment Permit for any work being performed within the County Right-of-way. [Public Works]

- 17. Drainage and Erosion Plan:** As part of the submission of engineered Improvement Plans, the applicant shall comply with County Drainage Standards and provide erosion control details. Included in this will be drainage calculations and construction details for either a retention or detention pond for impermeable surfaces created as part of this project. All drainage improvements must be installed or bonded for prior to recordation of the parcel map. [Public Works]
- 18. Geotechnical Recommendations:** Prior to recordation of the parcel map, all preparation, grading, foundations, site drainage and finish improvement shall be designed to the recommendations the Geotechnical Engineering Report (Project No. SB9308) prepared by Haro, Kasunich & Associates. A letter of geotechnical compliance shall be submitted upon completion of the site improvements. A note shall be placed on the parcel map referencing the aforementioned reports for future reference by potential property owners. [Mitigation Measures #8] [Public Works]
- 19. Homeowner's Association:** Prior to recordation of the parcel map, the applicant shall establish a maintenance agreement or annex into CSA 29 for the maintenance of roads and common facilities. [Planning, Public Works]
- 20. Proposed Bridge:** Prior to recordation of the Parcel Map, the applicant shall install or bond for the installation of a bridge at Los Viboras Creek crossing on the proposed common driveway. The new bridge must be designed to meet the minimum Fire Access requirement (20 foot clear width and shall withstand HS-20 loading). The applicant shall contact the Department of Fish and Game prior to any construction taking place within the Los Viboras Creek streambed. Additionally, the bridge must be designed to provide all year round access without storm water runoff or surface flow overtopping the bridge with the following allowable exception:
- a.) 10-year storm flow spread must leave one lane in each direction of traffic free of water.
 - b.) 100-year storm flow must not exceed 12" above the crown. [Section 3.9, Chapter 3 (Strom Drainage Design Standards) of the SBC Improvement Standards. [Public Works]
- 21. Weight Limit:** The applicant shall post on both sides of the proposed bridge the weight limit not to be exceeded by vehicles crossing the bridge. [Public Works]
- 22. Non-access Strip:** The applicant shall dedicate a non-access strip along Los Viboras Road property frontage. [Public Works]
- 23. Fair Share Contribution:** Prior to recordation of the Parcel Map the applicant shall make a fair share contribution of \$22,526.64 (3 new lots * \$ 7884.32/lot) to the Los Viboras at Fairview Road Benefit Area. [Public Works]
- 24. Street Names:** Pursuant to 17-18 (a) of the San Benito County Code, the applicant shall submit a list of proposed street names for the unnamed court to the County Communications Department for road name approval. [Public Works]

Planning Conditions:

- 25. Water Softeners:** A note shall be placed on the subdivision improvement plans and on an additional sheet to the Parcel Map that states: "The use of on site-regenerating water softeners is prohibited. Off site regeneration softening systems may be used subject to the approval of the San Benito County Water District".[Planning]

- 26. 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]
- 27. 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 second and third lot. $[3/5 \times 27,019.60 \times 1 (\text{lot three}) = \$16,211.76 \text{ total}]$ [Planning]
- 28. Exterior Lighting:** A note shall be placed on an additional sheet to the Parcel Map that states: “All exterior lighting for new development shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. All fixtures shall comply with County Ordinance 748. Prior to the issuance of a building permit, the applicant shall indicate the location, type, and wattage of all proposed lighting fixtures and includes catalog sheets for each fixture.” [Mitigation Measure #1] [Planning]
- 29. Air Quality:** A note shall be included on all improvement or construction plans to minimize particulate emissions: “The contractor shall require water trucks to operate in conjunction with grading equipment and application of water shall be made as frequently as is necessary to control dust at a minimum of two times a day. If dust is not adequately controlled through the application of water, grading activities will be suspended and an hourly watering schedule and/or maximum limit on the daily number of cubic yards to be graded will be imposed prior to the resumption of grading.” [Mitigation Measure #2] [Planning]
- 30. Fugitive Dust:** A note shall be included on all construction plans that involve site grading and/or improvements prohibiting all grading activities during periods when winds are over 15 miles per hour. [Mitigation Measure #3][Planning]
- 31. Truck Hauling:** A note shall be placed on all improvement or construction plans requiring all trucks hauling dirt, sand or loose materials to be covered. [Mitigation Measure #4][Planning]
- 32. Diesel Emissions:** A note shall be placed on the improvement or construction plans requiring that all diesel or gasoline powered machinery not in actual use must turn off engine when idle. In order to reduce Acrolein emissions the applicant shall be required to use diesel powered machinery that was produced after the year 2003 or equip the diesel powered machinery with Air Resource Board approved Catalysis Diesel Particulate Filters or Diesel Orientated Catalysis Filter. The applicant may also opt to use Bio-diesel fuels B99 or B100 as an alternative to the filter. [Planning]
- 33. Archaeological Field Survey:** Prior to recordation of the Parcel Map the applicant shall have a qualified archaeologist perform a field survey with the results to be provided to the County Planning and Building department. If archaeological findings are discovered on site, all activity shall be halted and all appropriate agencies shall be informed of the findings.[Planning]
- 34. Cultural Resources:** If , at anytime in the preparation for or process of excavation or otherwise disturbing the ground, any human remains of any age, or any significant artifact or other evidence of an archaeological site is discovered, all further excavations and disturbances within 200 feet of the discovery shall cease and desist. The applicant shall contact the San Benito County Planning office to report the findings and to prepare the proper documentation and reports as determined by the Planning Director. If human and/or questionable remains have been discovered, the sheriff-coroner shall be notified immediately pursuant to County Ordinance 610. A note to this effect shall be placed on all construction, grading, or other improvement plans. [Mitigation Measure #6][Planning]

