

SAN BENITO COUNTY PLANNING COMMISSION

November 4, 2009

MINUTES

PRESENT: Bettencourt, DeVries, Machado, Scattini

ABSENT: Culler

STAFF: Director of Planning (DoP) Art Henriques; Assistant Director of Planning (ADoP) Byron Turner; Senior Planner (SP) Lissette Knight; County Counsel (CC) Matthew Granger, Deputy County Counsel (DCC) Shirley Murphy (PWE) Public Works Engineer Art Bliss; 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. It was noted that Commissioner Culler had been excused for this meeting.

DEPARTMENT REPORT

DOP Henriques reported on the following topics from recent and upcoming Board of Supervisor meetings:

10/27/09 Board Meeting:

- Approval of General Plan Update Vision Statement with minor changes to language.
- General Plan Update progress report

11/03/09 Board Meeting:

- Courthouse project moving forward
- Juvenile Hall/Jail open house on November 19th
- 2010 Housing Expo in February
- Hillside Ordinance being presented to the Board on 11/10/09

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

- These items will be considered as a whole without discussion unless a particular item is requested by a member of the Commission, Staff or the public to be removed from the Consent Agenda. Approval of a consent item means approval of the recommended action as specified in the Staff Report.
- If any member of the public wishes to comment on a Consent Agenda Item please fill out a speaker card present it to the Clerk prior to consideration of the Consent Agenda and request the item be removed and considered separately.

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting

3. Minutes of October 21, 2009

Chair Bettencourt pulled Agenda Item #3. Commissioner Machado moved to approve Agenda Items #1 and #2, Commissioner DeVries offered a second to the motion which passed 4-0-1; Commissioner Culler was absent.

3. Minutes of October 21, 2009

Both Commissioner DeVries and Commissioner Scattini were absent on October 21st. Chair Bettencourt continued Agenda Item No. 3 to the regular meeting of November 18, 2009 for a quorum vote.

CONTINUED PUBLIC HEARINGS:

4. **RESOLUTION NO. 2009-08 ~ ORDINANCE NO. 766 - INCLUSIONARY HOUSING AMENDMENTS** APPLICANT: San Benito County LOCATION: County-wide.
REQUEST: Recommendation regarding amendment of Ordinance No. 766. A Resolution of the San Benito County Planning Commission, Recommending The Board of Supervisors' Adoption of an Ordinance Amending Ordinance No. 766 (San Benito County Code, Title 21, Chapter 21.03 [Inclusionary Housing Regulations], sections 21.03.001 through 21.03.015) by Repealing the Inclusionary Housing Regulations, While Retaining and Amending Density Bonus Incentives.
ENVIRONMENTAL EVALUATION: Negative Declaration.
Planner: Byron Turner (bturner@planning.co.san-benito.ca.us)

DoP Henriques introduced the Agenda item noting ADoP Turner would provide detailed information. Chair Bettencourt requested clarification on the previous vote to forward to the Board of Supervisors. Commissioner DeVries stated that should the Board not agree with the Commission, that the previous recommendations stated by the Commission should be forwarded to the Board for consideration. ADoP Turner clarified that the entire record, including all information discussed at previous Planning Commission meetings, was being sent to the Board.

Chair Bettencourt then opened the Public Hearing.

Jeannette Langstaff, 1631 Tiburon Drive, Hollister stated she had done research and provided examples of what over Counties were doing. Ms. Langstaff stated she was concerned and wanted what was best for the County adding she didn't believe the fees and percentages should be removed.

Jim Conklin, San Benito County Business Council addressed the Commission stating the proposed Ordinance was supported as proposed.

Chair Bettencourt then closed the Public Hearing.

ADoP Turner advised the Commission of a correction to the Resolution, noting Finding No. 2 should be stricken. After some discussion and clarification by Counsel, Commissioner DeVries moved to approve Resolution No. 2009-08, striking Finding No. 2 and forwarding the Resolution with Amendments to Ordinance No. 766 to the Board of Supervisors. Commissioner Scattini offered a second to the motion which passed 4-0-1; Commissioner Culler was absent. DoP Henriques advised the item would be heard by the Board of Supervisors in December.

