

SAN BENITO COUNTY PLANNING COMMISSION

**July 1, 2009
MINUTES**

PRESENT: Bettencourt, Culler, DeVries, Machado, Scattini

STAFF: Director of Planning (DoP) Art Henriques; Senior Planner (SP) Lissette Knight; Associate Planner (AP) Michael Kelly, Housing Programs Coordinator (HPC) C.J. Valenzuela; Public Works Engineer (PWE) Art Bliss; Fire Marshal Jim Dellamonica; 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 6:04 PM as he led the pledge of allegiance to the flag.

STAFF REPORT

DOP Henriques reported the following information that has been or will be reviewed by the Board of Supervisors:

- Fiscal Year 2009-2010 budget hearings will be held week of August 3rd
- New County Counsel, Matthew Granger recently hired by County
- Updated progress report on Fairview Corners application
- Staff has determined and Santana Ranch has agreed to full EIR is needed.
- Review County growth projection options through 2035
- July 7th hearing date for Calera, DelCurto and Rodriguez GPA and ZC applications

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

Commissioner Machado moved to approve Consent Agenda Item 1. Commissioner Scattini offered a second to the motion which passed 5-0.

CONTINUED ~ PUBLIC HEARING

- 2. 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.

SP Knight requested a continuance of this project until the July 15, 2009 regular meeting noting recommended conditions were received today from the Department of Conservation and will be reviewed by staff and the applicant soon.

New SMARA requirements for the Reclamation Plan and review with Cal Trans for possible improvements at the intersection of Hwy 25 and Coalinga Road have also been received and are also being reviewed. SP Knight noted the applicant hired a consultant for the biotic assessment.

After a brief discussion, Commissioner Scattini moved to continue Use Permit No. 993-08 to the regular meeting of July 15, 2009. Commissioner DeVries offered a second to the motion which passed with a vote of 5-0.

DISCUSSION

3. Housing Element Update – Progress Report

DOP Henriques introduced the topic explaining revisions have been made since the previous presentation and better reflect the State's standards. DOP Henriques also noted the document should move more efficiently at the State level. AP Kelly presented his report aided by power point slides. AP Kelly identified potential sites for those units and how those sites were chosen. AP Kelly noted 1,655 units would have to be allowed to be built under the Housing Element. AP Kelly also noted for the record that 34 acres on San Felipe Road known as the Hart property has been identified as a site for inclusion in the document.

AP Kelly explained additional detail for housing types had been added per State law along with governmental constraints in San Benito County. AP Kelley added that previous sites were being included in the submission to the State as they remain undeveloped. Once the Housing Element is adopted, the lands identified could or would be re-zoned.

AP Kelly outlined the process advising comments from the Commission and the Board of Supervisors on July 7th would be included and forwarded to HCD for review. Once the Element is reviewed by the State, the document would come back to the County for Public Hearing and adoption and eventual certification by the State.

Commissioner DeVries stated he believed the identified areas were not necessarily a good fit as they were not close to downtown or infrastructure. DOP Henriques advised the Housing Element could be amended and the County works closely with the Cities, regional agencies and the Council of Governments and consider their future planning areas when identifying sites.

DOP Henriques indicated that changes were more likely to be addressed in the Comprehensive General Plan Update and the Housing Element was mandated for adoption by the end of August 2009.

AP Kelly advised the identified locations targeted General Plan's Rural/Urban (RU) land use designation and the current existing General Plan policies were used in developing the Housing Element document.

Elizabeth Guzman, representing Denise Duffy & Associates, the County's contract consultant addressed the Commission advising the proposed housing numbers have been developed to meet the Housing Element requirements. Housing Programs Coordinator CJ Valenzuela further added that the numbers are identified to show capacity, but not all lands will be developed by the owners.

After discussion among the Commission and staff, Chair Bettencourt opened the Public Comment period.

Scott Fuller representing himself and others requested an extended comment period. Mr. Fuller requested the Hart property be included in the selected sites for the Housing Element document. adding the City of Hollister was willing to provide services. Mr. Fuller also requested property belonging to the Brigantino family located on Southside Road near the Riverview development also be included in the inventory as a possible site. Mr. Fuller requested the County balance housing and jobs, revisit the Growth Management Ordinance, exempt high density projects and reduce the fees charged for inclusionary housing.

David Brigantino advised the Commission that the County should not limit options, that the property on Southside Road was adjacent to an existing affordable development and city services.

AP Kelly advised that property owners may request a change in their land use by written request to the Planning Department. AP Kelly added those requests would be reviewed during the General Plan Update process. With no other speakers, Chair Bettencourt closed the comment period and complimented AP Kelly and HPC Valenzuela for their presentation and thorough work on the document. Chair Bettencourt stated that growth in the County needed to be maintained but requested reviews of the Inclusionary and Growth Management Ordinances to accomplish managed growth and meet State requirements.

