

SAN BENITO COUNTY PLANNING COMMISSION

JUNE 3, 2009

Minutes

PRESENT: Machado, Culler, Bettencourt & Scattini

ABSENT: DeVries

STAFF: Director of Planning (DoP) Art Henriques
Assistant Director of Planning (ADoP) Byron Turner;
Public Works Engineer (PWE) Art Bliss;
Associate Planner (AP) Michael Krausie; Assistant Planner (AP) Laura Hall;
Associate Planner (AP) Lissette Knight; Assistant Planner (AP) Ann Dolmage;
Housing Program Coordinator C J Valenzuela; Associate Planner Mike Kelly;
(DCC) Shirley Murphy and Clerk Janet Somavia.

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

DIRECTOR'S REPORT

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

- Board of Supervisor meeting on May 26, 2009.
 - Accepted the annual Crop Report. This report is available on the County Website.
 - Update on the Housing Element and options for further fee recovery.
 - Update of costs of the General Plan

- Board of Supervisor meeting on June 2, 2009
 - Presentation by Wildan Financial Services on the Capital Improvement program.
 - Approval of contract with TRA Environmental Sciences to help restart the Habitat Conservation planning process. Will keep the Commission updated.

Chair Bettencourt asked how much was in the Habitat Conservation Fund.
(DoP) Henriques suggested that it was around \$ 2 Million.

PUBLIC COMMENT

Chair Bettencourt opened the meeting to public comments. There being none Chair Bettencourt closed the public comments.

CONSENT AGENDA

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of May 6, 2009

Commissioner Machado moved to approved Items 1 thru 4. With a second by Commissioner Scattini the motion was approved by a vote of 4-0. Commissioner DeVries absent.

4. **LOT LINE ADJUSTMENT 09-531** REQUEST: The applicant is requesting a lot line adjustment between two parcels of approximately 967.6 acres. APPLICANT/OWNER: Lee LaVelle LOCATION: 51257 Airline Hwy, Paicines APN: 030-120-011, 012, 014 & 030-070-008. ENVIRONMENTAL EVALUATION: Pursuant to § 15305 of CEQA, a Negative Declaration has been prepared. ZONING: Agricultural Rangeland (AR). PLANNER: Laura Hall (lhall@planning.co.san-benito.ca.us)

CONDITIONS OF APPROVAL

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

2. Taxes: Prior to the release of documents for recordation, the applicant shall provide a tax clearance letter stating that all real property taxes for the parcels subject to the lot line adjustment are prepaid. For the purposes of this condition, the amount of property taxes to be paid shall include all real property taxes in arrears, as well as the prepayment of the next installment of all real property taxes due on the subject property. "Next installment due" means the actual, or estimated, as the case may be, one-half year installment due immediately following the date of recordation of the new legal descriptions of the subject properties. The tax clearance letter is valid only from the date of issuance until the next installment due for the payment of real property taxes. [Treasurer, Tax Collector, Planning]

3. Recordation: The recordation of deeds to perfect the newly configured parcels shall be the responsibility of the property owner. [Planning, Recorder]

4. Environmental Hazard(s): In accordance with San Benito County General Plan Open Space and Conservation Element Policy 36 Action 4, and in order to advise prospective

buyers of environmental hazards on the site, the following deed restriction shall be recorded for Parcel 1 and Parcel 2 prior to recordation of the lot line adjustment: " This Parcel has been classified by the Federal Emergency Management Agency (FEMA) as having portions located within Zone A of the FEMA floodplain maps, by the State of California Department of Conservation as having portions located in the San Andreas Fault Zone as shown on the Index to Earthquake Fault Zone Maps Figure 4c, by the U.S. Department of Agriculture in the 1969 Soil Survey San Benito County California book on soils as having very severe & severe erosion and slopes 30% or greater, and by the California Department of Forestry and Fire Protection (CALFIRE) as having very high & high fire hazards on the 2007 Fire Hazard Severity Zoning Map." [Planning]

Recording of this lot line adjustment is to be done by the applicant at the County Recorder's Office within one year of approval.

PUBLIC HEARING ITEM ~ COMMISSION ACTION

5. **USE PERMIT NO. 1005-08** REQUEST: The applicant's proposal is to use the property identified as Assessor's Parcel Number 016-130-026-0 for the purpose of an alternate skydiving landing site. APPLICANT/OWNER: Greg Nardi LOCATION: Pacheco Pass Hwy, Hollister. ENVIRONMENTAL EVALUATION: None ZONING: Agricultural Productive (AP). PLANNER: Michael Krausie(mkrausie@planning.co.san-benito.ca.us)

(AP) Michael Krausie presented the staff report and a power point presentation.