5. **MINOR SUBDIVISION NO. 1172-05:** OWNER/APPLICANT: Brian and Cynthia Holthouse LOCATION: San Juan Canyon Rd, San Juan Bautista. 018-200-059. REQUEST: Subdivide 168.52 acre parcel into two parcels of 45 and 123.52 acres. ZONING: AR (Agricultural Rangeland) & R (Rural). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration. PLANNER: Lissette Knight (lknight@planning.co.san-benito.ca.us) (continued from 10/21/09)

SP Knight presented a brief report advising the applicant, applicant's engineer and County staff had met and resolved the conditions of approval issues from the previous public hearing. Chair Bettencourt then opened the public hearing.

Anne Hall, San Benito Engineering advised the Commission the applicant approved of the required conditions and requested approval of the project. Chair Bettencourt closed the public hearing.

Commissioner Scattini moved to adopt the Mitigated Negative Declaration, the Mitigation Monitoring and Reporting Program and approve MS 1172-05, Commissioner Machado offered a second to the motion which passed 4-0-1; Commissioner Culler was absent. DoP Henriques stated the decision was final unless appealed to the Board of Supervisors within 10 days.

CEQA Findings:

Finding 1: That the Initial Study for MS 1172-05 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: *All provisions including both State and County environmental guidelines and policies for the preparation of an Initial Study have been followed. The environmental documents in the preparation of the Initial Study are filed in the project record located at the San Benito County Planning Department in file number MS 1172-05.*

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

Evidence: *The Initial Study and the staff report as well as verbal testimony was presented to the Planning Commission in preparation for, and during, the November 4, 2009 Planning Commission meeting.*

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

Evidence: *The Planning Department prepared the Initial Study and the staff report, which were both reviewed by the Planning Commission. Based upon their review of the project information, the Planning Commission's decision reflects their independent evaluation and judgment of the project.*

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: *The Planning Commission considered all the evidence, both written and oral, presented at the public hearing prior to deciding to adopt the Mitigated Negative Declaration and the Mitigated Monitoring Program. The Planning Commission determined that the mitigation measures and the conditions of approval included in the staff report would reduce the impacts of the proposal to a less than significant level*

Subdivision Findings:

Finding 1: That the proposed map is consistent with the General Plan or any applicable specific plan.

Evidence: *The site is designated as Agricultural Rangeland and Rural in the General Plan's Land Use Element, and allows various types of agricultural uses as well as very low density housing (40-acre minimum per single family dwelling, as most of the properties are within the AR Designation). Minimum parcel size allows for one dwelling unit per forty acres (AR Designation), which would be consistent with the applicant's proposal. The proposal is consistent with adjoining development within the Agricultural Rangeland Zoning District and the Rural Zoning District. No specific plan applies to the property. There are no grade one soils on this property or surrounding this property. In addition to the limitations set forth in the Zoning Code and General Plan, both properties are under Williamson Act Contracts which are subject to specific requirements as set forth in Chapter 19.01, Article II of the San Benito County Code.*

Finding 2: That the design or improvements of the proposed subdivision is consistent with the General Plan or any applicable specific plan.

Evidence: *The proposed project would provide roadways, individual connections to existing water and sewer systems, lot sizes, and other infrastructure that are in compliance with General Plan policies. No specific plan applies to the property. The proposal is consistent with the surrounding area.*

Finding 3: That the site is physically suitable for the type of development.

Evidence: *The project site is located within an area with some environmental constraints such as wetland habitats, oak woodlands and varying slopes. Mitigation Measures and conditions of approval have been developed to ensure that the impacts of these environmental hazards shall be less than significant. A small-medium amount of each parcel lies within an area where there are no environmental hazards to limit development. At this time no development is proposed; however, should development occur, building envelopes shall be designated for each parcel where development will be physically suitable and safe. Grade one soils do not exist on this property. The project site has been identified as "Grazing Land" by the Farmland Mapping and Monitoring Program, 2008. Both properties are under Williamson Act Contracts which are subject to specific requirements*

as set forth in Chapter 19.01, Article II of the San Benito County Code. Development that exceeds the restrictions set by the LCA committee shall require further approval prior to construction. Therefore, there shall be no conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to a non-agricultural use. The properties are physically suitable for agricultural use, and low density residential development.

Finding 4: That the site is physically suitable for the density of development.

