

# SAN BENITO COUNTY PLANNING COMMISSION

April 21, 2010

## Minutes

PRESENT: Bettencourt, DeVries, Machado & Scattini

LATE: Culler

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

Chair Scattini opened the Meeting at 6:04 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 the April 14, 2010 Board of Supervisor meeting

- Held public hearing and approved the Earthbound Farms Resolution.
- Provided the Board with a status update on Santana Ranch & Fairview Corners.
- Approval of amendment to consultants contract to fully address the EIR costs for the General Plan update.
- Announced that this is his last Commission meeting and wanted to commend the Commission on a great job. He is putting together a summary of last four years and will be presented to the Commission and Board. He will be available until 4/30/10.

Commissioner Bettencourt asked regarding the Leal Vineyards appeal. ACC Barbara Thompson stated that they are shooting for the 1<sup>st</sup> meeting in June, depending on the applicant.

### ***PUBLIC COMMENT***

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

### ***CONSENT AGENDA***

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

Commissioner Machado moved to approved Consent Agenda Items 1 and 2. With a second by Commissioner Bettencourt the motion carried with a **4-0-1 vote**. Commissioner Culler was absent.

Commissioner Culler arrived at 6:10 p.m.

## ***PUBLIC HEARING ITEM ~ COMMISSION ACTION***

### **3. General Plan Amendment 09-43 (Housing Element Update):**

**REQUEST/RECOMMENDATION:** The County Planning Department is requesting that the Planning Commission consider and adopt a Resolution recommending that the Board of Supervisors approve the proposed amendment/update to the General Plan Housing Element for the planning period of 2007–2014 in order to satisfy State law and facilitate the unincorporated County's fair share of San Benito County housing need.

**APPLICANT:** San Benito County. **LOCATION:** All of unincorporated San Benito County, California. **ENVIRONMENTAL EVALUATION:** Negative Declaration.

**PLANNER:** Michael Kelly ([mkelly@cosb.us](mailto:mkelly@cosb.us))

AP Michael Kelly showed a power point presentation regarding the updating of County General Plan Housing Element as required by State Government Code #65580. (A copy of this Power Point is attached to the permanent copy at the Planning Department.)

AP Michael Kelly strongly recommended the Planning Commission approve the attached Resolution by following the following steps:

1. Conduct a public hearing.
2. Review written comments.
3. Recommend adoption of a negative declaration.
4. Approve Resolution 2010-05 recommending approval of GPA 09-43 to the Board of Supervisors.
5. Direct Staff to forward the negative declaration and GPA 09-43 to the Board of Supervisors for consideration on May 11, 2010

At the conclusion of his report AP Kelly stated he would be available for questions.

Commissioner Bettencourt asked regarding the Board of Supervisor approval of the Inclusionary Housing suspension. ACC Barbara Thompson stated that the Housing Element adoption must happen first before suspension or changes can be made to the Inclusionary Housing. DoP Henriques stated grants that are available could be lost if the Housing Element is not approved in a timely fashion. We are currently two to four weeks ahead of the grant cycle.

AP Kelly stated that the HCD currently has the draft for review. DoP Henriques stated that staff responded only to the issues that HCD brought up rather than rewriting the whole document. once the Commission and Board approve the Housing Element, Staff would then forward the entire document to HCD.

Commissioner Bettencourt complimented AP Michael Kelly on the draft. He also questioned the current draft would not affect any of the changes that the Commission has made. DoP Henriques replied that the Housing Element covers all the possibilities for the Inclusionary Housing.

Chairman Scattini opened the Public Hearing.

Jennifer Coile – Hollister – Ms. Coile stated that the grant deadline is June 25<sup>th</sup> and asked why the responses to HCD were not available. She also spoke against adopting the Housing Element in its present form. Ms. Coile presented to the Commission a copy of her letter outlining changes she would like to see made as well as a copy of a pamphlet entitled “Affordable by Choice”. (The aforementioned letter and pamphlet are attached to the permanent copy in the Planning Department.)