PROJECT DESCRIPTION: The applicant's proposal is to use the property identified as Assessor's parcel number 016-130-026-0 for the purpose of an alternate skydiving landing site.

Currently, the applicant has a Conditional Airport Use Permit on file with the City of Marina. The applicant has described using the proposed Hollister site as a backup site, in the event that the Marina and/or Highway 68 landing areas normally used by the company are fogged in.

The property in question is 21.3 acres in size and is located approximately 1.37 miles north east of the City of Hollister and the Hollister airport.

RECOMMENDATION: Staff recommends that the Planning Commission deny Use Permit 1005-08 based on the required findings presented.

Commissioner Scattini asked if the 1.37 miles was from the outskirts of Hollister. (AP) Krausie answered in the affirmative. Chair Bettencourt then opened the Public Hearing.

Monty Groves – Frazier Lake Airport – Member of the Air Space Protection Commission. Mr. Groves wanted to make several points:

1. The airport frequency at Frasier Lake is different from Hollister airport, therefore there would be no notification of sky diving planes.

2. The airport has many antique aircraft with no radios. Skydivers would be a danger due to inability to communicate.
3. The radar is not good around the Hollister Airport below 3000 feet.
4. The Frazier Lake Airport air traffic corridor to the Hollister airport is in the direct path of the sky diving.

Mike Chambless – Director of Airport & Code Enforcement – City of Hollister – Mr. Chambless asked the Commissioners to refer to his letter. (A copy is on file at the Planning Department). He then highlighted several points.

1. Cal-Fire feels that it would directly effect their operations and safety.
2. The Glider business operates in this area of the sky and would need to move their operation to a more heavily used area.
3. The sky diving operation is being presented as a back-up operation is not true it is a sky diving operation. Only tandem jumps are to be made, however, there will be single jumpers video taping the jumps.

Commissioner Scattini asked if the application showed the number of days of operation.

Mr. Chambless stated that the math showed it would be every day in the summer.

Phil Matteson – Operation Manager – Cal-Fire. Mr Matteson stated his concern about their emergency operations. He felt the number of take-off and landings was misrepresented. Cal-Fire would have between 1000 and 1200 take-off and landings during the same operating period. The sky diving operation would create a risk for Cal-Fire planes.

Quest Rithlife – Glider operator - Mr. Ritlife stated that the primary tows for this operation are in the area of the drop zone. They would be forced to change area of the tow. Some gliders cannot be seen by air traffic control. Their operation does over 9000 tows a year. This drop zone would force them out further and no glider would want to return thru the area of the drop zone.

Mako Igarashi – Owner of current sky diving operation at Hollister Airport. Mr. Igarashi stated that a new drop zone would mess up his operation with the extra traffic. Mr. Igarashi also noted that this business was up for sale last year and Mr. Nardi did not want to buy it. He also stated that his employees now live in the area and spend money in the County.

There being no further public discussion, Chair Bettencourt closed the Public Hearing.

Commissioner Machado asked if the applicant was in the audience. It was stated by Staff that he was notified of the public hearing and did not choose to attend. Commissioner Machado stated that he was very disappointed that no one was here to speak for the applicant.

There being no further discussion, Commissioner moved to deny Use Permit 1005-08 based on the required findings presented in the staff report. With a second by Commissioner Scattini the motion carried by a **vote of 4-0**. Commissione DeVries absent.

6. **MINOR SUBDIVISION NO. 1220-08** REQUEST: The applicant is requesting to subdivide the 10-acre parcel identified as Assessor's Parcel Number 025-19-0-041-0 into two five-acre parcels. APPLICANT/OWNER: Mary Jane Walker. LOCATION: 4343 Airline Hwy, Hollister. ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration. ZONING: Rural (R).
PLANNER: Ann Dolmage (adolmage@planning.co.san-benito.ca.us)

(AP) Ann Dolmage presented the staff report with a power point presentation.

Project Description: Minor Subdivision 1220-08 proposes to subdivide a 10-acre parcel into two parcels, each five acres in size. The existing single-family dwelling will remain on Parcel 1, while Parcel 2 will be developed with a new single-family dwelling. This project proposes 1,790 cubic yards of cut and fill, over .61 acres for improvements to the land. Both residences will be served by conventional septic systems. Water for irrigation will be provided by the San Benito County Water District. Water for domestic use and fire protection will be provided by the Sunnyslope Water District, which is in the process of annexing the project site into its district.

(AP) Dolmage then read into the minutes changes to the Conditions of Approval #'s 6, 9, 14, 27 and adding Finding #5. (See the following Conditions of Approval for changes) The following is Finding #5.

