

# **SAN BENITO COUNTY PLANNING COMMISSION**

## **June 17, 2009**

### **MINUTES**

PRESENT: Bettencourt, Culler, Machado, Scattini

ABSENT: DeVries

STAFF: Assistant Director of Planning (ADoP) Byron Turner; Associate Planner (AP) Lissette Knight; Acting County Counsel (ACC) Barbara Thompson and Clerk Trish Maderis.

Chair Bettencourt called the regular meeting of the San Benito County Planning Commission to order at 6:01 PM as he led the pledge of allegiance to the flag. Clerk Maderis noted Commissioner DeVries absent.

#### ***STAFF REPORT***

ADOP Turner reported the following information:

- Preliminary Allocation application forms available at both the Planning Office and on the County's website. Also noted the application period is from July 1, to September 1, 2009.
- There will be no Public Hearing items on July 1 and should be a short meeting

Chair Bettencourt acknowledged and welcomed the Boy Scouts attending the meeting.

#### ***PUBLIC COMMENT***

Chair Bettencourt opened and closed the opportunity for public comment as no persons wished to address the Commission on items not appearing on the Agenda.

#### ***CONSENT AGENDA***

1. Acknowledge Certificate of Posting
2. Minutes of June 3, 2009

Commissioner Machado moved to approve Consent Agenda Items 1 and 2 Commissioner Scattini offered a second to the motion which passed 4-0-1; Commissioner DeVries was absent.

## **PRESENTATION**

### **3. Draft Bikeway and Pedestrian Master Plan**

Veronica Lezama, Transportation Planner, San Benito County Council of Governments

Veronica Lezama presented her staff report aided by power point slides. Ms. Lezama explained the Draft Bikeway & Pedestrian Master Plan to the Commission advising the draft plan comment period ends on July 10, 2009 and COG welcomes comments and suggestions from the Commission.

Commissioners Machado commented on the circulation problems within the City and County for bike lanes. Special concern was given for connecting bicyclists from/to Meridian Street to Fairview Road.

Commissioner Scattini acknowledged that bicyclist create safety problems and need to better obey the rules of the road.

Ms. Lezama stated the presented report was also available on the COG website at [www.sanbenitocog.org](http://www.sanbenitocog.org)

## **CONTINUED ~ PUBLIC HEARING**

- 4. ZONE CHANGE NO. 06-148, GENERAL PLAN AMENDMENT NO. 09-40 & M-DISTRICT REVIEW NO. 82-06** REQUEST: Applicant is requesting a Zone Change and General Plan Amendment from Agricultural Productive (AP) to Heavy Industrial (M-2). Applicant is also proposing an M-District Review to address that the property will continue to be used for manufacturing. APPLICANT/OWNER: Ruben Rodriguez LOCATION: 2321 Fallon Road, Hollister (APN 017-090-011) ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration. *(continued from 5-6-09)*  
**PLANNER: Lissette Knight ([lknight@planning.co.san-benito.ca.us](mailto:lknight@planning.co.san-benito.ca.us))**

AP Knight presented her staff report aided by power point slides. AP explained the project providing the history and prior uses on the subject property. AP Knight also provided handouts to the Commission and public including color maps, corrected numbering on proposed conditions of approval and amendments to Resolution No. 2009-03.

AP Knight advised the Commission the environmental document circulation date was from May 15, to June 15, 2009 and comments were received from Sam Lomanto (Sr.) who had concerns of the dirt placed on the property by the previous owners, flooding and clean up of the property. AP Knight advised that flooding in the area was not a direct result of this parcel and the cleanup was the responsibility of the current property owners.

AP Knight explained the changes to the numbering of the Conditions of Approval noting Condition 23 would change Finding 15 containing the language for signage to be placed at the exit of the property and also on Fallon Road facing the exit of the property prohibiting right hand turns when exiting.

Commissioner Culler asked if the right turn condition could be limited to truck traffic only. ACC Thompson concluded it would make sense to limit the restriction to only truck traffic. Commissioner Culler also asked if Condition No. 10 was reasonable. AP Knight advised Condition No. 10 was intended to reduce visual impacts, was required in zoning conditions, and would keep the location clean.

Commissioner Scattini confirmed that a fencing and landscaping plan were also required. AP Knight advised a landscaping plan was included in the Conditions of Approval.

Chair Bettencourt then opened the Public Hearing.