DOP Henriques emphasized the Housing Element's importance adding the lack of certification by the State could result in lawsuits holding the County liable leading to legal action, possible moratoriums, project holds and inability to apply for grants or other restraints until certification is accomplished.

The Commission discussed the possibility of including the Brigantino property in the document inventory. A consensus was reached that further research would have to be conducted prior to including that location. The Commission did recommend the Hart property remain or be included in the inventory.

DOP Henriques advised that an updated report would be presented to the Commission on July 15th and would include the Board's input and comments.

Chair Bettencourt then called for a brief break at 7:56 PM. Chair Bettencourt reconvened the meeting at 8:04 PM with all Commissioners present.

4. Leal Vineyards Use Permit No. 789-99A – Update

DOP Henriques introduced the agenda item to which Chair Bettencourt requested clarification on what action the Planning Commission could take. DOP Henriques advised that this follow-up report was at the request of the Commission who could direct future action.

SP Knight presented a status report on the Amended Use Permit application and the Temporary Use Permit application noting staff's concern with compliance by the applicant. SP Knight also advised the Commission of staff's desire to move forward and permit the requested events.

SP Knight added that the Department had several documents advertising events that have not been included in the application submitted and recommended that the applicant provide an event plan to cover all future activities and that the building violations be resolved within 60 days.

Chair Bettencourt called Engineer/Applicant representative Matt Kelley, Kelley Engineering to the podium for a report. Mr. Kelley advised the applicant, Frank Leal, was willing to do whatever is necessary to meet the conditions as required and that the amended Use Permit application included a request for removal of some of the previous approved conditions, such as the left turn lane from Fairview Road.

ACC Thompson added that a timeline for completion of the violations may assist the applicant in meeting deadlines and in addressing the health and safety issues.

Commissioner Scattini asked PWE Bliss how long the installation of the left turn lane would take. PWE Bliss advised that the traffic study was approximately 6 years old but was being used for the amended Use Permit. PWE Bliss advised Public Works could not accept a stale report.

Commissioner Culler questioned staff's frustrations. SP Knight advised the applicant had not given staff information on some of the scheduled events, un-permitted remodels on structures have not yet been corrected, website advertising indicates events not disclosed on the application and that staff needed the whole picture in order to process the application.

Commissioner Machado requested clarification from Counsel. ACC Thompson advised the Commission could direct staff to prepare a possible revocation of the Use Permit, proceed with a timeline document or step up code enforcement. ACC Thompson added the Commission did not have authority over jurisdictions such as County Fire to delay enforcement. Commissioner Machado noted his concern for public safety.

Chair Bettencourt questioned County liability as events continue. ACC Thompson advised that the County would not be held financially liable when an applicant violates the law.

Commissioner Machado stated he believed the applicant was ‘cherry picking’ the conditions he desires to comply with. Commissioner DeVries disagreed with Commissioner Machado. SP Knight added an incomplete application holds up the process.

Mr. Kelley advised the Commission the website advertising could be fixed and that the applicant hired his firm to design the left hand turn lane more than a year ago. Mr. Kelley stated the original 2004 traffic study report stated a left turn was not warranted but was a condition of approval by the Planning Commission. Mr. Kelley also stated that Maranatha Road belonged to the applicant as the road was never accepted by the County and felt the allegation of incomplete information was unfair.

Chair Bettencourt asked Mr. Kelley if compliance could be accomplished within 90 days. Mr. Kelley advised he has proceeded under the guidance of the Planning Department including applying for the temporary Use Permit and has disclosed events as provided by the applicant Mr. Leal.

Commissioner Machado questioned why if the original conditions in 2004 for the left hand turn lane were not agreeable, the applicant did not appeal the decision at that time. Commissioner Culler stated he believed the applicant needed to get into compliance and move forward.

DOP Henriques suggested the Planning Commission continue the item to the August 5th regular meeting for a further and thorough progress report. The Commission concurred.

Fire Marshal Jim Dellamonica requested clarification and confirmation from the Commission that activities and events would continue in some un-permitted structures and with stop work orders in place. (while the County reviewed the updated requests) The Commission confirmed Captain Dellamonica’s question.

ADJOURNMENT

Commissioner Scattini moved to adjourn, Commissioner DeVries seconded and Chair Bettencourt adjourned to the Regular Meeting of July 15, 2009 at 9:15 PM.

Minutes prepared by:
Trish Maderis
Planning Commission Clerk

ATTEST:
Art Henriques
Director of Planning