

SAN BENITO COUNTY PLANNING COMMISSION

SEPTEMBER 2, 2009

Minutes

PRESENT: Machado, Culler, Bettencourt, Scattini & DeVries

ABSENT: None

STAFF: Director of Planning (DoP) Art Henriques
Assistant Director of Planning (ADoP) Byron Turner;
Public Works Engineer (PWE) Art Bliss;
Senior Planner (SP) Lissette;
(ACC) Barbara Thompson and Clerk Janet Somavia.

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

DIRECTOR'S REPORT

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

- Board of Supervisor meeting on **August 25, 2009**.
 - Finalized the Resolution for the closing of County Offices on certain days. Will provide the Commissioners with the schedule.
 - Amended the contract with PMC to assist with Traffic Fee & Fiscal Analysis for Santana Ranch.
 - Reported on the State mandated CEQA Guideline amendments. (See attached report in permanent file.)
 - Reported on the Board's request for information regarding renewable energy. (See attached report in permanent file.)

- Board of Supervisor meeting on **September 1, 2009**
 - Amended contract with Bingham McCutcheon for further legal work on Santana Ranch Specific Plan.
 - Resolution supporting changing status of Pinnacles National Monument to National Park status.
 - Discussion presented by Council of Government regarding the Highway 152 and Highway 25 trade corridor.

Commissioner DeVries asked if there had been a discussion on the Growth Management Allocation extension of the deadline. DoP Henriques stated that this would be on future agendas but could not extend the deadline this year due to the Ordinance.

Chair Bettencourt asked when they could expect Santana Ranch to come before them. DoP Henriques stated that there was no set time because of on going reviews. He noted that Staff would have a study session with the Commissioner's prior to presentation of the project at the formal Public Hearing.

Prior to Public Comment ACC Barbara Thompson introduced the new County Counsel, Matt Granger to the Commission and the public in attendance. Mr. Granger introduced himself and stated that his Office is always open and for the Commissioner's to feel free to stop in at any time.

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

Commissioner Machado moved to approved Items 1 thru 2. With a second by Commissioner Scattini the motion was approved by a **vote of 5-0**.

PUBLIC HEARING ITEM ~ COMMISSION ACTION

3. **ZONE CHANGE NO. 07-154 & GENERAL PLAN AMENDMENT NO. 07-29:**
OWNER/APPLICANT: Robert Bianchi LOCATION: 2220 Cienega Road, Hollister.
REQUEST: Applicant is requesting a Zone Change and General Plan Amendment from Rural Residential (RR) to Neighborhood Commercial (C-2) ZONING: RR (Rural Residential). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.
PLANNER: Lissette Knight (lknight@planning.co.san-benito.ca.us)

SP Lissette Knight presented the staff report with a power point presentation.

Description of Project: The Applicant is requesting a Zone Change, General Plan Amendment and a C-District Review for one parcel. Parcel number 020-280-046 is owned by the Bianchi Family Limited Partnership, is approximately 9.75 acres and is zoned Rural Residential with a Rural Residential General Plan designation. The applicant is requesting to change the properties current Zoning and General Plan designations to Commercial Neighborhood (C-2). The applicant also

proposes the construction of 12,000 sq ft office building through a C-District Review application. The construction and improvements required for this project involved grading of approximately 3 acres (4,000 cubic yards of cut and 4,000 cubic yards of fill at a 2:1 ratio).

SP Knight explained that once the Zone Change and General Plan Amendment was approved by the Planning Commission and Board of Supervisors, Staff would then bring the C-District Review to the Commission for approval. She further explained that many of the conditions refer to the C-District Review, however the project as a whole needed to be addressed in the Initial Study and these same conditions will appear in the C-District Review project.

SP Knight also explained that the project was originally indicated to be in the City of Hollister Sphere of Influence, however this was incorrect. The project is not in their Sphere but in their planning area.

There was a great deal of discussion regarding the project being presented in two steps as well as the condition on Acrolein emissions. SP Knight once again explained that the C-District Review could not be approved without the zone change, therefore Staff needed to wait for the final approval of the Zone Change and General Plan Amendment before moving forward with the C-District Review. As to the Acrolein emissions condition it was explained that this project came in prior to the Monterey Bay Air Quality Control Board asking that the Acrolein emissions no longer be addressed in the CEQA document. The applicant has signed the Mitigation Monitoring Program and has agreed to this condition.

Commissioner Culler called attention to Condition #17 and asked if it was a typo. SP Knight agreed that it should not be listed and stated that it would be removed from the Conditions of Approval.

The Commission then discussed set backs and right of ways. DoP Henriques explained that all of these issues would be addressed at the C-District Review stage.

Chair Bettencourt opened the Public Hearing.

Matt Kelley – Engineer representing the applicant. Mr. Kelley stated that the County is severely lacking in Commercial Zoning and he felt this project was much needed. Mr. Kelley called attention to Condition #22 as not needed. SP Knight agreed and will have that condition eliminated. He also wanted to clarify that the site plan indicated that the existing residence were to be removed. These residences are not to be removed and this will be reflected on the C-District Review site plans. This clarification is consistent with the Initial Study.

Larry Shaw – Representing the Presbyterian Church - The Church has no problem with this project. He asked if they could please be notified with updates so that they may keep their congregation informed.

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

Commissioner Machado asked if Condition #7 was a standard Condition. SP Knight stated that as a result of the archeological report, it was recommended that an archeologist be on site as a precautionary measure during the grading process.

Commissioner Bettencourt inquired as to how soon would the C-District Review be coming before them. SP Knight explained that there is the 10 day appeal period and how soon it can be put on the Board of Supervisor's agenda. She assured the Commission that Staff will make it as soon as feasible but could not give a specific date.

There being no further discussion, Commissioner Machado moved to approve the Mitigated Negative Declaration, the Mitigation Monitoring and Reporting Program, and the attached draft Resolution No. 2009-06, recommending approval of Zone Change No.07-154 & General Plan Amendment No. 07-29 based on the findings and conditions of approval contained in this staff report and Resolution 2009-06 with the deletion of Condition #17 and #22. With a second by Commissioner Scattini the motion carried with a **5-0 vote**.

CONDITIONS OF APPROVAL

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. Construction Monitoring:** During construction, a licensed archeologist shall be onsite to monitor all grading activities. The licensed archeologist shall use the archeological report prepared for this project (ARS #08-046) when monitoring the site. [Mitigation Measure #10]
- 8. Archeological Report:** The applicant shall follow all recommendations set forth in the archeological report (ARS #08-046). [Mitigation Measure #11]
- 9. Auger Testing:** Prior to construction or grading onsite; the applicant shall conduct auger testing and take auger samples on the property where cultural resources were identified. These tests will look specifically for culturally modified soil deposits or additional stone artifacts. The results shall be forwarded to the Planning Department for review. If determined necessary by the Planning Department, the applicant will be required to implement a mitigation program approved by the Planning Department during grading on the site. If no discoveries are made during testing then the recommendations made in the ARS #08-046 report shall continued to be followed. Auger testing shall be under observance by a licensed archeologist. [Planning & ARS #08-046]
- 10. 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]
- 11. Conservation Easement:** Prior to operation of any business onsite, the property owner/applicant shall record a conservation easement to place a 50 foot buffer along the entire rear of the property for the continued use and protection of the upland habitat. The conservation easement will be recorded and maintained in perpetuity and will restrict any

building or public use within the recorded area. The easement will be pre-approved by the Planning Director prior to recordation. [Mitigation Measure #7]