Evidence: *The project density would be consistent with County Code requirements. Both parcels have significant Oak woodlands, wetlands and varying slopes. Mitigation Measures and conditions of approval have been developed to ensure that the impacts of these environmental hazards shall be less than significant. A small-medium amount of each parcel lies within an area where there are no environmental hazards to limit development; this is where the suggested building envelopes shall go. The properties are physically suitable for low density residential development with primarily agricultural use of the properties.*

Finding 5: That the design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Evidence: *The project's Initial Study does identify the site as having rich habitat area for migrating habitats including the Tiger Salamander. Therefore, the proposed improvements will be required to follow the required Mitigation Measures and conditions of approval for the project to ensure that this varying plant and animal habitat are not affected.*

Finding 6: That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Evidence: *The project improvements have been reviewed by responsible agencies to ensure that the proposed subdivision would not have an impact on public health. The project has been conditioned to require that the County health department approve the final plans for water and septic system connections if the applicant proposes construction of a single family dwelling on either parcel.*

Finding 7: That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Evidence: *This project will not conflict with any existing easements.*

Finding 8: Subject to Section 66474.4 of the Government Code, that the land is not subject to a contract entered into pursuant to the California Land Conservation Act of 1965 and that the resulting parcels following a subdivision of that land are not too small to sustain their agricultural use.

Evidence: *The property is currently within two Williamson Act contracts which were approved on January 24, 2008 by the Board of Supervisors. The descriptions of the Williamson Act contracts match the proposed parcels following subdivision. Each contract is large enough (45 acres and 123.52 acres) to maintain their agricultural use.*

Finding 9: Subject to Section 66474.6 of the Government Code, that the discharge of waste from the proposed subdivision into an existing community sewer system would not result in violation of existing requirements prescribed by the Central Coast Regional Water Quality Control Board pursuant to Division 7 of the Water Code.

Evidence: *The proposed subdivision has been reviewed by the Department of Environmental Health and the San Benito County Water District and has been found not to violate any existing requirements prescribed by the Central Coast Regional Water Quality Control Board.*

Standard Conditions:

- 1. Hold Harmless:** Pursuant to Section 66474.9 of the California Government Code, upon written notice by the County, the subdivider shall defend, indemnify and hold harmless San Benito County and its agents, officers and employees from any claim, action or proceeding against San Benito County or its agents, officers or employees to attack, set aside, void or annul the approval of this minor subdivision and applicable proceedings. San Benito County reserves the right to prepare its own defense pursuant to Section 66474.9 of the Government Code. [Planning]
- 2. Conformity to Plan:** The development and use of the site shall conform substantially to the proposed site plan and conditions of approval as approved by the Planning Department. Any increase, change, or modification in the nature or intensity of the land use on the site shall be subject to further Planning Commission review and approval. [Planning]
- 3. Compliance Documentation:** Prior to recordation of the Parcel Map, the applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
- 4. Assessment:** Prior to recordation of the Parcel Map, the applicant shall pay applicable security for taxes and special assessments as required by Sections 66492, 66493, and 66494 of the Subdivision Map Act. [Planning, Assessor]
- 5. Recordation:** The applicant shall submit a Parcel Map to the County and the Parcel Map shall be approved by the County Planning Department and the County Public Works Department and recorded with the County Recorder. The 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)). This fee is increased annually; the applicant may be subject to a higher fee should they choose to wait to file a Notice of Determination. [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 extended fire and sheriff protection services**. All related processing fees, including State Equalization fees, must be submitted prior to recordation of the Parcel Map. [LAFCO, Planning & Public Works]
- 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. 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

- 12. Dedication:** Prior to the recordation of the Parcel Map, the applicant shall:
 - On the face of the Parcel Map for this proposed subdivision, provide an irrevocable offer of dedication to the County and public for public use as primary ingress/egress, roadway and public utilities purposes a 30 foot right-of-way which is to be aligned such that said alignment will continue from the southeastern corner of Parcel 2, fully crossing Parcel 2 with pertinent slope easements as outlined below, and terminating at the easternmost property line of said proposed Parcel 1, said point being the common intersection of the existing thirty (30') foot emergency ingress/egress easement and the property line common to Parcels 1 & 2 of this proposed map. In addition, slope easements or a blanket slope easement shall be provided for all areas within Parcel 1 where roadway slopes may extend onto private property as a result of roadway preparation and grading.
[per County-Code Chapter 23.29.001]
- 13. Easements/Access:** Prior to recordation of the Parcel Map, the applicant shall show all easement for access, utilities, and drainage.

