

SAN BENITO COUNTY PLANNING COMMISSION

October 6, 2010

MINUTES

COMMISSIONERS: Richard Bettencourt; Jeff Culler;
Gordon Machado; and Robert Scattini

ABSENT: Dan DeVries

COUNTY STAFF: Director of Planning (DoP) Gary Armstrong; Assistant Director of Planning (ADoP) Byron Turner; Senior Planner (SP) Lissette Knight; Assistant Planner (AP) Ann Dolmage; Assistant Planner (AP) Laura Hall; Assistant County Counsel (ACC) Barbara Thompson; Public Works Engineer (PWE) Art Bliss and Clerk Trish Maderis.

Chair Scattini called the meeting to order at 6:05 PM as he led the pledge of allegiance to the flag. Clerk Maderis noted Commissioner DeVries absent.

PUBLIC COMMENT:

Chair Scattini opened and closed the Public Comment period as no one wished to address the Commission on items not appearing on the Agenda.

DIRECTOR'S REPORT:

DoP Armstrong reported the Board of Supervisors has directed the Planning Commission to hold only one meeting per month in an effort to reduce expenses. DoP Armstrong further reported the one meeting per month would be effective December 2010. Special or additional meetings as needed may be held.

DoP Armstrong also requested the Planning Commission to notify staff if they wished to attend the Annual California Counties Planning Commissioners Conference in Monterey on November 5th and 6th. Clerk Maderis reported the registration fee has been approved in this year's budget.

CONSENT AGENDA:

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of September 8, 2010
4. Minutes of September 15, 2010

5. Consider Resolution No. 2010-13, recommending approval of the TRANSFER OF DEVELOPMENT CREDIT (TDC) ORDINANCE. APPLICANT: San Benito County. LOCATION: County-wide. REQUEST: A Resolution of The San Benito County Planning Commission, recommending the Board of Supervisors' adoption of a Transfer of Development Credit Ordinance. ENVIRONMENTAL EVALUATION: Negative Declaration.

ACC Thompson noted for the record, no resolution for Agenda Item #5 is to be considered, that the recommendation would be to forward the Ordinance to the Board of Supervisors after the environmental document is circulated.

Commissioner Machado moved to approve Consent Agenda Items No. 1, 2, 3, 4 and 5; Commissioner Culler offered a second to the motion which passed 4-0-1, Commissioner DeVries was absent.

ADoP Turner added the Ordinance was being forwarded to the Board but a Resolution would be presented to the Planning Commission at a later date.

PUBLIC HEARING:

6. **USE PERMIT NO. 710-96B ENZA ZADEN RESEARCH:** OWNER/APPLICANT: Enza Zaden Research, USA/Same. LOCATION: 525 Lucy Brown Ln, San Juan Bautista APN: 018-130-016. REQUEST: Applicant requests approval of a use permit for an 8,845 sq. ft. building and 27 space parking lot. ZONING: Agricultural Productive (AP) ENVIRONMENTAL EVALUATION: Negative Declaration.

AP Hall presented her staff report aided by PowerPoint slides. AP Hall explained the application noting this was the 4th amendment to the original Coastal Seed Use Permit and Condition No. 25 has been added.

Commissioner Bettencourt asked about a retention pond near Olympia Ave. Matt Kelley, Kelley Engineering explained the pond that was originally proposed there is now located near Lucy Brown Lane. After some brief discussion Chair Scattini opened the Public Hearing.

Matt Kelley, Kelley Engineering and representative of the applicant advised this was the first phase of future expansions and explained why Condition No. 11 (road improvements) was not warranted. Mr. Kelley stated there would not be any increased traffic and requested the condition be deferred until the future warehouse was built. Mr. Kelley also advised the requested road improvements would require the added expense of relocating 2 utility poles.

Commissioners Bettencourt and Machado both questioned PWE Bliss why the some road improvements were conditioned now and some deferred if they could all be deferred to a later date. PWE Bliss stated partial improvements should be done now as it is unknown when future development will occur.