Finding 5. the Commission hereby finds that the original Mitigation Measure 6 is undesirable as currently written in that a more precisely written Mitigation Measure will provide the same protection/mitigation while allowing consideration of areas which may be safe for construction, and the Commission further finds that the revised Mitigation Measure 6 is equivalent or more effective in mitigating significant effects on the environment to a less than significant level and will not cause any potentially significant effects on the environment.

Evidence: *Section 21080(f) of the 2009 CEQA Guideline states:*

(f) As a result of the public review process for a Mitigated Negative Declaration, including administrative decisions and public hearings, the lead agency may conclude that certain Mitigation Measures indentified pursuant to paragraph (2) of subdivision © are infeasible or otherwise undesirable. In those circumstances, the lead agency, prior to approving the project, may delete those Mitigation Measures and substitute for them other Mitigation Measures that the lead agency finds, after holding a public hearing on the matter, are equivalent or more effective in mitigating significant effects on the environment to a less than significant level and that do not cause any potentially significant effect on the environment. If those new Mitigation Measures are made conditions of project approval or are otherwise made part of the project approval, the deletion of the former measures and the substitution of the new Mitigation Measures shall not constitute an action or circumstance requiring recirculation of the Mitigated Negative Declaration.

Mitigation Measure 6 has been revised to state the following: The Parcel Map shall include a building envelope that is at least 50 feet from the Alquist-Priola Earthquake Fault Zone, as proposed on the Tentative Map. Any proposed building outside of the building envelope shall require a geotechnical study prior to issuance of a building permit.

There was discussion among the Commission regarding the earthquake zone and the complaint of motorcycle noise. The area of the earthquake zoned and the area of the motorcycle course was pointed out by AP Dolmage .

(DCC) Shirley Murphy questioned the justification for the findings change to Mitigation Measure #6. There was a discussion with Staff and appropriate justification was made. To follows is the justification: “To provide flexibility for applicant or future owners to build outside the building envelope while still providing protection for environmental hazards.

Chair Bettencourt then opened the public discussion.

Ann Hall – Engineer for Applicant - Ms. Hall stated that she requested the change to MM#6 because the code reads that building can be done outside the building envelope with a special geotechnical study. Ms. Hall then asked that the last two (2) sentences of condition #19 be removed. She asked how the is applicant going to meet this requirement.

There then ensued a discussion regarding annexation into CSA’s and road maintenance between the Commission and (PWE) Art Bliss. It was established that the word may was the key to this sentence and it would not be needed.

There being not further public comment the Public Hearing was closed by Chair Bettencourt.

Commissioner Machado asked if public works had any objection to change Condition #19.
(PWE) Art Bliss stated the public works has no objection to deleting the wording regarding CSA’s.
(DCC) Murphy stated that this is not required of minor subdivisions but required of TSM’s.

There being no further discussion, Commissioner Machado moved to Adopt the Mitigated Negative Declaratin, the Mitigation Monitoring and Reporting Program and approve Minor Subdivision No. 1220-08 based on the findings and subject to the Conditions of Approval contained in the staff report with changes to Conditions 6, 9, 14 & 27 and the addition of Finding #5. As per hand out and further elaborated by Staff and Counsel. With a second offered by Commssioner Culler, the motion carried with a 4-0 vote. Commissioner DeVries absent.

CONDITIONS OF APPROVAL

- 1. Hold Harmless:** Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the sub divider 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. Prior to recordation of the Parcel Map, the applicant shall sign a Hold Harmless Agreement. [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. [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 (\$2,043 – 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 *for fire and police protection*. All related processing fees, including State Equalization fees, must be submitted prior to recordation of the parcel 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. 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. [Planning]
- 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]

Public Works Conditions

- 13. Access Road (Airline Highway to Project Site):** Prior to recordation of the Parcel Map, the applicant shall deliver confirmation of the existence of provision for 30-foot ingress/egress (road) offered for dedication to the County from Highway 25 (Airline Highway). Please furnish Public Works with a copy of the deed.

14. Access Road (On Parcel 2): Prior to recordation of the Parcel Map, the applicant shall make the following irrevocable offers of dedication [§23.15.002 of the San Benito County Code]:

- Full 30-foot right-of-way for the proposed common driveway connecting from the easement as mentioned in #1 #13, extending up to Parcel 1, with a standard turnaround facility where the driveway terminates. [§23.29 and §23.31.023(D)(6)(b) of the San Benito County Code]

15. Roadway Improvements: Prior to recordation of the Parcel Map, the applicant shall bond for or make the following roadway improvements [§23.17 of the San Benito County Code]:

- Full 20-foot all-weather surface for the proposed driveway serving Parcel 1 and Parcel 2 with a standard turnaround facility (per Fire Marshal).