14. Road Improvements: Prior to recordation of the Parcel Map, the applicant shall bond for or make the following roadway improvements:

- Approximate road profiles will be provided as a part of requisite Improvement Plans as well as a “Typical Roadway Section” indicating a full 20 foot “all-weather” fire access road for the common driveway continuing from the previously completed paved drive that provides access from San Juan Canyon Road to the westernmost property-line of Parcel 2 of this proposed subdivision where it is to align with the existing secondary emergency exit from St. Francis Retreat. [*County-Code Chapter 23.17, 23.29, 23.31*]

15. Encroachment: Pursuant to § 19.27.004 of the San Benito County Code, prior to commencement of any improvements associated with this project, the applicant must obtain a Public Works Encroachment Permit for any work being performed within the County right of way.

16. Geotechnical Compliance: Prior to recordation of the Parcel Map, a letter of geotechnical compliance shall be submitted upon completion of site improvements. A note shall be placed on the Parcel Map referencing the aforementioned reports for future reference by potential property owners.

17. Landslide Hazards: Prior to recordation of the Parcel Map, all areas of active landslide as determined by the geotechnical evaluation or areas exceeding 30 percent in slope shall be identified and be shown on the map as “non-buildable.”

18. Communications: Prior to recordation of the Parcel Map, the applicant must submit a list of proposed street names for the unnamed common road to the County’s Planning department for review and approval by the County’s Communications department for road name approval.

19. Map Preparation: Prior to the recordation of the Parcel Map or acceptance of finished work, which will be necessary for the release of an alternative bond, one set of reproducible “As Built” or “Record Drawings” shall be prepared by the applicant’s engineer and delivered to the Public Works Department.

20. Fair Share Contribution: Prior to recordation of the Parcel Map, the applicant shall pay a pro-rata fair share toward intersection modifications for San Juan Canyon Road/Old Stage/San Juan Salinas/Mission Vineyard Roads [2 parcels – one existing = (1) x \$1,411.37/new parcel = \$1,411.37].

Planning Conditions & Mitigation Measures:

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

- 22. 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).
- 23. 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 (Zone 1). Prior to the issuance of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan which shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture. [Mitigation Measure #1]
- 24. Air Quality:** A note shall be placed on the improvement plans for the proposed subdivision which states that the following actions shall be incorporated into site improvements: If and when grading occurs for property improvements and/or development the owner shall: Water all graded areas at least twice daily. If dust is not adequately controlled, then a more frequent watering schedule shall be incorporated. All grading activities during periods of high wind (over 15 mph) are prohibited. [Mitigation Measure #2]
- 25. Wetland Designation:** Prior to the recordation of the final Parcel Map all wetland areas designated on the U.S. Fish and Wildlife GIS database shall be identified on the Parcel Map; and a 250’ radius from the outer boundaries of the wetland shall be designated as “non-buildable” on the final Parcel Map. [Mitigation Measure #3]
- 26. Trash Maintenance and Removal:** During any construction or grading activities, all trash that may attract predators shall be properly contained, removed from the work site and disposed of regularly. Following construction/grading, all trash and construction debris shall be removed from work areas. [Mitigation Measure #4]
- 27. Staging Locations:** During any construction of grading all fueling and maintenance of vehicles and other equipment and staging areas shall occur at least 20 meters from any riparian habitat or water body. The permittee shall ensure contamination of habitat does not occur during such operations. Prior to the onset of work, the permittee should prepare a plan to allow a prompt and effective response to any accidental spills. All workers shall be informed of the importance of preventing spills and of the appropriate measures to take should a spill occur. [Mitigation Measure #5]
- 28. Construction & Grading Limitations:** Work activities (construction or grading) shall be completed between April 1 and November 1. Should the owner or applicant demonstrate a need to conduct activities outside this period, consultation with the U.S. Fish and Wildlife Service is required. [Mitigation Measure #6]
- 29. RWQCB:** To control erosion during and after project implementation (construction or grading), the applicant shall implement best management practices, as identified by the Regional Water Quality Control Board. [Mitigation Measure #7]

30. RLF Protection Measures: If a work site is to be temporarily dewatered by pumping, intakes shall be completely screened with wire mesh not larger than five millimeters (mm) to prevent California red-legged frogs from entering the pump system. Water shall be released or pumped downstream at an appropriate rate to maintain downstream flows during construction. Upon completion of construction activities, any barriers to flow shall be removed in a manner that would allow flow to resume with the least disturbance to the substrate. [Mitigation Measure #8]

31. CTS Monitoring and Maintenance: A U.S. Fish and Wildlife Service approved biological monitor should be onsite during all work activities affecting potential California Tiger Salamander (CTS) habitat (aquatic and upland) and California Red-Legged Frog (CRLF) habitat. If CTS and/or CRLF is found in an area that would be impacted by project activities (construction and grading), project activities (that would impact the species) will cease and the biologist will immediately contact the U. S. Fish and Wildlife Service for technical assistance. The biologist should be charged with monitoring species protection measures and direct compliance with permit conditions. [Mitigation Measure #9]

32. CTS and RLF Ground Disturbance Restrictions: Ground disturbance activities should not take place in potential CTS and or CRLF upland habitat (grasslands, oak woodlands, scrub or chaparral) when within 600 feet of potential CTS and/or CRLF aquatic habitat. If ground disturbing activities cannot be avoided within 600 feet of potential CTS and/or CRLF aquatic habitat the permittee should contact the U.S. Fish and Wildlife Service for technical assistance. [Mitigation Measure #10]

33. 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 no less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals.
- c. Notify the sheriff-coroner of the discovery if human and-or questionable remains have been discovered. The Planning Department Director shall also be notified.

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 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 #11]

- 34. Geological Feasibility Study:** Prior to recordation of the Final Parcel Map, the applicant/owner shall follow the recommendations indicated in the geological feasibility study prepared by Earth Systems Consultants on August, 2000 (File No. HO-7458-02). [Mitigation Measure #12]
- 35. Building Permits:** Prior to obtaining a building permit, the applicant shall follow the recommendations indicated in the geological feasibility study prepared by Earth Systems Consultants on August, 2000 (Filed No. HO-7458-02). Once final plans become available, they will be reviewed by the project geologist and geotechnical engineer to verify conformance with the recommendations presented in the report. [Mitigation Measure #13]
- 36. Soils Engineering Report:** Prior to recordation of the Parcel Map, the applicant/owner shall follow the recommendations indicated in the preliminary soils engineering report prepared by Earth Systems Consultants on August 25, 2000 (File No. HO-07458-02). All recommendations shall be provided as a note on an additional sheet to the Final Parcel Map prior to recordation. [Mitigation Measure #14]
- 37. Report Compliance:** Prior to obtaining a building permit pr grading permit, the applicant/owner shall follow all recommendations indicated in the preliminary soils engineering report, prepared by Earth Systems Consultants on August 25, 2000 (File No. HO-07457-02). These recommendations shall be indicated as notes to all building plans, construction plans and grading plans. [Mitigation Measure #15]
- 38. Fire Compliance:** 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 the standards set forth in the latest adopted editions of the 2007 California Fire Code, San Benito County Ordinances 822 and 823, Public Resources Codes 4290 and 4291 and all other related codes as they apply to a project of this type and size.” [Mitigation Measure #16]
- 39. Drainage Compliance:** Prior to issuance of the Parcel Map, erosion and drainage control details shall be submitted to the Public Works Department and will be in compliance with the County Drainage Standards. Drainage calculations shall be submitted, and shall be engineered signed and stamped. [Mitigation Measure #17]
- 40. Water Quality Notification:** Prior to recordation of the Parcel Map, a note shall be placed on an additional sheet to the Parcel Map stating the following: “Prior to issuance of a building permit, the applicant shall notify the successor in interest that: The concentrations of iron and manganese and color exceed the maximum contaminant levels established by the San Benito County Code. Prior to the issuance of a building permit, the actual water system shall be reviewed, inspected and approved by the Department of Public Works for satisfactory completion.” [Mitigation Measure #18]
- 41. Habitat Fees:** Prior to recordation of the Parcel Map, the owner shall be required to pay the \$600 required HCP fee as designated in Ordinance No. 541.[Mitigation Measure #19]

42. Hours of Construction: A note shall be placed on an additional sheet to the Parcel Map that states: “As required by County Ordinance, Construction on the parcels shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. The applicants for building permits within the subdivision shall be required to place a note to this effect on all construction plans.” [Mitigation Measure #20]

43. Building Envelopes: Prior to recordation of the Parcel Map the applicant shall designate building envelopes for both parcels.

County Fire Conditions:

44. Fire Protection: If project is on or near an established and recognized water distribution system, fire hydrants shall be provided. Fire hydrants shall be provided along fire apparatus access roads and adjacent public streets. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. If this is not possible, development may require the installation of one or more above ground water storage tanks to ensure adequate fire flow for fire protection. Fire flow requirements can be mitigated down when future building(s) are installed with NFPA 13-D fire sprinklers.

45. Ingress/Egress: The applicant/owner shall ensure that there is adequate ingress and egress to any and all buildings. Roadways/driveways shall be all-weather surfaced conforming to the applicable codes and standards. Driveway(s) shall include turnouts and turnarounds as required. If a gate is utilized on an access or egress driveway, a Knox system shall be required.

46. 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.

47. 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.

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

49. 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.

Environmental Health Conditions:

50. Soils: Any proposal to install a sewage disposal system in an area away from the current test site shall require additional soil profile and percolation testing at the building permit stage.

51. Water System: Prior to recordation of the Parcel Map, the water system to be used for these parcels shall be submitted, reviewed and approved by the Environmental Health Department.

52. Fuel Tanks: Prior to recordation of the Parcel Map, any underground fuel tanks on the property that are not being used shall be reported to the Environmental Health Department.

6. **SPECIAL PLAN REVIEW NO. 09-131:** OWNER: Trent Jones LOCATION: 3153 Glen Canyon Ct, Hollister. REQUEST: Applicant is requesting to construct a 7,500 square foot garage/workshop. ZONING: AP (Agricultural Productive). ENVIRONMENTAL EVALUATION: Categorically Exempt
Planner: Lissette Knight (lknight@planning.co.san-benito.ca.us) (continued from 8-5-09)

SP Knight presented her staff report advising the Commission that this type of application was typically an administrative permit however due to written concerns of neighbors pertaining to drainage, building use and size the project was being presented at a public hearing.

SP Knight explained measures have been taken to prevent these concerns by requiring a deed restriction as a condition of approval for the project. After some discussion and clarification by staff, Chair Bettencourt opened the public hearing.

Jim Paxton, Attorney for the Venator (neighbors), addressed the Commission advising the area has experienced extensive flooding in the area. Mr. Paxton also provided a map to the Commission while explaining his concerns. Mr. Paxton stated the entire area needs to have adequate draining and requested some type of mitigation to address possible flooding.

Christine Hyde, 3141 Meadow Lane, advised the Commission that the area has had serious flooding in wet years. Ms. Hyde also expressed concern that the building would be used for the applicant's business.

Albert Gomes, 315 Glen Canyon Court, stated he was concerned with the size of the building and that it may affect the quality of the neighborhood.

Anne Hall, San Benito Engineering explained the pond was adequate to handle the water retention on the project site and added the culverts are shown on the original subdivision (Dunn) improvement plans and not on the tentative map.

Commissioner DeVries asked how the water got to the pond. Ms. Hall explained the water traveled from roof leaders and swales.

Tammy Jackson, 3503 John Smith Road, Hollister addressed the Commission advising the flooding issue was the responsibility of the entire subdivision and those property owners within the subdivision. Mrs. Jackson also advised the applicant's were constructing the building for personal use.

Jim Paxton addressed the Commission again requesting added conditions of approval to address the area flooding.

Anne Hall advised the Commission that the applicant would be agreeable to installing a ditch between Venators and the applicant's property.

Trent Jones, the applicant addressed the Commission stating he had no intentions of operating any type of business from the proposed building. He stated he likes nice things and things in their place, the building would match the residence and that he was operating his business from a location on Industrial Drive and had a 3 year lease on the place.

With no other speakers, the Public Hearing was closed.

Commissioner Machado requested clarification on the retention pond calculations. PWE Bliss advised the calculations provided by San Benito Engineering have satisfied Public Works' requirements. Commissioner Machado also requested clarification on Condition No. 13. SP Knight suggested additional language. Commissioner Machado suggested the word substantially be stricken from Condition No. 3.

Chair Bettencourt directed Mr. Paxton to relay his concerns on flooding to Public Works. PWE Bliss requested those concerns be submitted in writing to the Department.

Commissioner DeVries questioned if the installation of a ditch between Venators and the applicant would help the concern of flooding. Anne Hall stated the offer was in good faith and intended to retain water on the property but wasn't warranted from an engineering view.

Commissioner Scattini requested clarification on the matter of CEQA. CC Granger stated that both Planning and Public Works have determined the project was exempt. Again, Jim Paxton addressed the Commission stating the pond needed to be maintained by the applicant.

Commissioner DeVries requested alternative language and noting to the map for 'roof leaders to daylight in the pond or the swales be connected to the pond' and language added or amended on Condition No. 13 that the applicant would maintain the pond as appropriate.

Commissioner DeVries moved to approve SPR 09-131 as amended, Commissioner Scattini offered a second to the motion which passed 4-0-1; Commissioner Culler was absent. DoP Henriques stated the decision was final unless appealed to the Board of Supervisors within 10 days.

Special Plan Review No. 09-131 - Findings:

Finding 1: The proposed use or building will not alter the intensity of land use in the surrounding area, and is properly located in relation to the General Plan and to surrounding land uses, transportation, and service facilities in the vicinity.

Evidence: The proposed use is located in the AP zoning district which permits a 7,500 sq ft garage/workshop with a Special Plan Review. The use meets all setback requirements within the AP zone, and if the applicant complies with all conditions of approval, the project will then meet all

water district, environmental health, fire, and public works standards. Those comments can be found in file SPR 09-131.

Finding 2: The proposal if it complies with the conditions upon which approval is made contingent, and all applicable County, State, and Federal laws and regulations, will not adversely affect other properties in the vicinity or cause any damage, hazard or nuisance to persons or property.

Evidence: The proposal is in an Agricultural Productive zoning area and surrounded by similar zoning. The use will meet all applicable County, State, and Federal Regulations and has been reviewed by all relevant agencies to determine potential hazards. Those approvals and reviews can be found in file SPR 09-131.

Finding 3: The parcel was recorded as a legal lot prior to adoption of the current zoning ordinance or a certificate of compliance has been recorded for the parcel since the adoption of the current Zoning Ordinance.

Evidence: The Parcel Map filed for record in the office of the Recorder of the County of San Benito, State of California on June 14, 2006 in Book 10 of Parcel Maps, at page 27, San Benito County Records.

CONDITIONS OF APPROVAL

1. **Hold Harmless:** 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 Special Plan Review and any applicable proceedings. [Planning]
2. **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]
3. **Conformity to Plan:** The development and use of the site shall conform to the application site plan and Conditions of Approval as approved by the Planning Commission and filed with the Planning Department. The garage workshop is limited to no more than what has been proposed and agreed upon in Special Plan Review 09-131, Assessor's Parcel Number 017-100-059. Any increase in the nature or intensity of land use on the site shall be subject to further Planning Commission review and approval. [Building, Planning]
4. **Environmental Health:** Prior to obtaining a building permit, if the new garage is to be provided with plumbing then a plan to dispose of the wastewater will be required. This plan will be submitted to the Department of Environmental Health. [Environmental Health]
5. **Hazardous Materials:** If any hazardous materials will be used or stored in the new garage, then a hazardous materials plan shall be submitted to the Department of Environmental Health. [Environmental Health]