Richard James – Representative of Fairview Corners - Would like to see the area of Fairview Road & Airline Highway included in the Housing Element. Mr. James handed in a map of the area that Fairview Corners would like to have included.

Scott Fuller – San Juan Oaks - It is his understanding that the ordinance was to be suspended, staff was to do the environmental work and the Ad Hoc committee would come back with recommendations to make changes. Mr. Fuller does not feel that anything that the Commission is doing tonight is inconsistent with the Board direction.

Jeannette Langstaff – Hollister - Requested that the Commission not approve the update to the Housing Element. Mr. Langstaff presented a letter outlining her reasons for this request. ( A copy of the letter is attached to the permanent copy in the Planning Department.)

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

After a brief discussion regarding the changing of the Housing Element to include the changes to the Inclusionary Housing, the additional CEQA work required to make these changes and the urgency of moving this along to avoid the loss of grants, Commissioner Bettencourt moved to adopt the Negative Declaration, approve Resolution 2010-05 recommending approval of GPA 09-43 to the Board of Supervisors and direct Staff to forward the negative declaration and GPA 09-43 to the Board of Supervisors for consideration on May 11, 2010. With a second by Commissioner Culler, the motion carried with a **5-0 vote**.

## ***DISCUSSION ITEM***

4. DRAFT Habitat Conservation Plan Feasibility Report *(continued from 3-17-10)*  
PLANNER: *Laura Hall* ([lhall@planning.co.san-benito.ca.us](mailto:lhall@planning.co.san-benito.ca.us))

AP Hall stated that there were a couple changes. In the second paragraph of the memorandum to strike the last sentence. On page two, bullet three, please note that Staff is currently waiting to hear from County Counsel on ways to use those fees.

AP Hall then presented a power point as a follow up to the March 17<sup>th</sup> draft regarding Mitigation Banking and other alternatives to a Habitat Conservation Plan. (A copy of this power point is attached to the permanent copy at the Planning Department.)

After the presentation Staff recommended that due to ongoing inquiries from the public and other interested agencies and organizations, the County hold 2 community workshops over the next few months. Afterwards, Staff would work with the US Fish and Wildlife Service and the California Department of Fish and Game to explore what alternative would best fit the County's unique needs. The information from the workshops and the wildlife agencies would then be presented to the Board of Supervisors, along with the "San Benito County Habitat Conservation Feasibility Report" that was completed by TRA on April 6, 2010.

AP Hall then stated that she was open to questions from the Commission. There being none, Chairman Scattini opened the Public Hearing.

Scott Fuller – San Juan Oaks - Agrees with the idea of holding public workshops. Mr. Fuller stated that Mitigation Banks have been extended to not only cover wetlands but endangered species as well. The establishment of mitigation banks often goes through the Army Corp of Engineers and would include a wetland mitigations and upland mitigations. He believes that HCP is long process and still feels mitigation banks or conservation banks are the best way. Also, he believes that the expert at the last meeting felt that a take permit could be part of the mitigation bank.

AP Hall clarified the issue of take permits. AP Hall stated that she had been in touch with US Fish and Wildlife and an incidental take permit would still be needed.

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

Commissioner Bettencourt inquired of County Counsel as to whether we need to change the ordinance to include additional species. The original ordinance specified Kit Fox. ACC Thompson replied that she would look into this and report back.

Commissioner Machado stated he was very impressed with the consultant at last presentation and he seems to think that banking is a good method.

AP Hall stated that mitigation for waterways and conservation for uplands can be discussed in the public workshops. DoP Henriques stated that this was an information only discussion and would report to the Board of Supervisors soon and get the workshops going.

Chairman Scattini called for a short break at 7:02 p.m.

Chairman Scattini called the meeting back to order at 7:12 p.m.

5. Existing & Proposed County Commercial Zones  
*PLANNER: Lissette Knight ([lknight@cosb.us](mailto:lknight@cosb.us)) (continued from 4-7-10)*

During the March 21<sup>st</sup> Planning Commission meeting staff was instructed to provide the Commission with information regarding the existing and proposed Commercial Zones within San Benito County.