16. Roadway Improvements on Parcel Map: The Parcel Map shall include the following:

- The standard turnaround facility and 20-foot all-weather surface as described in #14 and #15.

17. Drainage and Erosion Control: As part of the submission of engineered improvement plans for this project, the applicant shall comply with County Drainage Standards and provide drainage and 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. Details and direction of flows of drainage swales and grades shall also be included. The outlet for the proposed pond shall also be reflected in the plan. All drainage improvements must be installed or bonded for prior to recordation of the parcel map. [§23.17.003(B) of the San Benito County Code] [Mitigation Measure 7]

18. Street Names: Prior to recordation of the Parcel Map, the applicant must submit a list of proposed street names for the unnamed common driveway to the County Planning and Communications Departments for road name approval. [§23.07.003(A)(1) of the San Benito County Code]

19. Road Maintenance: Prior to or concurrent with approval of a Parcel Map, the applicant shall prepare and establish a road maintenance agreement or form a Homeowner's Association, for the purposes of street sweeping and maintenance of road, drainage, and other improvements. ~~The applicant may also be responsible for the annexation into an existing County Service Area (CSA), or initiation of a new CSA, for the same purposes through LAFCO. The County Planning Department shall ensure that if a CSA is required, it is concurrently approved with the approval of the Parcel Map.~~ [§23.25.007 of the San Benito County Code]

20. Improvement Plans: Prior to the recordation of the Parcel Map or before release of an alternate bond, one set of "as built" improvement plans, on a suitable reproducible media (mylar or electronic – "dwg's") shall be prepared by the applicant's engineer and delivered to the Public Works Department. [§23.31.002(K)(1) of the San Benito County Code]

21. SBCWD New Service: New water service from San Benito County Water District should come directly off SBCWD's main or easement to be established covering service through Parcel 2 to Parcel 1.

Planning Conditions

22. 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 issuing of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan that shall indicate the location, type, and wattage of all proposed light fixtures and include catalog sheets for each fixture.” [Mitigation Measure 1]

23. Dust Control: A note shall be placed on the improvement plans for the proposed project stating the following actions to be incorporated into site improvements:

1. The applicant shall water graded areas and roadways as needed to control dust.
2. The applicant shall maintain the cleanliness of existing improved roads in the construction area.
3. All grading activities during periods of high wind (over 15 mph) are prohibited. [Mitigation Measure 2]

24. Biological Resources: Prior to any ground disturbance on Parcel 2, the applicant shall obtain a biological survey from a qualified biologist to determine the potential for California tiger salamanders and their breeding sites, as well as the potential for breeding habitat for the California red-legged frog and vernal pool branchiopods. The survey shall also investigate whether San Joaquin kit fox dens are present on the project site. The biological survey shall be provided to the US Fish & Wildlife Service and California Department of Fish & Game for their review and comment before any grading or building permits are issued. The applicant shall follow any measures recommended by these agencies to protect species during grading and construction. [Mitigation Measure 3]

25. Habitat Conservation Mitigation Fees: The applicant shall pay Habitat Conservation Mitigation fees to the County as a condition of the subdivision and again with the issuance of any building permits. These fees will help to fund a Habitat Conservation Plan for the kit fox, which will further protect and assist in the recovery of this species. [Mitigation Measure 4].

26. Archeological Resources: Any property owner, who, at any time in the preparation for or process of excavation or other ground disturbance, discovers any 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 and Planning Director of the discovery if human and/or questionable remains have been discovered.
4. Subject to the legal process, grant all duly authorized representatives of the Sheriff-Coroner and the Planning Director permission to enter onto the property and to take all actions consistent with Chapter 5B of the San Benito County Code and consistent with Section 7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code. [Mitigation Measure 5]

27. Earthquake Hazard: The Parcel Map shall include a building envelope that is at least 50 feet from the Alquist-Priolo Earthquake Fault Zone, as proposed on the Tentative Map. ~~No structures for human occupancy may be constructed outside of this building envelope.~~ Any proposed building outside of the building envelope shall require a geotechnical study prior to issuance of a building permit. [Mitigation Measure 6]

28. 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).

29. Sale Restriction: Concurrent with recordation of the Parcel Map, the project applicant shall file a deed restriction for Parcel 2 that prohibits sale of the parcel for a period of ten years from the date of recordation, except in the event that the family member named on the deed dies within this ten-year period. [§21.07.004(J)(2) of the San Benito County Code]

County Fire Conditions

30. Fire Code Compliance: The above mentioned project shall meet the standards set forth in the latest adopted editions of the California Fire Code, California Building Code, Ordinances 822 and 823 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.