Anne Hall, San Benito Engineering requested re-numbered Condition No. 27 be deferred as was agreed upon with Public Works. Commissioner Machado stated without Public Works staff present he would like confirmation. AP Knight advised that the deferment of road improvements to both Fallon Road and Fairview Road was the opinion and intention of Public Works based on conversations and email correspondence.

Ruben Rodriguez, applicant addressed the Commission advising he has been cleaning up the property and has been working with the direct neighbors to the east on installing a slat fence. Mr. Rodriguez requested Condition No. 10 be reviewed, that it was not always possible to store materials indoors immediately.

Chair Bettencourt called Sam Lomanto Sr. to the podium and asked Mr. Lomanto about the dirt on the property. Mr. Lomanto advised the dirt was brought onto the property by the previous owner and wanted to know about the intended operations on the property.

After some discussion, Chair Bettencourt closed the Public Hearing.

ADOP Turner advised the Commission new findings for deferment would have to be made should Condition No. 27 be amended. ACC Thompson read into the record language for consideration of the amended Condition.

Commissioner Machado moved to defer Condition No. 27 (improvements to Fallon Road), the motion was seconded by Commissioner Scattini and passed 4-0-1; Commissioner DeVries was absent.

ACC Thompson suggested to Chair Bettencourt to reopen the Public Hearing for comments on the amendments to the Conditions of Approval. Chair Bettencourt opened and closed the Public Hearing as no one had any comments on the amendments.

Chair Bettencourt then moved to adopted the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, approval of Resolution No. 2009-03 recommending approval of Zone Change No. 06-148 and General Plan Amendment No. 09-40 based on findings and conditions of approval as amended and amended Resolution No. 2009-03. Commissioner Scattini offered a second to the motion with passed with a vote of 3-1-1, Commissioner Machado voted No and Commissioner DeVries was absent.

Chair Bettencourt called for a break at 7:46 PM. The regular meeting was called by to order at 7:56 PM by Chair Bettencourt.

## **FINDINGS & CONDITIONS OF APPROVAL:**

### **Zone Change Findings**

**Finding 1:** That the approval of the zone change petition will serve the public necessity, convenience, and general welfare; and is good zoning practice.

**Evidence:** *The Zone Change has the potential to provide for further industrial uses. These industrial sites are highly limited within the unincorporated County and serve a valuable need to the community as well as provide for jobs. The project site has been historically used for Agricultural Industrial uses, which is not a current Zoning or General Plan designation by the County but has been considered to be an industrial use. The property is also served by a collector road, the majority of the land is listed as Urban and Built-up Land by the Farmland Mapping and Monitoring Program, is not remote or isolated, is not substantially constrained/environmentally sensitive, and is in close proximity to utility services. Any future project(s) on this parcel that result in significant retrofitting and/or new construction will be further analyzed through future planning applications and will be mitigated to the extent feasible for the project-related environmental impacts. The potential development review shall also ensure the general welfare, health and safety of the San Benito County residents through appropriate project design, infrastructure and payment of any impact fees.*

**Finding 2:** The conditions for this Zone Change recommended to be imposed must be imposed so as not to create problems inimical to the public health, safety and general welfare of the County.

**Evidence:** *The Planning Commission has based the recommended conditions after consideration of the staff report and the Mitigated Negative Declaration, and finds each condition to be necessary.*

### **Finding 3:**

This zone change is consistent with the general plan and any applicable special plan.

**Evidence:** *The applicant is processing a General Plan Amendment concurrently with the requested Zone Change so that the Zone Change is consistent with the General Plan Designation for the property.*

## **General Plan Finding**

**Finding 1:** That the approval of the General Plan Amendment is deemed to be in the public's interest.

**Evidence:** *The General Plan Amendment will not substantially increase the population and would better harmonize the properties historical use. Further, given current site conditions, the property better reflects the Industrial Land Use Designation as described in the General Plan's Land Use Element. Namely, the property is served by a collector road, is considered Urban and Built-up Land, is not remote or isolated, is not substantially constrained/environmentally sensitive, and is in close proximity to utility services. The rezone would conform to all General Plan Policies and it will allow for planning design that is consistent with current General Plan Policies. This project will not result in future proposals for General Plan Amendments because it is the only parcel in the area (along Fallon Road) that is has been used as an industrial site. This General Plan Amendment will complete the need for further adjustments in this area.*

## **CEQA Findings**

**Finding 1:** That the Initial Study/Mitigated Negative Declaration for ZC 06-148 & GPA 09-40 has been prepared in compliance with the provisions of the California Environmental Quality Act, the State CEQA Guidelines and the San Benito County Implementing Procedures for the California Environmental Quality Act.