- 35. Seismic Design:** All structure shall be designed to resist seismic shaking in accordance with current California Building Code requirements. [Mitigation Measure #7][Planning]
- 36. Site Preparation:** All Preparation, grading, foundations, site drainage and finish improvements shall be designed to the recommendations the Geotechnical Engineering Report (Project No. SB9308) prepared by Haro, Kasunich & Associates [Mitigation Measure # 8] [Planning]
- 37. Noise:** A note shall be placed on an additional sheet to the Tentative Final Map that states: “As required by County Ordinance, construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans.”[Mitigation Measure # 10][Planning]
- 38. Conservation Easement:** The 8.84 acre conservation easement, as shown on the Parcel Map, shall be delineated as non-buildable space.

County Fire Conditions

- 39. Hazards and Hazardous Materials:** A note shall be placed on an additional sheet to the Parcel Map that states: “Prior to the issuance of any permits for new development, the applicant shall comply with all requirements of 2007 California Fire Code, including Appendix B and C. [Mitigation Measure #9] [County Fire]
- 40. Fire Standards:** A note shall be placed on an additional sheet to the Parcel Map that states: “Prior to the issuance of any permits for new development, the applicant shall comply with all requirements of County Fire Department, including the provision of an adequate water supply and flow for fire suppression. Required fire flow for this project shall be in accordance with 2000 UFC Division III, Appendix III-A-A-I, Table A-III-A-I. All residential structures shall be equipped with NFPA 13D sprinkler systems.” [County Fire]
- 41. Ingress/Egress:** The applicant/owner shall ensure that there is adequate ingress and egress to any and all buildings. Roadways/driveways shall be all weather surfaced conforming to the applicable codes and standards. Driveway(s) shall include turnouts and turnarounds as required. If a gate is utilized on an access or egress driveway, a Knox system shall be required. [County Fire]
- 42. Addressing:** Addresses shall be posted and installed to ensure that they are visible to responding emergency personnel coming from either direction and conforming to applicable codes and standards. [County Fire]
- 43. Temporary Addressing:** Prior to and during construction, temporary addressing shall be posted at the entrance to the project site. It shall be plainly visible for emergency equipment. [County Fire]
- 44. Completion:** Prior to obtaining a building permit for any construction, fire access and water supply for all parcels shall be in place. [County Fire]
- 45. Fire Approval:** Upon completion of the above stated requirements and prior to occupancy of any building or structure specifically referred to in this project, the applicant shall request and receive a Project File Requirement Final Signature from San Benito County Fire. Contact Fire Prevention at (831) 636-2080 to make this request. [County Fire]

Environmental Health Conditions

43. Soils: Any proposal to install a sewage disposal system in any area away from the current test site shall require additional soil profiles and percolation testing at the building permit stage [Environmental Health]

DISCUSSION ITEM

8. Growth Management Ordinance.

ADoP Turner Presented a power point program that was presented to the Board of Supervisors on September 2, 2008.

ADoP Turner announced the correct allocations request for this year which is 1367. The majority of these are for two large specific projects. Allocations for this year are 49.

In this presentation there were 5 points for the Commission to consider;

1. An increase of the 1% growth cap to meet the State average (currently 1.2%)
2. An expansion of the exemptions to include project within the City of Hollister's Sphere of influence (or beyond).
3. An expansion of the exemptions to include projects that will connect to public water and sewer.
4. Amending the Ordinance to only include property zoned agricultural (AP & AR).
5. Aggressively pursue a working TDC program and ordinance, encourage PUD's and use development agreements as exemptions from the growth cap.