31. 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 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 2007 UFC Division III, Appendix III-A-A-I, Table A-III-A-I. All new residential structures shall be equipped with NFPA 13D sprinkler systems. The property owner shall also comply with all requirements of the California Fire Code Public Resources Code 4290/4291, Ordinances 822 and 823 of the San Benito County Code and other related codes as they apply to a project of this type and size.” [County Fire]

32. Ingress/Egress: The applicant/owner shall ensure that there is adequate ingress and egress to any and all buildings. Roadways/driveways and 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.

33. 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.

34. Temporary Addressing: Prior to and during construction, temporary addressing shall be posted at the entrance to the project. It shall be plainly visible for emergency equipment.

35. Completions: Prior to obtaining a building permit for any construction, fire access and water supply both parcels shall be in place and operable.

36. 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 this Fire Department. Contact Fire Prevention at 831-636-2080 to make this request.

San Benito County Department of Agriculture Conditions

37. Mosquito Control: Prior to recordation of the Parcel Map, the applicant/owner 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 and Planning]

Sunnyslope Water District Conditions

- 38. SSWD Annexation:** Prior to recordation of the Parcel Map, the applicant shall obtain approval from LAFCO for the annexation of the project site into the Sunnyslope Water District, for water for domestic and fire-suppression purposes.

San Benito County Water District Conditions

39. San Felipe Water Authorized Uses: Utilization of San Felipe water for domestic and/or commercial use is not permitted; however, use of San Felipe Water for landscaping may be allowed with agreement of SBCWD. Unauthorized connection to San Felipe Water for domestic consumption (drinking, cooking, bathing, and oral hygiene) will result in discontinuation of service.

40. San Felipe Water Required: Each subdivided parcel of five acres or more, formed from a parcel served by San Felipe Water, is required to be provided with San Felipe Water service. The property owner is required to work in cooperation with the SBCWD to meet any requirements for extension and/or modification of San Felipe infrastructure bearing all associated costs.

41. Construction Impacts: The applicant shall be required to work in cooperation with the San Benito County Water District to ensure that, prior to start of work, the District's facilities are accurately located and any potential impacts from construction activities are minimized.

7. **USE PERMIT 993-08:** APPLICANT: Buffalo Gypsum, Inc. LOCATION: 3118 Coalinga Rd, Paicines (APN-029-140-010). REQUEST: Applicant is requesting to mine agricultural limestone. ZONING: Agricultural Rangeland (AR). ENVIRONMENTAL EVALUATION: Mitigation Negative Declaration.

Planner: *Lissette Knight* (lknight@planning.co.san-benito.ca.us)

(AP) Lissette Knight requested continuance of this project for public hearing until the July 1, 2009 meeting. (AP) Knight stated that due to SMARA code # 2774(D)2 their agency must be notified 30 days in advance of any public hearing. Staff will report back at the June 17, 2009 meeting on the progress of this project and a public hearing will be held on July 1, 2009.

Commissioner Bettencourt then opened the public hearing. There being none Commissioner Bettencourt then closed the public hearing.

Commissioner Scattini then moved to continue Use Permit 993-08 to the July 1, 2009 Planning Commission meeting with an update at the June 17, 2009 Planning Commission meeting. With a second by Commissioner Culler the motion carried with a 4-0 vote. Commissioner DeVries absent.

8. **ZONE CHANGE NO. 08-166, GENERAL PLAN AMENDMENT NO. 08-38:**

APPLICANT: Darin Del Curto. LOCATION: 2200 Santa Ana Valley Rd, Hollister (APN-025-090-061). REQUEST: Applicant is requesting a Zone Change and General Plan Amendment to change to land use designation from Agricultural Rangeland (AR) to Agricultural Productive (AP). ZONING: Agricultural Rangeland (AR). ENVIRONMENTAL EVALUATION: Mitigation Negative Declaration.

Planner: *Lisette Knight* (lknight@planning.co.san-benito.ca.us)

(AP) Lisette Knight presented the staff report and power point presentation.

Project Description: The applicant is requesting a Zone Change and General Plan Amendment to change the existing land use and zoning (Agricultural Rangeland – AR to Agricultural Productive – AP). No project is associated with these applications. However, these applications will raise the density on this property from a 40 acre minimum to a 5 acre minimum, which could result in a future land division. Any future development of the site has the potential to require the following approvals: Preliminary Allocation, Minor/Major Subdivision application, and Use Permit approval for Senior Seconds or other conditional uses. A Preliminary Allocation, Subdivision application and some Use Permit applications would require approval by the Planning Commission and potentially the Board of Supervisors.

(AP) Knight asked that Condition #3 be omitted from the Conditions of Approval and the Resolution as this is not a feasible condition. (See changes in the attached Conditions of Approval)

(DCC) Shirely Murphy made some minor changes to the Resolution 2009-05.