**Evidence:** *The relevant documents used in the preparation of the Initial Study and Mitigated Negative Declaration are filed in the project record located at the San Benito County Planning Department in file numbers ZC 06-148 and GPA 09-40. Public review of the Initial Study was conducted from May 15, 2009 to June 15, 2009. The Notice of Availability of the Mitigated Negative Declaration was mailed to interested parties and to property owners within 300 feet of the project site and posted at two public locations in the County (the Planning and Building Department and the Records office). Comments were received as a result of the Initial Study Circulation. These comments resulted in no changes in the existing Mitigation Measures.*

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

**Evidence:** *The Planning Commission has considered all evidence, including any written and verbal responses from the public hearing on June 17, 2009 regarding this project.*

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

**Evidence:** *The San Benito County Planning Department prepared the Initial Study/Mitigated Negative Declaration. The Planning Commission considered and reviewed the Initial Study/Mitigated Negative Declaration and considered public comments and supplemental information prior to action on the Mitigated Negative Declaration.*

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

**Evidence:** *After consideration of the Initial Study/Mitigated Negative Declaration, the Planning Commission has found that the project as proposed, with the adoption of the Mitigation Measures and conditions of approval, would not have a significant effect on the environment.*

**Finding 5:** The Commission hereby finds that the original Mitigation Measure 18 is undesirable as currently written in that a more precisely written Mitigation Measure will provide the same protection/mitigation in that the mitigation measure should of said no right turn instead of no left turn; and the Commission further finds that the revised Mitigation Measure 18 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 Guidelines 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 identified pursuant to paragraph (2) of subdivision (c) 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 18 has been revised to change the no left turn restriction to a no right turn restriction. Staff discovered that the intention of the redline documents provided by Public Works Staff was intended to have the applicants only turn left when leaving the property in order to ensure that impacts off Fairview are made as intended in the CEQA evaluation.*

*Mitigation Measure 18 has been revised to state the following: In order to increase safety measures “No Right Turn” signs shall be placed at two locations:*

- a. Within the subject property at the proposed upgraded driveway exit (R42); and*
- b. On the far site of Fallon Road in the line site of drivers leaving the project site (R16).*

**Finding 6:** The Commission hereby finds that the original Mitigation Measure 22 is undesirable as currently written in that a more precisely written Mitigation Measure will provide the same protection/mitigation in that the mitigation measure will ensure that improvement are made when needed as determined by the Public Works Department and will not cause any additional safety issues at the present time; and the Commission further finds that the revised Mitigation Measure 22 is equivalent or more effective and is the same in mitigating the significant effect on the environment to a less than significant level and will not cause any potential significant effects on the environment.

**Evidence:** Section 21080(f) of the 2009 CEQA Guidelines 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 identified pursuant to paragraph (2) of subdivision (c) 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 22 has been revised to state that prior to operation of the business onsite, the applicant shall either make half improvements to rural standards or enter into a deferred improvement agreement, whichever the Public Works Department deems necessary. Staff discovered that Public Works Staff was intended to have the applicants enter into a deferred improvement agreement until such a time that Fallon Road is widened or that it is deemed safe by the Public Works Department to construct the frontage improvements.*

*Mitigation Measure 22 has been revised to state the following: Prior to operation of any business onsite the owner shall either make half improvements to rural standards or enter into a deferred improvement agreement, whichever the Public Works Department deems necessary for half-road improvements (to rural standards), along the property frontage of Fallon Road (1/2-width of 56 feet AC on 66 feet AB to rural standard).*

### **Standard Conditions:**

- 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. **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]
4. **Compliance Documentation:** 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]
5. **Habitat Conservation Plan Impact Fees:** Prior to the operation of any business onsite 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 \$300. [Planning, Department of Fish and Game] [Mitigation Measure #8]

**Planning Conditions:**

6. **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).
7. **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 #9]