ADoP Turner continued stating any change in the Growth Management Ordinance will require review under CEQA. We should not be looking at this as what situations are exempt or do not require an EIR. We would rather have the Commission give options to the Board and Staff. Then we can review those options give recommendations as to what kind of CEQA review would be required. Also, all projects require a public circulation.

The Board of Supervisors recommendation provided to Staff was to come back in the first meeting in October with more information. We will try to separate the numbers out to show what the actual County grow rate was. Separate the County numbers from the City numbers was one of things they wanted Staff to do. Also, what would be required to expand the exemptions or what would be required to raise the growth cap. Also, they recommended that we here from the Commission tonight for any other options.

DoP Henriques stated that one of the requests was to do a comparison of allocations versus actual permits pulled. The Board wants to have regular meetings and Staff has suggested that we have a monthly cycle were we go to the Commission at the beginning

of the month, and you provide recommendations, and then we allow a couple of weeks and go to Board at the end of the month.

Chair Machado opened the Public Hearing.

John Eade - Presented a letter faxed to Susan Thompson this date. Why are we discussing an Ordinance that expired six years ago. Would like an answer from County Counsel and the Planning Director. Secondly, that the Growth Chart is inaccurate.

DCC: Shirley Murphy as a point of order she answers questions poised by the Commission not by the public. If the Planning Commission is interested she can tell you that her office is looking into this and will have an answer to the Board shortly.

DoP Henriques responded that when he came on board he assumed that all ordinances were in place. Staff will look into this and share with the Board, Commission and the Public.

Scott Fuller – San Juan Oaks Golf Club - He feels the Ordinance has failed to meet its most significant stated purposes and goals. 1. to provide more affordable housing. There has been zero actual qualified affordable housing built. 2. Allow time for infrastructure to catch up with growth. He does not believe we have made any progress in that area. 3. To encourage a balance of housing and local employment opportunities in commercial and industrial development. He does not believe that we have done this either. He actually believes that the structure of this ordinance works against all of those stated intents. The growth control limits are so stringent that you cannot provide for affordable housing, cannot get the funding to provide for infrastructure and you do not get commercial and industrial development either. The few exemptions other than legal lots of record and the family exemption are impractical and economical. It has one exemption if you provide 100% affordable housing or if you provide 100% senior housing were 50% of the housing meets the definition of affordable housing. In the eight years of this ordinance, including a period of one of the strongest real estate markets in memory, no one took advantage or tried to utilize one of these exemptions. These exemptions are not meaningful and not practically possible. If you decide to keep the cap at some level you need some real exemptions that are a carrot as opposed to a stick. For instance, some percentage of affordability that is higher than required but nothing close to 100%; agricultural preservation through TDC and projects that provide commercial or industrial development jobs as well as housing. The growth cap can work for very small subdivisions, but any project of any size that provides affordable housing, infrastructure and jobs cannot be done under this structure.

Al Guerra – Hollister, CA - He agrees with the sentiment of the previous two speakers. In addition, it seems like if the ordinance was conceived because of growth figures above the State average, then would that mean that now that we are below the State we should just go faster than everyone else. It seems that exemptions for development outside certain ½ mile or something would be 1% for what reason. Restricting growth outside this area does not make a lot of sense. Restrictions are a bad measure for business and retail. They look at a growth cap and are not interested in that community. We are

missing out on jobs, infrastructure, tax, etc. He would encourage the Commission to all in their power to lift any kind of restrictions, especially when you are using numbers that do not make since. If you take out Hollister there was not much growth in the County.

There being no further public comments Chair Machado closed the public comment.

There was much discussion among the Commissioners regarding lifting the growth cap; ways to preserve agricultural land; the fact that we have other controls in place; CEQA requirements; should the General Plan update address growth control; possibly changing some exemptions and if we have PRGI why do we need the growth ordinance. The Commission did not make any recommendations at this time.

INFORMATIONAL – NON-ACTION ITEM

Commissioner Announcements - Commissioner DeVries asked if maps for the packets could be printed in color? This would make the maps more legible.

No further discussion.

ADJOURNMENT

On a motion by Commissioner Scattini with a second by Commissioner Tognazzini the meeting was adjourned at 8:17 p.m.

Minutes prepared by:
Janet Somavia
Planning Commission Clerk

Attest:
Art Henriques
Director of Planning