After a brief discussion among the Commission, Chair Bettencourt opened the public hearing.

Ann Hall – Engineer for applicant - Ms. Hall had no comments but was available for questions. There were no questions for Ms. Hall.

There being no further public discussion, Chair Bettencourt closed the public hearing.

Commissioner Machado stated his concern regarding changing the density in this area. If the change goes any further they are changing the purpose of the AR zoning. We need to indentify a line to which we move no further.

There being no further discussion, Commissioner Culler moved to Adopt the Mitigated Negative Declaration, the Mitigation Monitoring and Reporting Program, and the attached Resolution No. 2009-05 recommending approval of Zone Change No. 08-166 & General Plan Amendment No. 08-38, based on the findings and condition of approval contained in this staff report and Resolution No. 2009-05 with changes to Conditions of Approval and Resolution as stated by Staff and County Counsel. With a second by Commissioner Scattini the motion carried with 4-0 vote. Commissioner DeVries absent.

(DoP) Henriques advised that the Board hearing on this recommendation from the Commission will be scheduled and notice will be provided in the newspaper in a few weeks.

CONDITIONS OF APPROVAL

1. **Hold Harmless:** Upon written notice by the County, the permittee shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this Zone Change and General Plan Amendment and any applicable proceedings. San Benito County reserves the right to prepare its own defense. [Planning]
2. **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 Zone Change Resolution. Department of Fish and Game fee (\$2,043– 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]
- ~~3. **Conditions of Approval, Easements, and Restrictions:** The applicant shall record a Declaration of Deed Restrictions against the property indicating that a hold shall be placed on this parcel, restricting development until all unmet conditions of approval, Mitigation Measures, easements, and restrictions are completed [Planning]~~
4. **Habitat Conservation Plan Impact Fees:** The applicant/owner shall pay their portion of the Habitat fee as stated in San Benito County Ordinance 541. The total sum of the Habitat Conservation fee will be \$600. [Planning, Department of Fish and Game] [Mitigation Measure #1]

Planning Conditions:

5. **Mitigation Monitoring:** Prior to final approval, the applicant/owner, County Counsel and the Planning Director shall agree to and sign the Mitigation Monitoring Program form(s).
6. **Cultural Resources:** Any property owner who, at anytime in the preparation for or process of excavation or otherwise disturbing the ground, discovers any human remains of any age, or any significant artifact or other evidence of an archeological site shall:
 - a. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
 - b. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of not less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals.
 - c. Notify the sheriff-coroner of the discovery if human and/or questionable remains have been discovered. The Planning Department Director shall also be notified.
 - 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] [Mitigation Measure #2]

7. **Future Permits:** The applicant(s)/Owner(s), at the time of development would have to apply for a grading permit application (if grading exceeds 50 cubic yards), a use permit (if the items are listed as a condition use within the zoning restrictions) or any other planning/building related application as they apply to the specific project request. These planning/building applications shall be required to evaluate the air quality impacts to the specific proposed project(s) and how to mitigate for these potential impacts. Future development would also require the full compliance to the California Fire Code and Policy 37 of the General Plan's Open Space and Conservation Element. This shall be further evaluated through the CEQA review process. [Planning]

Chair Bettencourt then called a five minute recess at 7:30 p.m.

Chair Bettencourt called the meeting to order at 7:37 p.m.

DISCUSSION

9. **Review of Use Permit No. 789-99A – Leal Vineyards**

Discussion and commission direction for setting of public hearing to review use permit

PLANNER: *Byron Turner* (bturner@planning.co.san-benito.ca.us)

(ADoP) Turner gave a brief overview of this Use Permit. (ADoP) Turner then stated that since this report was written Leal Vineyards has submitted building plans and a amended Use Permit. The building permit, lighting plans and amended application should address all the violations of the Conditions of Approval.

(DCC) Shirely Murphy cautioned the Commission and Staff against getting into details until the application is brought before the Planning Commission.

Chair Bettencourt opened the public hearing.

Matt Kelley – Engineer for applicant - According to the 2004 amended Conditions of Approval Leal Vineyards received permission for wine tasting, public gatherings and special events. The approval contained several conditions that have not yet been complied with. In addition to the non-compliance, improvements were made to the site without benefit of permits. Mr. Leal has hired Mr. Kelley to assist with the compliance issues as well as assist with the building permit process. There approach to resolve these issues will be completed in three steps.

1. Engage the County departments that have outstanding compliance issues. Mainly Environmental Health, Planning and County Fire.
2. Make applicatin with the County for all unpermitted construction.

3. Make application to the County to amend the use permit to include an updated site plan, to change the status of the on-site tent from temporary to permanent, to change the barrel room occupancy from F-2 to F-2 and A-2 to allow public and private assembly, to accept the project signage located at the corner of Maranatha and Fairview and to remove two of the conditions from the previous approval. As of this date they have opened dialog with Environmental Health and County Fire and are making progress towards satisfying the compliance with those departments. They have submitted a lighting plan in accordance with Condition 16A and have also made application with the County for all unpermitted construction.

Mr. Kelley would recommend (1) Temporary Use Permit to allow for continued operations with the understanding the project is subject under review and subject to further approval by Planning Commission and (2) that this discussion item be revisited by the Commission in three months to receive a progress report by both parties.

Commissioner Scattini asked it was currently in operation. Mr. Kelley answered in the affirmative. Mr. Kelley stated that Leal has wedding schedule for the next two years and after discussions with Staff, the County does not want to put Mr. Leal out of business.

Commissioner Machado stated that this was approved five years ago and the conditions have not yet been met. The Commission has pressure from public and other applicants want to know why they cannot have the same treatment.

Dave Jones – Acting Fire Marshal - Mr. Jones indicated that fire has a problem with the assembly area and public parties. These exceed capacity and there are not adequate exits. The tent is not a problem as it is of sturdy construction. Mr. Jones indicated that possibly some of the adjoining buildings would need to be sprinklered.

There being no further public discussion, Commissioner Bettencourt closed the public hearing.

The Commission then had a discussion regarding coming back in 3 months being adequate. (ADoP)Turner explained to the Commission that a Use Permit take some time to complete. He could not say how long it would take because there is circulation of the project, CEQA time lines as well as public hearing notices. (ADoP) Turner stated that Staff would be open to a Temporary Use Permit and would work with Leal's engineer to begin the process.

After further discussion it was recommended that Staff come back in one month with a progress report and a decision would then be made to timing for the next report. (ADoP) Turner explained to the Commission that these discussions need not be subject to public notice.

(DoP) Henriques suggested that Staff could review what has been submitted and give the Commission an update. The Commission asked that a status report be given at the June 17, 2009 meeting after which they could establish a time frame for further updates.

10. Inclusionary Housing Ordinance – Update report

PLANNER: *Byron Turner* (bturner@planning.co.san-benito.ca.us)

(ADoP) Turner presented a report on the update of the Inclusionary Housing Ordinance. What you have before you is the intended final draft to be presented to the Board of Supervisors. Staff has come across a couple of items that need to be changed. The next step will be to do the necessary environmental work. Staff is still looking at the exemption versus initial study. Asked the Commission if they wished to make any comments on this final draft.

After a discussion among the Commission regarding the inclusionary fees, whether the element is mandated by the State and the consequences of a deficient element Chair Bettencourt opened the public hearing.

Al Guerra - Mr. Guerra wanted to encourage the Commission to continue the way you are going and be aware that things change daily. Mr. Guerra would like to know if there are other counties below the 20% required. Could we not go to 15% and change it in a few years. We should be trying to go for flexibility and get down as low as we can. Also thinks that our Counties median prices right now are below the level of inclusionary housing. Also asked if the number you are required to pay for in-lieu fee is around \$16,000 and if you give land it drops to \$2800 the numbers do not seem to add up.

(ADoP) Turner responded to this question stating the Staff would confirm the numbers before circulation and be sure they are accurate and consistent with the current climate as well as clarify how much land is required.

Chair Bettencourt asked if this has to go to the Board. (ADoP) Turner answered in the affirmative. Chair Bettencourt then asked if the Commission could recommend lowering the percentage to 15%. (ADoP) Turner stated that the Commission could recommend this, however, they were instructed by the Board to reduce the requirement from 30% to 20% , add flexibility to the types of housing and the location of housing that may be considered and change the in-lieu fee calculation. (ADoP) stated that they will be going thru the Commission on the way to the Board and they would have the opportunity to make changes at that time.

Paul Rovella - Wanted to respond to a couple of the questions. He believes that the City of Salinas has a sliding scale for inclusionary housing. Some are suspending their urban housing ordinance temporarily because it does not make since at this point in time. Pretty much every house on the market can be defined as affordable and those are unrestricted units, so why buy a resale restricted unit for the same price or more.

Vedana Freitas – Just wanted to underscore what Paul Rovella was saying. Our median price today is \$250,000 so of the 318 homes that have closed year to date, half of those are under \$250,000. Many closing at \$225,000 and under. \$250,000 being our median price not our average. Our average is \$275,000 which is closer to median. Average and median are getting closer. As you know averages can be skewed if there is one house that has a huge sale. State wide the median price is \$435,000 but in our County it is \$250,000 for an average three bedroom, two bath 1650 Sq. Ft. home. Also, keep in mind that the lending environment and the FHA loans are available for 3.5% down, so \$7500 gets a buyer into a home and that \$7500 can be gifted. So we have plenty of housing available. To put things in prespective our highest closing quarter was the end of 2005 and first quarter of 2006 our median price was \$634,000. So our median price today is fourth quarter 1998, first quarter 1999. A virtual 10 year role back

C J Valenzuela - Housing Programs Coordinator - The average median price was actually \$238,000 the last time he checked. The unrestricted housing that are in a saleable condition and would pass FHA inspections are definiately affordable to moderate income and with down payment assistance to a low income. The Inclusionary Housing element needs to be more flexible. He is glad to see this happening. The County is looking at down payment assistance. HUD just approved the first time tax

credit of \$8000 that \$6750 of this can be used for down payment or cover closing costs. The County and City are working on Stabilization program to bring homes up to standards that will pass an appraisal inspection and be sold to moderate and low income buyers. They are also working on foreclosure workshops to help some of the at risk homeowners to keep their homes.

Chair Bettencourt closed the public hearing.

11. Housing Element – Update report

PLANNER: *Art Henriques* (ahenriques@planning.co.san-benito.ca.us)

(DoP) Henriques introduced this discussion and then turned it over to C J Valenzuela, Housing Programs Coordinator for San Benito County.

C J Valenzuela gave a quick update. Staff has gotten some initial feed back from initial stack holders such our General Plan Consultant and our Housing Element Consultant Denise Duffy and Associates along with the City of Hollister on our initial preliminary draft. As you know we have a pretty tightly package up front draft. There are some recommendations and comments that we have received back from our General Plan Consultant who have a very good idea of what HCD is going to be looking for. We will make some small revisions based on comments from various stakeholders and then bring this back to Planning Commission one more time before taking it to the Board and presenting it to HCD.

Chair Bettencourt asked in the last housing element we had to add property for high density which had to be attached to public sewer and water. Do we have to that again.

C J stated that this is one question that has been posed to HCD. Can we use the land rezoned for the last housing element that has not been developed for this housing element or do we need to create a another envelope of land to satisfy the current numbers for this housing element.

Elizabeth Guzman – Denise Duffy & Associates - One part of General Plan that is reviewed by the State because there is such need for affordable housing in every city and county in California due to this recession. As C J commented they are addressing some of the comments and recommendation from the stakeholders. What they are trying to do is set the table to show the County has the capacity for residential development. She would welcome in comments from the Commission.

Commissioner Scattini asked if this will be coming back. (DoP) Henriques suggested because Staff would be doing some editing they could bring it back either in two week or four weeks for further comment. We will place hold for next meeting. If not ready we will bring it back in July.

Sally Bettencourt – Yes, she read the whole book. She wants to compliment the staff for a great job. One of her questions is regarding the amount of money that comes back from the State is around \$500,000? In research this, a large amount of this goes to the labor camp improvements. According to the agriculture visas the farmers are required to provide housing. Is there revenue coming in from the farming community? C J Valenzuela stated that to answer the first question,

the County gets approximately \$500,000 every year for having a certified Housing Element. Predominately that grant money comes in the form of community development block grants and community service block grants to fund or subsidize public services. The farm worker revenue is from Office of Migrant Services that is supplying funds for a remodel of an additional bunk house at the farm labor camp and to expand the camp. He does not know of any other source of income other than the funds from the State and the Office of Migrant Services. He will research this for her.

Chair Bettencourt closed public hearing.

(DoP) Henriques then touched on a few things that will include in the updated draft: Environmental constraints, infrastructure, site capacity, ? densities, target income levels, Counties process of permit procedures, emergency shelter and transitional housing, rental rates and regulation for second units.

INFORMATIONAL – NON-ACTION ITEM

Chair Bettencourt asked if we should agendaize the potential of not having a second meeting. This was discussed at past meeting with the idea that it would be tried for a few months then agendaize it for further discussion. After some discussion among the Commission it was recommended put this item on the July 1, 2009 agenda as a discussion item.

Chair Bettencourt then suggested that the chair should have input on the agenda. (DoP) Henriques stated that in the Commission's rules of order the Chair has the prerogative to come in ahead of the agendas going to see what is on the public hearing, etc.

ADJOURNMENT

There being no further Informational or Non-Action Items, Chair Bettencourt asked for a motion of adjournment. Commissioner Scattini moved for adjournment. Commissioner Machado offered a second to the motion which carried with a vote of 4-0. Commissioner DeVries absent. Adjournment to June 17, 2009 at 8:02 p.m.

Minutes prepared by:
Janet Somavia
Planning Commission Clerk

Attest:
Art Henriques
Director Planning