- 8. 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 M-District Review (if 50% of a existing building is being retrofitted/remodeled, new construction occurs, if the daily trip ends exceed 50, and if the resulted operation increases emissions beyond the recommended CEQA guidelines set by the Monterey Bay Unified Air Pollution Control District, or if the proposed use changes) 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]
- 9. Landscaping Plan:** As a part of the improvement plans for this project. A landscaping plan shall be submitted for review and approval by the Planning and Public Works Departments. The landscaping plan shall provide a screening/buffer between the industrial property and its neighboring land uses. After implementation of the approved landscaping plan the plants shall be maintained in a neat and attractive condition. Drought tolerant and Native Plants and trees shall be used within the landscaping plan. [Mitigation Measure #1]
- 10. Storage:** Storage of raw, in-process or finished materials and supplies and of waste materials shall be maintained at all times in an enclosed building or a solid fenced area so that such materials, supplies or waste material is not visible. [Mitigation Measure #2]
- 11. Exterior Lighting:** All exterior lighting for new development shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. All fixtures shall comply with County Ordinance 748 (along with the requirements of Zone II regulations set within Ordinance 748). Prior to the issuance of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan which shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture. [Mitigation Measure #3]
- 12. Noise Abatement:** Prior to operation on site, the owner shall submit a noise abatement plan that will demonstrate noise reduction techniques that will take place to ensure that the surrounding areas are not impacted. [Mitigation Measure #13]
- 13. Noise Level:** Pursuant to County Code 25.37.035, noise levels at the edge of the property shall not exceed 70 decibels for LEG one hour average. [Mitigation Measure #16] To the extent that the County Code is subsequently modified or eliminated, this shall remain as a condition of approval.
- 14. Sign Ordinance:** Prior to operation of the metal fabrication business, the owner/applicant shall comply with the County's Sign Ordinance. [Planning]

- 15. Hours of Operation:** The hours of operation for the metal fabrication business shall be as follows:
- a. 7am to 7pm Monday through Friday only; and
  - b. The business shall not be operated on Saturdays and Sundays or Federal holidays. [Planning]

**Public Works Conditions:**

- 16. Air Quality:** The following note to be included on improvement plans and all construction/grading plans in order to minimize particulate emissions: “The contractor shall require water trucks to operate in conjunction with grading equipment and the 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 #4]
- 17. Grading Regulations:** A note shall be included on improvement and construction/grading plans that involve site grading and/or improvements prohibiting all grading activities during periods when winds are over 15 miles per hour. [Mitigation Measure #5]
- 18. Hauling:** A note shall be placed on improvement and construction/grading plans requiring all trucks hauling (in or out) dirt, sand or loose materials to be covered. [Mitigation Measure #6]
- 19. Machinery Operations:** A note shall be placed on the improvement and 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 admissions 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 Resources 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 filters. [Mitigation Measure #7]
- 20. Graphics Safety Warnings:** Prior to operation of any business onsite a series of visual (graphic) warnings are to be placed on the southern side of Fallon road toward the end of the required frontage improvements. These (3-W81) directional blades shall be mounted on separate poles (rather than a barricade) in a manner to direct easterly traveling vehicles back into the single lane configuration if they may have “strayed” into the extreme right edge of the paved surface. The 3 W81 directional blades are to be 18 X 24 feet and placed as described by the Public Works Department and shall be shown on all Improvement Plans. [Mitigation Measure #19]
- 21. Idling:** A sign shall be installed on site that states: “No Idling on site” this will reduce the noise impacts for the surrounding properties. [Mitigation Measure #14]