Commissioner Machado suggested the improvements be deferred and triggered by a building permit issuance or stated time limit. DCC Thompson added a time period for the Use Permit could be added to the conditions for those improvements.

Don Marcus, Marcus Building Systems provided a history of the Company and projects and stated the Company was on a very tight budget. Mr. Marcus explained the possibility of withdrawal of the project and expansion should the road improvements be required now.

Chair Scattini closed the Public Hearing. Commissioner Culler requested clarification on Condition 25. ADoP Turner explained the condition was added to avoid conflict with previous conditions of approval.

After some discussion, the Commission concurred that bonding would not be required at this time, road improvements would only be required in front of the building and new driveway and that a building permit issuance and/or 3 year time limit would trigger the other road improvements. Commissioner Bettencourt asked if the construction of the warehouse would be considered by the Commission. ADoP Turner advised any expansion or improvements of the Use Permit would be presented to the Commission for consideration.

DCC Thompson recommended language for the Commission's motion to make the CEQA findings and Conditional Use Permit findings contained in the staff report and approve Use Permit 710-96B with conditions of approval based on the Negative Declaration and staff report findings, to delete the last sentence in Condition No. 11 and replace with "all work shall be performed at the time of issuance of a future conditional use permit or no more than 36 months from today's date, whichever comes earlier. However, the immediate improvements near the existing driveway shall be completed at this time".

Commissioner Bettencourt moved to approve Use Permit No. 710-96B with corrections to Condition No. 11 as recommended by County Counsel, addition of Condition No. 25 as recommended by staff; making of CEQA findings and conditional use findings as contained in the staff report. Commissioner Machado offered a second to the motion which passed 4-0-1, Commissioner DeVries was absent.

CONDITIONS OF APPROVAL:

PLANNING/BUILDING:

- 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 Use Permit and any applicable proceedings. San Benito County reserves the right to prepare its own defense. [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 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]

- 3. 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]
- 4. Periodic Review:** A periodic review of the permit will be made administratively by the Planning Department at which time the applicant will furnish a written report on the current status of the use. In the event of a compelling public necessity, noncompliance, problems, concerns, or complaints, this permit will be subject to further review and conditioning or, if necessary, revocation by the Planning Commission. Violation of the permit, creation of a nuisance, or a compelling public necessity could cause the revocation of this permit. Any expansion of this use beyond what is currently proposed must first be reviewed by the Planning Director, and if necessary, shall require further Use Permit review by the Planning Commission. [Planning]
- 5. Notice of Determination (Fish & Game Fees):** Pursuant to Article 6. Negative Declaration Process, 15075 (c) of the California Environmental Quality Act (CEQA) & the California Department of Fish & Game Code section 711.4(d)), within 5 days of this projects approval the applicant shall pay the following fees: (Negative Declaration (ND) of \$2,010.25 + County Clerk Processing Fee of \$50.00 = \$2,060.25 for Notice of Determination filing. 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]
- 6. Lighting:** Prior to issuance of a building permit, the applicant shall provide to the building official details of all outdoor lighting to comply with the County outdoor lighting regulations, Ordinance 748 for review and approval. [Building]
- 7. Archeological:** During the grading and construction phase, this project shall comply with San Benito County Municipal Code Chapter 19.05, § 19.05.007 as well as with all Federal and State regulations (California Health and Safety Code Section 7050.5 California Public Resources Code Section 5097.98). [Planning, Building]
- 8. Grading:** Before building permit issuance, the property owner will be required to apply for a grading permit and the following conditions will apply to grading:
 - If grading exceeds 8.2 acres per day or excavation exceeds 2.2 acres per day, the following measures will be required to keep emissions below the threshold of 82 lbs/day:
 - Water graded or excavated areas at least twice daily. Frequency should be based on the type of operations, soil and wind exposure.
 - Water unpaved access roads used by project vehicles at least twice per day.
 - Apply non-toxic binders to exposed areas after cut and fill operations, and hydro-seed area.
 - Plant vegetative ground cover in disturbed areas as soon as possible.
 - Add mulch or other organic material to backfill or stockpiled soils.
 - Haul trucks shall maintain at least 2` 0” of freeboard.

- Cover loads in all haul trucks.
- Inactive stockpiles should be covered.
- Install wheel washers at the entrance to construction sites for all exiting trucks.

[Monterey Bay Unified Air Pollution District]

- 9. Seismic:** Before construction, plans shall be submitted for approval to comply with 2009 San Benito County Code Title 25, Chapter 25.13, Article V. Seismic Safety (SS) District and with the standards of the Uniform Building Code. [Building]

PUBLIC WORKS:

- 10. Road Dedication:** The applicant shall make an irrevocable offer of dedication to San Benito County for half of a 60-foot right-of-way along Lucy Brown Road and half of a 60-foot right-of-way along Olympia Avenue. [Public Works]

- 11. Deferred Agreement:** The proposed project will be both altering and affecting points of access to and from Lucy Brown Road “Applicant’s engineer shall submit improvement plans for the proposed project’s frontage improvements to be completed at this time. These improvements are to cover approximately four hundred and fifty (450) linear feet along the roadway and shoulder area commencing at a point approximately two hundred forty (240) feet northerly of the southern property line of said project parcel and continuing to the most northerly end of the second (northern most) agricultural driveway. Said roadway and driveway improvements will be of a width of up to half of a twenty-eight (28) foot asphalt road on the associated (half of) thirty-eight (38) foot aggregate base; specifics of limits and geometry of a transitioning taper to existing roadway conditions to be established by follow-up improvement plans and to the satisfaction of the County Engineer. All work shall be performed at the time of issuance of a future conditional use permit or no later than 36 months from today’s date, whichever comes earlier. However, the immediate improvements near the existing driveway shall be completed at this time. [Public Works]

- 12. Encroachment Permit:** Prior to any work being performed (improvements), the applicant shall obtain a County Encroachment Permit. [Public Works]

- 13. Improvement Plan:** Applicant will be required to submit detailed Improvement Plans for the current work to and for approval by the County Engineer prior to the issuing of the permit. Submittal of said plans is to be accompanied by an engineer’s estimate of probable construction costs for the improvements. Additionally, payment of the appropriate plan checking fee, which is to be based on the Engineer’s Estimate, will be required with the Improvement Plan submittal. [Public Works]

- 14. Access:** Access to Lucy Brown Lane is to be restricted to not more than two (2) driveway/access points from the total new and existing facilities in order to minimize traffic interruptions into the County Roadway system. [Public Works]

ENVIRONMENTAL HEALTH:

- 15. Sewage Disposal System:** Prior to building permit issuance, plans for an alternative engineered septic system must be reviewed and approved by the Department of Environmental Health, and the Regional Water Quality Control Board. [Environmental Health, Regional Water Quality Control Board]

16. Water Quantity/Quality: The applicant must submit for review and approval, a description of the water system providing domestic drinking water to employees at which time a determination will be made whether a public water system permit will be required prior to building permit issuance. [Environmental Health]

WATER DISTRICT:

17. Identification: Prior to building permit issuance, the applicant shall provide the San Benito County Water District (SBCWD) well identification number. [San Benito County Water District]

18. Quantity and Quality: Prior to building permit issuance, the applicant shall provide water quality and quantity information to the water district for review. [San Benito County Water District]

19. Connection: Prior to building permit issuance, if the applicant requests permission from the SBCWD to use a San Felipe Blue Valve (CVP) for connection to a fire suppression water supply, an ‘Agreement for Supplemental Fire Protection’ shall be completed with the SBCWD, and evidence of this agreement will be provided to the County. Per authorization for use of the San Felipe water for fire protection purposes will be required from the San Benito County Fire Department. [San Benito County Water District, Fire]

20. Soil: Prior to transporting soil to the site, the applicant will provide documentation stating that no pollutants are present that will contaminate groundwater and local waterways. [San Benito County Water District]

FIRE:

21. Sprinkler/Alarm: Prior to occupancy, a NFPA 13 Fire Sprinkler System and NFPA 72 Fire Alarm system is required to be installed throughout the entire structure. Plans and calculations shall be submitted for review prior to installation. [Fire]

22. Gates/Doors: Prior to occupancy, evidence shall be provided that all gates and lockable doors are controlled either by KNOX key or electronic key card. [Fire]

23. Bio-hazards: Prior to occupancy, a list of bio-hazards names and locations shall be submitted. [Fire]

24. Water Mains: Prior to occupancy, private fire service water mains (for fire protection only. Water for domestic and agricultural uses shall be in addition) shall be installed in accordance with NFPA 24. [Fire]

25. All conditions required of previous applications and amendments pertaining to this property including unmet conditions are no longer in effect. [Planning]

PUBLIC HEARING:

7. **MINOR SUBDIVISION AMENDMENT NO. 1186-06A WILLIAM YOUNG:**
OWNER/APPLICANT: William Young LOCATION: 988 Spring Grove Rd., Hollister
APN: 017-030-030. REQUEST: Applicant is requesting the amendment of conditions 13, 17, 18 and 21 of their previously approved Minor Subdivision Application No. 1186-06
ZONING: Agricultural Productive (AP) ENVIRONMENTAL EVALUATION: Exempt

SP Knight presented her staff report aided by PowerPoint slides. SP Knight detailed the application and the applicant’s request. SP Knight concluded noting staff recommends approval. Chair Scattini opened the Public Hearing.

Matt Kelley, Kelley Engineering and representative of the applicant advised he was available for questions and requested approval. Chair Scattini closed the public hearing.

After some discussion, Commissioner Culler moved for approval, stating the proposed amendments to Conditions 13 and 21 do not constitute a project pursuant to CEQA and the proposed amendments to Conditions 17, 18 do not constitute a project pursuant to CEQA of Minor Subdivision No. 1186-06, subject to conditions of approval as revised and contained in the staff report.

Commissioner Bettencourt offered a second to the motion which passed 4-0-1, Commissioner DeVries was absent.

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 amendment and any applicable proceedings.
2. **Condition Amendment:** The following conditions shall be amended in MS 1186-06 to state the following:
 - a. **13.** *Prior to recordation of the parcel map, the applicant shall pay a fair share contribution toward the Comstock Road Improvement Benefit Area $(\$16,449.78/\text{parcel}) * (3 \text{ new parcels}) = (\$49,349.34)$.*
 - b. **17.** *Prior to recordation of the Parcel Map for this project, the applicant/owner shall bond for or make the following roadway improvements [§ 23.17]:*
 - A. *Full-width 24 feet AC on 34 feet road bed on the common driveway accessing Comstock Road, hence widen the existing road (Bluff Drive) from Comstock road up to where the existing common driveway turns in an easterly direction to another property.*
 - B. *Full-width 16 feet AC on 18 feet roadbed for the proposed cul-de-sac road (Bluff Court) with standard turn around facility.*
 - C. *20 feet all weather surfaced road for the driveway serving Parcel 4 with a standard turn around facility [§ 23.29; Fire Code (Refer to Fire Marshall)].*
 - c. **18.** *Prior to recordation of the Parcel Map for this project, the applicant/owner shall make the following irrevocable offers of dedication [§ 23.15.002]:*
 - A. *Full 60 feet road right-of-way (ROW) for the common driveway (Bluff Drive) accessing from Comstock Road up to where the existing common driveway turns to the easterly direction to another property. Applicant/owner may acquire a portion of the neighbor's property to create a continuously straight ROW, and prior to recordation of the Parcel Map, shall deliver confirmation by signed letter of agreement or deed for the above purchase.*
 - B. *Full 30 feet road right-of-way for the proposed cul-de-sac road (Bluff Court) serving Parcel 2 and 3 with a standard 50-foot radius turn around facility at the end of the proposed road.*

- C. Full 30 feet road right-of-way for the driveway serving Parcel 4 with a standard turn around facility. [§ 23.29; Fire Code (Refer to Fire Marshall)]
- d. **21. Inclusionary Housing:** Prior to recordation of the Parcel Map, the applicant/owner shall comply with the requirements of Ordinance 766 (Inclusionary Housing Regulations) by entering into an inclusionary housing agreement to pay an in-lieu fee of a minimum of \$0 per lot, or as otherwise required by Ordinance 766. The total amount of in-lieu fees to be collected for this project is \$0.

NOTE: Chair Scattini announced he was excusing himself from Agenda Item No. 8 as the applicant had made a donation to his recent sheriff's race campaign. Chair Scattini advised Vice-Chair Culler would preside over the Public Hearing for Item No. 8 and then called for a break at 7:08 PM.

The meeting was called back to order at 7:25 PM with Vice-Chair Culler presiding. Commissioners Bettencourt and Machado and all County staff were present. Chair Scattini removed himself from the dais.

PUBLIC HEARING:

8. **MANUFACTURING DISTRICT REVIEW NO. 91-10:** OWNER/APPLICANT: Robert Rodriguez. LOCATION: 1771 San Felipe Rd, Hollister. REQUEST: Applicant is requesting to operate a year-round, weekends-only flea market with 100 vendor booths and 280 parking spaces. ZONING: Heavy Industrial (M-2). ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration.

AP Dolmage presented her staff report aided by PowerPoint slides. AP Dolmage explained the project to the Commission noting several letters had been received from the public opposing the project. AP Dolmage also noted the Airport Land Use Commission (ALUC) met in July and voted 3-2 in favor that the use was compatible with the comprehensive land use plan at this location.

AP Dolmage noted a correction to her staff report for Mitigation Measure No. 7 language change to "not to exceed 70 decibels at any time". That language is also contained in Condition No. 10. AP Dolmage concluded her presentation advising staff was recommending approval based on findings and the conditions of approval contained in the staff report.

After some brief questions and clarification by AP Dolmage regarding the safety zones on the site map, occupancies and details on the map, Vice-Chair Culler opened the public hearing. Clerk Maderis called each speaker to the podium.

1. Matt Kelley, Kelley Engineering 1000 San Benito Street, Hollister representative of the applicant advised the Commission he believed the letters submitted were unsubstantiated as a traffic report had been conducted; mitigation measures and conditions of approval were in place. Mr. Kelley compared this project to the Betabel RV Resort-Flea Market stating that Flea Market has been positive and beneficial to San Benito County.

2. Robert Rodriguez – project applicant addressed the Commission stating this application was great for San Benito County, that it would potentially employ 220 people, there would be availability for non-profits to sell items at no charge, there would be a farmer’s market, and family atmosphere. Mr. Rodriguez requested the Commission approve his application and reminded the Commission the use was consistent with the Airport Land Use Plan.
3. Bill Lee, San Benito Shutter, 1600 Lana Way, Hollister a direct business neighbor to the project stated he was concerned with the noise and appearance of a Flea Market. Mr. Lee stated this was a commercial operation being placed in an industrial zone. Mr. Lee requested the Commission deny the project.
4. Ken Lindsay, 300 Park Center Drive, Hollister stated he was the developer of the North Pointe Business Center, a neighbor to the project. Mr. Lindsay stated he has approximately 26 companies with 400 employees in that complex. Mr. Lindsay stated he was not opposed to a flea market, but believed it was in the wrong location and may cause his tenants to vacate or discourage new tenants. Mr. Lindsay cited the County Code and stated he believed a flea market was not a compatible use in this location.
5. Ana Gomez, 3044 Riverview Way, Hollister spoke in favor of the project stating it would be an opportunity for families and non-profits to earn money and the community needs to be open to change and diversity.
6. Mariano Garcia, 936 Monterey Street, Hollister spoke in favor of the project stating flea markets are family events and would help businesses grow. Mr. Garcia added this would help people help themselves.
7. Jose Rodriguez, 459 Haydon Street, Hollister requested approval stating the project was good for the County and would create jobs. Mr. Rodriguez stated he believed some of the businesses in the area were commercial not industrial and this use should be allowed.
8. Jose Garcia, 1370 Shore Road, Hollister spoke in favor of the project stating the use would help build the local economy. Mr. Garcia stated the recent air show had booths and people present, and this project should be allowed.
9. Fred Meyer, 1951 Memorial Drive, Hollister a tenant at the Hollister Airport and member of the Airport Advisory Commission spoke in opposition of the project location pointing out possible bird strikes may occur and endanger pilots and those attending the flea market.

Commissioner Bettencourt asked AP Dolmage to point out the center line of the airport runway. AP Dolmage advised it was in the staff report as Attachment B and uploaded the PowerPoint slide.

10. Albert Digiidia, 788 South Street, Hollister spoke in favor of the project and stated he works on the property and feels everyone should work together. Mr. Digiidia added this would benefit many people.
11. Mike Chambless, 375 Fifth Street, Hollister, spoke in opposition of the project Mr. Chambless stated the Hollister Airport Commission voted unanimously against the flea market at the current location, but Mr. Chambless added, the Airport Land Use Commission voted in favor of the project with a vote of 3-2. Mr. Chambless also stated the current regulations were in the process of being updated and will be brought before the County and City for adoption. Mr. Chambless stated that COG calculated the acreage of the project site not the attendance area and advised this was in error that attendees would not be “eating a churro in the pond”. Mr. Chambless stated County Code Section 25.21 specifies special safety areas and the project does not comply with the code section.
12. Phil Matteson, Assistant Fire Chief/Operations for Cal Fire San Benito-Monterey advised the current Cal Fire operations at the Hollister Airport and the public on the ground would not be safe should there be an accident.
13. Richard Borg, 1570 Valley View Rd #4, Hollister a tenant of the airport and employee of the Airport Museum spoke in opposition of the project based on the location. Mr. Borg added the safety issue was his biggest concern.
14. Jesus J. Rodriguez, 1221 El Cerro Ct., Hollister spoke in favor of the project and stated he felt Mr. Lindsay’s employee figures were incorrect. Mr. Rodriguez stated that safety would always exist and be a concern no matter where the flea market was located and that he currently works on the project site.
15. Ernest Persich, business owner at Hollister Airport spoke in opposition to the project based on the location. Mr. Persich stated his biggest concern was safety but he was not against a flea market.
16. Deane Judd, 20 Belmont Ct., Hollister, a tenant and business owner at Hollister Airport spoke in opposition of the project. Mr. Judd stated he makes several take-offs/landings throughout the week and his biggest fear was bird strikes and additional birds in the area. Mr. Judd pointed out the recent Air Show attendees were contained in the ‘side-line zone’ and not in the approach area.
17. Russell Bustos, 392 Vista De Or, Hollister spoke in favor of the project stating the neighboring Swank Farms has several kids and visitors on a regular basis and their operation is allowed. Mr. Bustos stated several businesses were closing and the flea market would generate revenue and help the community out. Mr. Bustos added the flea market would not be a cost the County.
18. Ruben Rodriguez, 2324 Union Rd., Hollister, spoke in favor of the project and requested approval.

With no other speakers, Vice-Chair Culler closed the public hearing. Commissioner Bettencourt asked if the application was a Zone Change. AP Dolmage advised it was only an M District Review and reminded the Commission that at the February 3, 2010 regular meeting, the Commission agreed that a flea market could possibly be allowed as a use in an industrial zone.

Commissioner Bettencourt asked Mike Chambless to return to the podium and requested information regarding the airport classification. Mr. Chambless stated the current rating was B2 which indicates less than 1,000 **jet** operations per year and does not apply to other types of aircraft. Commissioner Bettencourt also asked about the Swank Farm location and its exposure to aircraft. Mr. Chambless stated that operation was in the side line traffic zone which is not defined in the County Code. Mr. Chambless added the zones were those of CalTrans not FAA. Mr. