

# **SAN BENITO COUNTY PLANNING COMMISSION**

## **February 3, 2010**

### **Minutes**

PRESENT: Machado, Culler, Bettencourt, Scattini & DeVries

ABSENT: None

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

Chair Bettencourt opened the Meeting at 6:02 p.m. as he led the pledge of allegiance to the flag and reiterated the standing rules of order.

#### ***DIRECTOR'S REPORT***

(ADoP) Turner updated the Commissioners on the Board of Supervisor's meeting of February 2, 2010. The Board gave staff the direction to uphold the Planning Commission's decision to deny the Robert Rodriguez flea market. Staff will prepare a resolution and bring back to the Planning Commission at a later date.

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

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

#### ***ELECTION OF CHAIR AND VICE-CHAIR FOR TERM OF FEBRUARY 1, 2010 THRU JANUARY 31, 2011***

Chairman Bettencourt opened the nominations for Commission chairman. Commissioner Machado moved to elect Robert Scattini as chairman for the ensuing term. With a second from Commissioner Culler the nomination passed with a 4-0 vote. Commissioner Bettencourt then passed the gavel to Chairman Scattini. Upon taking the gavel Chairman Scattini made a few comments regarding procedures. He asked that planners not sit behind the podium, all pagers and cell phone are to be turned off or put on vibrate and public comments to be kept to 3 minutes. Chairman Scattini then opened the nominations for vice-chair. After a brief discussion regarding the sequence of order, Commissioner DeVries nominated Commissioner Culler as vice-chair. With a second by Commissioner Machado the nomination passed with a 4-0 vote.

## **CONSENT AGENDA**

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

Commissioner Machado moved to approved items 1 thru 3 of the consent agenda. With a second by Commissioner DeVries, the motion carried with a **5-0 vote**.

## **CONTINUED CONSENT AGENDA: COMMISSION ACTION**

- 4. LOT LINE ADJUSTMENT 09-534:** APPLICANT: Alberta Rist. PROJECT LOCATION: 2851 Lewis Creek Road. APN: 031-050-006 & a portion of 031-050-007. REQUEST: Request to adjust the property line between two parcels resulting in a 305-acre parcel (Parcel 1) and 208-acre parcel (Parcel 2) in the AR zoning district. ENVIRONMENTAL EVALUATION: Negative Declaration (ND).  
*PLANNER: Ann Dolmage ([adolmage@planning.co.san-benito.ca.us](mailto:adolmage@planning.co.san-benito.ca.us))*

**PROJECT DESCRIPTION:** The applicant is requesting a lot line adjustment between two parcels, both of which are zoned Agricultural Rangeland (AR). Parcel 1 is currently 274 acres in size and Parcel 2 is currently 239 acres in size. The proposed lot line adjustment would expand Parcel 1 to 305 acres and decrease Parcel 2 to 208 acres. Section 15305 of the California Environmental Quality Act (CEQA) exempts lot line adjustments from CEQA when the average slope of the project area is less than 20%. The applicant's engineer has specified that the average slope of this parcel most likely exceeds 20%. Therefore, an Initial Study was prepared and the project is being brought to the Planning Commission for CEQA determination and approval.

After a brief discussion among the Commission, Commissioner Bettencourt moved to adopt the Negative Declaration and approve LLA 09-534 with the findings and conditions of approval contained in the Staff Report. With a second by Commissioner Machado, the motion carried with a **5-0 vote**.

### **CONDITIONS APPROVAL**

- 1. Hold Harmless:** Upon written notice by the County, the applicant shall defend, indemnify, and hold harmless San Benito County and its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul the approval of the lot line adjustment and applicable proceedings. San Benito County reserves the right to prepare its own defense. [Planning]
- 2. Taxes:** Prior to the release of documents for recordation, the applicant shall provide a tax clearance letter stating that all real property taxes for the parcels subject to the lot line adjustment are prepaid. For the purposes of this condition, the amount of property taxes to be paid shall include all real property taxes in arrears, as well as the prepayment of the next

installment of all real property taxes due on the subject property. “Next installment due” means the actual, or estimated, as the case may be, one-half year installment due immediately following the date or recordation of the new legal descriptions of the subject properties. The tax clearance letter is valid only from the date of issuance until the next installment due for the payment of real property taxes. [Treasurer, Tax Collector, Planning]

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

**CONTINUED ITEM ~ PUBLIC HEARING ITEM**

**5. PRELIMINARY ALLOCATION APPLICATIONS FOR FISCAL YEAR 2009-10:**

<b>File No.</b>	<b>Applicant Name</b>	<b>Location</b>
PA 10-01 <b>MAJOR</b>	SANTANA RANCH	Fairview/John Smith Rds.
PA 10-02 <b>MAJOR</b>	SANTANA RANCH	Fairview/John Smith Rds.
PA 10-03 <b>MINOR</b>	JENSEN, Josh	11300 Cienega Rd

ADoP Turner presented the summary for this project. Commissioner DeVries excused himself due to a conflict of interest with the Jensen project.