- 22. Idling Restrictions:** A sign shall be installed on site that states: “No Idling on site” this will reduce the noise impacts for the surrounding properties from trucks accessing the site. [Mitigation Measure #15] The Applicant shall be responsible for enforcing idling restrictions on the premises.
- 23. Signage:** In order to increase safety measures “No Right Turn” signs shall be placed at two locations:
- Within the subject property at the proposed upgraded driveway exit (R42); and
  - On the far site of Fallon Road in the line site of drivers leaving the project site (R16). [Mitigation Measure #18]
- 24. Large Vehicle Traffic Circulation:** Prior to operation of any business onsite the following materials shall be submitted for further review:
- The owner shall conduct a study showing large-vehicle traffic circulation related to this project, as well as provide information showing whether or not said vehicles are capable of making the appropriate turning movements for such in a “safe” manner. The owner shall use the California Department of Transportation templates for vehicle turning movements for this or an equivalent alternative. As a result and as a part of the engineered improvements plans for this project, the owner shall improve all inadequate roadway geometrics called out from the circulation/geometry study. [Mitigation Measure #17]
- 25. Dedication:** Prior to operation of any business onsite the owner shall make the following offers of dedication to San Benito County for Road right-of-way fronting:
- Fairview Road (half of 110 feet right-of-way);
  - Fallon Road (half of 84 feet right-of-way) [Mitigation Measure #20]
- 26. Improvements:** Prior to operation of any business onsite the owner shall enter into a deferred improvement agreement for roadway frontage improvements for Fairview Road (i.e. ½ width of 94 feet AC on 96 feet roadbed to a rural standard) [Mitigation Measure #21]
- 27. Road Improvements:** Prior to operation of any business onsite the owner shall **either make half improvements to rural standards or enter into a deferred improvement agreement, whichever the Public Works Department deems necessary** for half-road improvements (to rural standards), along the property frontage of Fallon Road (1/2-width of 56 feet AC on 66 feet AB to rural standard). [Mitigation Measure #22]
- 28. Encroachment Permit:** Prior to any work being performed within the County road right-of-ways, the owner/applicant shall obtain the proper County Encroachment Permit. [Public Works]
- 29. Drainage:** The applicant shall maintain all drainage onsite. [Planning, Public Works]

### **San Benito County Water District Conditions:**

- 30. Blue Valve:** Utilization of San Felipe (Blue Valve) Water for domestic and/or commercial-industrial uses is not permitted on this site. [Mitigation Measure #23]
- 31. Water Conservation:** **The irrigation and landscaping plan shall demonstrate compliance with the County's Water Conservation Ordinance.** [Mitigation Measure #24]
- 32. Water Treatment:** The use of water treatment/water softening equipment with on-site regeneration shall not be permitted onsite. [Mitigation Measure #25]

### **Environmental Health Conditions:**

- 33. Sewage Disposal Repair:** Prior to placing the inactive, stand-alone restroom back into operation, the exact location of the sewage disposal system serving the restroom shall be identified. If any part of the system is within 100 feet of the adjacent water well, the property owner shall obtain a sewage disposal repair permit from the Division of Environmental Health to relocate the system. [Mitigation Measure #10] [Environmental Health]
- 34. Hazardous Materials Plan:** Should any hazardous materials be used onsite the property owner shall submit a hazardous materials plan to the Department of Environmental Health for review and approval. [Mitigation Measure #11] [Planning]
- 35. Safety Plan:** Should any hazardous materials be used onsite, the property owner shall provide a safety plan. This safety plan shall be approved by County Fire, the County Sheriff, Planning and Environmental Health prior to operation of the approved business. All odor creating activities will occur indoors with the use of a ventilation system. [Mitigation Measure #12]

### **County Fire Conditions:**

- 36. Fire:** Prior to operation of any business onsite the project shall meet the standards set forth in the latest adopted editions of the 2007 California Fire Code, 2007 California Building Code, related County Ordinances, Chapter 23.27 of the San Benito County Code, and any other related State and Federal codes as they apply to a project of this type and size.
- 37. Water System:** The water system shall be capable of producing the required GPM for 120 minutes at the hydrants. GPM shall be determined by the Occupancy Class as issued by the Building Official. A steamer type hydrant shall be installed on the SBCWD on Fallon Road.
- 38. Addressing:** Addressing shall be posted at gates and clearly visible from both directions of traffic flow. Address numbers shall conform to or exceed County standards for size and contrasting color. Each building on the premises shall be individually marked with either a letter or number to identify it from other buildings.

**39. Extinguishers:** A minimum of one 2A 10BC Fire Extinguisher shall be provided for each 3,000 square feet of floor area. Fire Extinguishers shall be serviced annually and shall have a current service tag attached.

**40. Final Clearance:** Prior to operation of any business onsite, the Fire Marshal or a representative of the County Fire Department shall sign-off on the project permit prior to occupancy being granted. Before a permit will be signed off, all Fire Department requirements shall be met.

5. **UPDATE - USE PERMIT 993-08:** APPLICANT: Buffalo Gypsum, Inc. LOCATION: 3118 Coalinga Road, 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](mailto:lknight@planning.co.san-benito.ca.us))*

AP Knight requested a continuance of this project until the July 1, 2009 regular meeting noting the SMARA review period ends on June 30<sup>th</sup>. AP Knight stated comments from CalTrans and Fish & Game were being reviewed for the conditions of approval.