SP Knight presented a power point showing the existing, proposed and current application. (A copy of the power point is part of the permanent copy at the Planning Commission.)

The Commission had questions regarding zone changes and doing overlays. SP Knight stated that there could possibly be benefits to the property owner to change zoning to commercial. You can also have a commercial overlay and maintain your current zoning. The General Plan Advisory Committee is currently looking at proposed sites as is the economic consultants.

SP Knight stated that there are some projects that were not on the list, those being property in Ridgemark, Rocks Road and 101 near The Red Barn.

SP Knight wanted to point out an area in the County that is in the sphere of influence of the City of Hollister (Northeast Hollister Plan). It is important to know these areas that the City is going to annex and ask for certain considerations.

Chairman Scattini opened the Public Hearing.

Scott Fuller – San Juan Oaks - Mr. Fuller pointed out that San Juan Oaks has two commercial areas. One for a hotel and one for commercial buildings.

Jerry Muenzer – Tres Pinos - Mr. Muenzer wants to encourage the Commission and Staff to move forward with commercial zoning on our highways.

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

Commissioner DeVries stated that some of the highways are scenic highway eligible. He would be willing to work with Staff to see this take place. Commercial zoning needs to be aware of this and be sure to have design review in place.

Commissioner Machado wants to emphasize that we have four highways in our County and we need to take advantage of the traffic with highway commercial zoning.

There was a brief discussion regarding establishing commercial areas in the County and the Commission directed Staff to be sure to include the Red Barn/101 area and San Juan Oaks in the general plan update.

## **INFORMATIONAL ITEMS**

**6. CEQA De Minimis Findings Workshop**  
**PLANNER: Lissette Knight ([lknight@cosb.us](mailto:lknight@cosb.us))**

SP Knight presented a power point on California Environmental Quality Act Document Filing Fees and No Effect Determinations. ( A copy of the power point presentation is part of the permanent file at the Planning Department.)

Senate Bill 1535 established that the lead agency does not have the right to make De Minimis findings. The applicant must file an application with the California Fish & Game for a fee waiver. The Commission was given handouts to this effect. (Copies are part of the permanent file at the Planning Department.)

Staff will change the wording in the standard conditions of approval to reflect this finding.

SP Knight explained that the lead agency, the applicant or a representative of the applicant can file for this waiver. It is a free and the application is available on the Fish & Game website. SP Knight stated that as Staff sees projects they feel will qualify for no effect, Staff could file an application with the CEQA document as most CEQA documents are circulated to Fish & Game. Commissioner Culler stated he did not think it would be advisable to set precedence. SP Knight stated that this was a good point and it could be left up to the wording in the standard conditions.

Chairman Scattini opened the Public Hearing. There being none, Chairman Scattini closed the Public Hearing

## **COMMISSIONER ANNOUNCEMENTS/REPORTS/DISCUSSIONS**

Chairman Scattini read a letter that the City of Hollister would like to get together with the Planning Commission to discuss mutual projects. SP Knight asked what dates would be preferable to the Commission to invite the City of Hollister Commission to join them. After a brief discussion, it was decided to go with the first meeting in June. (June 2<sup>nd</sup> ). Staff will contact the City and arrange the meeting.

Chairman DeVries asked if it would be advisable to an informational discussion on the rules of order so that there would not be a repeat of the happenings at the last meeting. The Commissioner stated that this would be a good idea.

Chairman Scattini presented a Certificate of Appreciation to Director of Planning Art Henriques for his dedication and service to the San Benito County Planning Commission.

## ***ADJOURNMENT***

There being no further Commissioner announcements/reports or discussion, Chair Scattini asked for a motion of adjournment. Commissioner Bettencourt moved for adjournment. Commissioner DeVries offered a second to the motion which carried with a **vote of 5-0**. Adjournment at 8:25 p.m. to May 5, 2010.

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

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