6. **Blue Valve:** If the applicant chooses to seek permission from the San Benito County Water District to use the San Felipe Blue Valve for connection to a fire suppression water supply, the applicant shall complete an 'Agreement for Supplemental Fire Protection' with the SBCWD and provide evidence of such agreement to the County prior to issuance of a building permit. The applicant shall work in cooperation with the SBCWD if modifications or upgrades to the San Felipe Distribution System equipment are required. CDF (Fire) approval is a prerequisite for use of San Felipe Water for fire protection. [San Benito County Water District]
7. **Car Washing:** Automobiles shall not be washed onsite. [San Benito County Water District & Planning]
8. **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. Prior to the issuance of a building permit, the applicant shall submit to the Building and Planning Department an exterior lighting plan which shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture. [Planning]
9. **Fire:** Any and all development on this property shall be required to meet the standards set forth in the latest editions of the 2007 California Fire Code, Public Resources Codes 4290 and 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]
10. **Address:** Addresses for the facility shall be posted at the entrance and clearly visible to responding emergency equipment and shall be to County standard with regards to size, width, and color. [County Fire]
11. **Sprinklers:** An NFPA 13D fire sprinkler system is required to be installed throughout the entire structure. Plans and calculations shall be submitted to this office for review prior to installation. These plans shall include all piping and plumbing from the water source to the riser. The water system shall be capable of producing 500 GPM for 120 minutes at the hydrants. All hydrants shall be steamer type. Steamer hydrants shall be located where indicated on the site plan. [County Fire]
12. **Deed Restriction:** Prior to obtaining a building permit, the applicant must record a Deed Restriction for SPR 09-131. Application material and instructions will be provided by the Planning Department. [Planning]
13. **Drainage:** All drainage/runoff created by the proposed structure and proposed driveway shall be retained on-site and be maintained by the land owner, through annual maintenance as appropriate. [Public Works]

PUBLIC HEARING ITEMS ~ COMMISSION ACTION

7. **CERTIFICATE OF COMPLIANCE NO. 08-79:** APPLICANT: Eric Del Piero. LOCATION: Rocks Rd, San Juan Bautista (APN# 012-090-020) REQUEST: To recognize, with conditions, a .36 acre parcel as a legal parcel that may be sold, leased, or financed in accordance with the State Subdivision Map Act. ZONING: Agricultural Productive (AP). ENVIRONMENTAL EVALUATION: Class 5 of Categorical Exemptions (Minor Alterations in Land Use Limitations), §15305 of State CEQA Guidelines.
Planner: Lissette Knight (lknight@planning.co.san-benito.ca.us)

SP Knight stated the applicant has requested a continuance to December 2nd in order to be present for the hearing. Chair Bettencourt opened and closed the Public Hearing as no persons wished to address the Commission.

Commissioner Machado moved to continue Agenda Item #7 to the regular meeting of December 2nd, Commissioner Scattini offered a second to the motion which passed 4-0-1; Commissioner Culler was absent.

Chair Bettencourt called for a break at 7:44 PM. The meeting was reconvened at 7:53 PM.

DISCUSSION ITEM

8. **Water Efficient Landscape Ordinance.** State law requirement for cities and counties, including charter cities and charter counties, to adopt a landscape water conservation ordinance by January 1, 2010. *Planner: Byron Turner (bturner@planning.co.san-benito.ca.us)*

ADoP Turner explained the documents in the Commission packet noting that the State of California has provided a model Ordinance for discussion. ADoP Turner also advised that San Benito County would be subject to the State model if a local Ordinance was not adopted by January 1, 2010.

ADoP Turner stated the County had options which could or would meet the State deadline and the County was working with the City of Hollister and San Benito County Water District on a joint Ordinance. ADoP Turner requested direction from the Commission.

DoP Henriques added the item would be heard during a Public Hearing on November 18th.

SP Knight advised that San Benito County Water District did not have the time or ability to participate in the process and that Planning & Building would handle the crafting of the Ordinance as well as the oversight and enforcement. Chair Bettencourt suggested the City of San Juan Bautista be included in the process.

Jeanette Langstaff addressed the Commission stating she too was concerned with water resources and appreciated being asked for her input.

The Agenda item discussion was concluded with direction to Staff and noting the Commission a Public Hearing is scheduled for November 18th.

9. Commissioner Announcements/Reports/Discussions

Chair Bettencourt stated he wished to direct fellow Commissioners to notify him or the Planning staff if they were not able to attend a regular meeting. Commissioner DeVries noted he would make notification to the proper staff. With no further discussion, Chair Bettencourt called for adjournment.

ADJOURNMENT

Commissioner Machado moved to adjourn, the motion was seconded and Chair Bettencourt adjourned to the Regular Meeting of November 18, 2009 at 8:13 PM.

Minutes prepared by:
Trish Maderis
Planning Commission Clerk

ATTEST:
Art Henriques
Director of Planning