- 12. Building Exclusion Zone:** The Building Exclusion Zone, as identified in the Geological Fault Investigation prepared by Earth Systems Pacific (File No. SH-10698-GA) shall be included as part of the conservation easement recordation requirements set forth in Mitigation Measure 7. [Mitigation Measure #12]
- 13. Landscaping Plan:** 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 Commercial property and its neighboring land uses and roadways. 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]
- 14. 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 any building permits, the applicant(s)/owner(s) 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. This shall be pre-approved by the Planning Department prior to issuance of a building permit. [Mitigation Measure #2]
- 15. Noise Restrictions:** Pursuant to County Code 25.37.035 and the General Plan Noise Element, Table 1, noise levels at the edge of the property shall not exceed 70 decibels for LEG one hour average. [Mitigation Measure #14]
- 16. Noise Level:** In the event decibel levels as indicated in the San Benito County Noise Element are exceeded, 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. This plan shall be approved by the County Planning Director prior to use. [Mitigation Measure #13]
- ~~**17. 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:

- 18. 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 #3]

19. **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 #4]
20. **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 #5]
21. **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 #6]
- ~~22. **Drainage:** The applicant shall maintain all drainage onsite. [Planning, Public Works]~~

San Benito County Water District Conditions:

23. **Water Conservation:** The irrigation and landscaping plan shall demonstrate compliance with the County’s Water Conservation Ordinance. [Mitigation Measure #15]
24. **Water Treatment/Softening:** The use of water treatment/water softening equipment with on-site regeneration shall not be permitted onsite. [Mitigation Measure #16]

DoP Henriques stated that this decision will not be final until the 10 day appeal period and the review and acceptance by the Board of Supervisors.

4. **ORDINANCE NO. 766 - INCLUSIONARY HOUSING AMENDMENTS**
APPLICANT: San Benito County LOCATION. County-wide REQUEST. To amend Ordinance No. 766 to reduce the inclusionary requirement from 30% to 20%, add flexibility to the housing types required, change the in-lieu fee calculation method, and add flexibility to the use of in-lieu fees. ENVIRONMENTAL EVALUATION: Negative Declaration. PLANNER: *Byron Turner* (bturner@planning.co.san-benito.ca.us)

ADoP Turner requested the Public Hearing for this item be continued to the regular meeting of September 16, 2009 in order to provide the Commission with a copy of the Initial Study for review.

Chair Bettencourt opened the Public Hearing. There being none Chair Bettencourt closed the Public Hearing.

Commissioner Scattini moved that Item #4 Ordinance No. 766 – Inclusionary Housing Amendment be continued for Public Hearing until September 16, 2009. With a second by Commissioner Culler the motion carried with a **vote of 5-0**.

DISCUSSION

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

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

ADoP Turner reported nothing significant to report and the project is moving forward.

Matt Kelley – Engineer representing Leal Vineyards. Draft traffic impact report is being finalized and the applicant is continuing to make every effort to bring this project to a conclusion.

Commissioner Scattini asked what part of this project is most important. Mr. Kelley stated that he is working as a coordinator between the applicant and all the other consultants working on the project. He feels the Traffic Impact Report is the most important issue at this time.

Commissioner Bettencourt asked Mr. Kelley if he still wished to have written reports given to the Commission. He answered in the affirmative.

Commissioner Announcements/Reports/Discussions

Commissioner DeVries inquired as to the status of the Growth Management Ordinance. ADop Turner stated that they were finishing up the Housing Element for the Board of Supervisor's and would begin work on the Growth Management Ordinance as soon as that work was completed.

Commissioner DeVries also inquired regarding the Hillside Ordinance. ADoP Turner stated that this was going back to the Board of Supervisors for clarification on September 22, 2009.

Commissioner Bettencourt inquired into the solar energy application. SP Knight stated we do not have an application in yet and the applicant should have the application completed and submitted within the next two to three weeks.

DoP Henriques stated that there will be some amendments to the General Plan regarding alternative energy prior to the completed General Plan update.

ADJOURNMENT

There being no further Informational or Non-Action Items, Chair Bettencourt asked for a motion of adjournment. Commissioner Scattini moved for adjournment. Commissioner DeVries offered a second to the motion which carried with a **vote of 5-0**. Adjournment to September 16, 2009 at 7:35 p.m.

Minutes prepared by:

Janet Somavia

Planning Commission Clerk

Attest:

Art Henriques

Director Planning