AP Knight advised the Commission that a site visit was conducted this date with the Department of Conservation and a licensed biologist would be walking the site next week as part of the required reconnaissance survey by Fish & Game.

Commissioner Machado confirmed with AP Knight that only surface mining would be conducted on the site. AP Knight advised that only mining activities would be conducted and the processing would be done at the existing Buffalo Gypsum location.

Charlie Hinkle, P O Box 1030, King City, the project applicant advised the Commission there were no permanent structures or utilities on the proposed project site and that only equipment would be located there. Mr. Hinkle added that of the 7,000 acre ranch approximately 30 acres would be mined and existing roads would be improved and used.

Commissioner Machado moved to continue Use Permit No. 993-08 to the regular meeting of July 1, 2009. Commissioner Scattini offered a second to the motion which passed with a vote of 4-0-1, Commissioner DeVries was absent.

## ***DISCUSSION***

### **6. Initial Review General Plan Update, Phase Two**

ADOP Turner presented this Agenda item aided by power point slides. ADOP Turner explained the information presented to the Commission would also be presented to the Board of Supervisors on June 23<sup>rd</sup>. ADOP Turner added that input, comments and suggestions were encouraged.

The Commissioners concurred that the future was hard to predict and would like more information on how the projections were determined, if current growth restrictions were considered and where the 'numbers' came from. Commissioner Culler added more information was also needed as the lack of job creation was an issue for the County.

Chair Bettencourt then opened the topic for public comment.

Robert Brians, 747 Shore Road, Hollister advised the recent studies on water shortages should be included in the review when determining figures.

Janet Brians, 747 Shore Road, Hollister stated she was concerned with the statistics and hopes the committees, staff and County decision makers keep in mind that San Benito is an agricultural county.

With no other speakers, Chair Bettencourt closed the public comment period.

ADOP Turner concluded his presentation advising the Commission that input from this body along with comments from the Board of Supervisors would be reported to the General Plan Advisory Committee (GPAC) at their August meeting.

**7. Leal Vineyards Use Permit No. 789-99A – Report**  
**PLANNER:** *Byron Turner* ([bturner@planning.co.san-benito.ca.us](mailto:bturner@planning.co.san-benito.ca.us))

ADOP Turner reported that a Temporary Use Permit application had been submitted on 6-17-09 to detail the scheduled upcoming events and the building permit applications were currently in Plan Check review.

Commissioner Scattini asked how long before the amended Use Permit would be presented to the Commission for consideration. ADOP Turner estimated approximately 3-6 months after all comments were received and reviewed.

After some Commission discussion regarding the violations on the property, ADOP Turner advised the applicant was working towards compliance and staff would provide recommendations to the Commission on the Amended Use Permit.

Chair Bettencourt opened the agenda item for public comment.

Matt Kelley, Kelley Engineering advised the following actions have been taken by the applicant:

- Barrel racks are in the process of being purchased
- One additional door, signage and lighting installed in the barrel room
- Environmental Health preparing letter that compliance has been met
- Cal Fire preparing written response to documented violation corrections

Mr. Kelley added that the Temporary Use Permit application details all events by date, location, food and type for the next 3 months. Mr. Kelley also stated that all scheduled events will be in the tent area, side walls on the tent will not be installed and no events are scheduled for the barrel room.

After discussion amongst the Commission, Commissioner Culler complimented Matt Kelley for his efforts of compliance on behalf of Frank Leal. Chair Bettencourt advised Mr. Kelley to report to the applicant that his Temporary Use Permit could also be requested to be considered by the Commission.

ADOP Turner added staff would provide an update at the regular meeting on July 1<sup>st</sup>.

### **8. Commissioner Announcements/Reports/Discussions**

Chair Bettencourt requested staff to provide information on C and M District review processes, how they work, CEQA requirements and history of the requirements.

ADOP Turner advised a workshop would be scheduled for the July 15<sup>th</sup> regular meeting.

Clerk Maderis reported for the record that the Rules for the Transaction of Business are still being worked on by both she and Commissioner DeVries.

## ***ADJOURNMENT***

Commissioner Machado moved to adjourn, Commissioner Culler seconded and Chair Bettencourt adjourned to the Regular Meeting of July 1, 2009 at 9:17 PM.

***Minutes prepared by:***  
*Trish Maderis*  
*Planning Commission Clerk*

***ATTEST:***  
*Byron Turner*  
*Assistant Director of Planning*