This item was first heard during the January 20, 2010 Planning Commission meeting. It was continued so that Planning Staff could prepare Resolution 2010-02 and provide additional response to the Commissions questions and respond to the Commissions direction from the January 20<sup>th</sup> meeting.

Chairman Scattini opened the Public Hearing.

There being no further public comment, Chairman Scattini closed the Public Hearing.

After a brief discussion regarding the number of allocations and how they would be distributed, Commissioner Machado moved to Adopt Resolution 2010-02 assigning 37 allocations to PA10-01 and 37 allocations to PA 10-02 and reserve three allocations and provide PA 10-03 six months to provide remaining application materials. With a second by Commissioner Culler, the motion carried with a **4-0 vote**. Commissioner DeVries excused from vote.

**PUBLIC HEARING ITEM ~ COMMISSION ACTION**

- 6. M-DISTRICT REVIEW NO. 82-06:** APPLICANT: Gary Kerr. LOCATION: 2025 San Juan Road, Hollister (APN-021-040-012). REQUEST: Applicant is requesting to operate a go-kart race track on weekends only (Friday evening, Saturday and Sunday) in an existing 9,000+ square foot building. ZONING: Heavy Industrial (M-2). ENVIRONMENTAL EVALUATION: Negative Declaration. *Planner: Lissette Knight ([lknight@planning.co.san-benito.ca.us](mailto:lknight@planning.co.san-benito.ca.us))*

SP Lissette Knight made the correction to the project number to M-District Review No. 90-09

**Description of project:** The M-District Review No. 90-09 proposes to conduct a Go-Kart Racetrack (Hollister Speedway) within an existing 9,600 square foot building currently used for the construction of trusses for the company Advantage Truss. The proposed operation would be under the ownership of Kartland Inc. who is leasing the building from Advantage Truss. It proposes to create a movable race track unit that will also include interior landscaping, and indoor security system for the indoor and outdoor facility, lit parking, signage and constant equipment maintenance and driving instruction for the patrons. The go-karts to be used for this site utilize ultra-low emission Honda motors with catalyst-converters installed on every go-kart. Adult go-karts reach up to 35 miles per hour and junior karts will not exceed 12 miles per hour. Go-Karts on the track will be limited to six at any one time.

The Commission then had a discussion regarding traffic, crowd size, parking and occupancy limits. SP Knight explained that most of these issues were addressed in the traffic study. The occupancy will be established by the County Fire Marshall. The question regarding the applicant having to pay Fish & Game fees of \$2060.25, SP Knight explained that when staff prepares an environmental document it is a State law that this fee be paid. SP Knight explained that with use permits if there are any changes or concerns the project can be brought back to the Planning Commission for review and alteration.

Chairman Scattini then opened the Public Hearing.

Gary Kerr – Applicant - This project will be good for the community and give a place for the young people to go for fun. They will have six carts going at once and have three races an hour. They will have 2 employees to start with and increase as the business increases. If their hours change they will bring the project back to the Commission for review.

Felipe Meirelles - Stated that Mr. Kerr is a race car driver and is qualified to teach the public how to drive the go karts. Mr. Meirelles will also be available from time to time to help out.

With no further public comment, Chairman Scattini closed the Public Hearing.

After a brief discussion Commissioner DeVries moved to adopt the Negative Declaration, make the CEQA and MDR findings and approved M-District Review No. 90-09 based on the findings and conditions of approval contained in the staff report as amended. With a second by Commissioner Bettencourt, 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 M-District Review 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 (\$2,060.25 – 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:** Prior to occupancy and operation of the business, 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]

#### **Planning Conditions:**

5. **Yearly Permit Compliance Review:** Each year, Planning Staff and other County staff (as necessary) shall conduct yearly site visits to ensure that all conditions of approval are being met and all approved plans and programs are being enforced. Site visits are subject to a fee per Ordinance 833. [Planning]
6. **Storage:** Storage of go-kart materials/items, supplies or waste 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.
7. **Lighting Plan:** Prior to operation and as part of the building permit submittal, the applicant owner shall submit an exterior/security and safety lighting plan. 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). The exterior lighting plan shall indicate the location, type, and wattage of all proposed lighting fixtures and include catalog sheets for each fixture. [Planning]
8. **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. To the extent that the County Code is subsequently modified or eliminated, this shall remain as a condition of approval.

- 9. Sign Ordinance:** Prior to operation, any signs used to advertise for the Go-kart business shall be required to meet the County's Sign Ordinance. [Planning]
- 10. Hours of Operation:** The hours of operation for the Go-Kart business shall be as follows:
- a. Fridays: 6pm – 12am  
Saturdays: 10am – 12am  
Sundays: 10am – 7pm
  - b. The following holidays shall be observed: New Years, 4<sup>th</sup> of July, Thanksgiving and Christmas. [Planning]

**Public Works Conditions:**

- 11. ADA Requirements:** Prior to operation, that applicants engineer shall modify the parking details on the Site Improvement Plan. At that time, parking details on the Site Improvement Plans are to include a paved surface and maximum slope limitations, width of adjacent paved access to the building and the required "NO PARKING" text and logo. Plans shall also show properly (resized) signs regarding ADA parking spaces. The Site improvement plan shall meet the approval of County. Prior to operation, the ADA improvements shall be constructed as specified on the modified site improvement plan. [Public Works]
- 12. Bollards:** Prior to operation, bollards are to be added to the area immediately adjacent to a pole guy wire close to the existing transformer to sufficiently protect or alert patrons to the potential ripping, stumbling or collision with the guy wire. The locations of the bollards shall be indicated on the final site plan. The site improvement plan shall meet the approval of County. Applicant shall construct all improvements in accordance with the modified site improvement plan prior to operation. [Planning, Public Works]
- 13. Fire Review:** Prior to operation, a letter or signature block on the face of the Site Improvement Plan that indicated the County Fire Marshall has reviewed the site, is aware of the existing septic tank location and been provided with satisfactory proof that cover over the septic tank will provide sufficient strength to support emergency vehicle loads passing over the septic tank (Alternately, provisions to prohibit heavy loads from crossing the septic tank location might require signage and provisions to allow passage thru gates in the proposed new fence location). The County Fire Marshall shall sign in approval, the signature block indicating that this has been met to his satisfaction. [Public Works]

**Environmental Health Conditions:**

- 14. Sewage Disposal:** *Unless exempted by the Environmental Health Department,* prior to operation, a Registered Civil Engineer or qualified Registered Environmental Health Specialist shall determine if the existing septic system is adequate for the proposed usage of seventy two clients/patrons plus two (2) employees. If not, the septic system shall be improved to Environmental Health's approval prior to operation. [Environmental Health]

- 15. Water:** Prior to operation the applicant/owner shall contact the Office of Drinking Water for approval/permit to operate a public water system. Proof of approval or a copy of the approved permit shall be supplied to the Environmental Health and Planning Departments. [Environmental Health]
- 16. Hazardous Materials:** Prior to operation, the applicant/owner shall submit a Hazardous Materials Business Plan to the Environmental Health Department for review and approval. [Environmental Health]
- 17. Food & Beverage:** If any food/beverage service is offered to the clients/patrons of this facility then the applicant/owner shall contact the Environmental Health Department regarding a Food Facility Plan Check review and approval. Approvals shall be obtained prior to food and or beverages being served. [Environmental Health]

#### **County Fire Conditions:**

- 18. 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. [County Fire]
- 19. Final Clearance:** Prior to operation of any business onsite, the Fire Marshal 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. [County Fire]

#### **County Building Department:**

- 20. Building Permit:** Prior to operation, the applicant/owner shall obtain a building permit for the change of occupancy for the existing 9,600 square foot building to an A-3 assembly (CBC 303.1) special amusement building (CBC 411.1). This permit shall be issued and a final sign off will be required from the Building Official and the County Fire Marshal prior to operation. [Building & Planning]
- 21. Building Requirements:** Prior to operation and as part of the building permit submittal, the building shall be made to comply with the requirements of the 2007 California Building Code for the new occupancy group. These requirements include, but are not limited to accessibility, means of egress, structural design, energy, allowable height and area, fire resistance construction, restroom facilities, temperature control, ventilation and special amusement.
- 22. Code Requirements:** As part of the building permit submittal process the applicant/owner shall submit to the Building Department all necessary plans, calculations, code analyses and other documentation needed to determine if the building meets code requirements. Operation shall not occur unless there is a final sign off on the building permit from the Building Official and the County Fire Marshal.

**23. Accessibility:** Prior to operation, the entire building site shall meet all requirements for accessibility per the California Building Code and California Fire Code.

**7. RESOLUTION NO. 2010-01, A RECOMMENDATION AND REPORT TO THE BOARD REGARDING EARTHBOUND FARM/NATURAL SELECTION FOODS' REQUEST FOR ABANDONMENT, TRANSFER AND FINALIZATION OF AN AGRICULTURAL OPEN SPACE EASEMENT ON APN 012-050-010 AND RELATED OFFER OF NEW AGRICULTURAL OPEN SPACE EASEMENT ON APN 012-020-013 AND 012-040-046.** APPLICANT: Earthbound Farm/Natural Selection Foods. LOCATION: San Juan Valley, San Juan Bautista, CA (APN 012-020-013, 012-050-010, and 012-040-046). ENVIRONMENTAL EVALUATION: Categorically Exempt, Section 15317, 15307, 15308, 15325, and/or 15061(b)(3). PLANNER: Lissette Knight ([lknight@planning.co.san-benito.ca.us](mailto:lknight@planning.co.san-benito.ca.us))

Commissioner DeVries asked to be excused from this project as it would be a conflict of interest.

SP Lissette Knight presented the project.

The applicant Natural Section Foods, LLC, dba Earthbound Farms (“NSF”) recommends the abandonment of 19.82 acres of an existing 36.87 acre Agricultural Open Space Easement on 012-050-010 and the amendment of the legal description for that easement. The applicant also requests that the County accept the relocation of the easement abandoned to the following neighboring parcels: APN 012-020-013 and 012-040-046, with a total of 19.82 acres being placed under a new Agricultural Open Space Easement. This would result in a no net increase or loss of preserved agricultural land, which preserves undeveloped Prime Agricultural land and prevents industrial sprawl.

ACC Barbara Thompson asked the Clerk to handout a letter from the County Assessor regarding the Abandonment Fees and a copy of the total application. These are on file with the permanent copy at the County Planning Department.

There being no Commission discussion, Chairman Scattini opened the Public Hearing.

Janet Brians – Hollister – requested that there be care given to landscaping.

Joe Torquato – Earthbound Farms – The applicant will address all landscaping issues as a condition for approval in the Use Permit.

The Commission then had questions of the applicant regarding the Abandonment Fees. SP Knight stated that this is a State requirement and the County cannot waive or alter this fee. The applicant is aware of this fee. ACC Barbara Thompson also stated that the applicant can challenge the valuation if they feel it is too high.

Julie Morris – Earthbound Farms – The company has worked with the Assessor and they are confident that the value is accurate.

There being no further public comment, Chairman Scattini closed the Public Hearing.

Commissioner Machado moved to Adopt Resolution No. 2010-01, recommending that the Board of Supervisors approve Earthbound Farms/Natural Selection Food’s request to abandon 19.82 acres from an existing Easement on parcel 012-050-010 and accept an Open Space Easement on 19.82 acres located on parcels 012-020-013 and 012-040-046 with no net loss of land with the following findings and conditions of approval. With a second by Commissioner Bettencourt, the motion carried with a **4-0 vote**. Commissioner DeVries being excused.

Chairman Scattini called a five minute break at 7:05.

Chairman Scattini called the Commission back to order at 7:10.

## **DISCUSSION ITEM**

### **8. Request to consider whether Flea Markets be allowed in M-2 Zoning Districts**

SP Lissette Knight explained that there has been a request for the Planning Commission to consider whether a flea market should be allowed in the M-2 Heavy Industrial District pursuant to Section 25.29.106 Additional Uses Permitted of the San Benito County.

Commissioner DeVries stated that this would be a good use for M-2 District unless it conflicted with other industrial uses.

Commissioner Culler agreed with Commissioner DeVries but would like conditions for clean-up and traffic.

Commissioner Machado asked were are the M-2 zones? Some areas are not conducive for a flea market.

SP Knight asked would the Commission be willing to hear such an application. ADoP Turner explained it would come to the Planning Commission as an M-District Review with conditions. It would be allowed under similar uses as above by the Planning Commission.

Chairman Scattini then opened the Public Hearing.

Robert Brians – Hollister – Would want the Commission to be very careful in their consideration of a flea market.

Patricia Rodriguez – Outdoor Market Coordinator – Has experience in Certified Farmers Market for many years. Wants to make outlets available for small farmers and keep it local. She has a waiting list for a local market. She makes sure that everyone has a permit and those selling organic are certified to do so. They hire local youth groups for clean-up.

There being no further public comment, Chairman Scattini closed the Public Hearing.

The consensus of the Commission was that the industrial districts are very limited in the County and suggested that some of local industrial parks would be a good venue. They would also need to look at the City of Hollister. The Commission would be willing to look at an application based on the other uses section.

**INFORMATIONAL – NON-ACTION ITEM**

*Commissioner Announcements/Reports/Discussions*

Commissioner Bettencourt stated his concern regarding the dead tree along Southside Road next to one of the Planning Department buildings.

**ADJOURNMENT**

There being no further Informational or Non-Action Items, Chair Scattini asked for a motion of adjournment. Commissioner Bettencourt moved for adjournment. Commissioner Machado offered a second to the motion which carried with a **vote of 5-0**. Adjournment at 7:31 p.m. to February 17, 2010.

**Minutes prepared by:**  
*Janet Somavia*  
Planning Commission Clerk

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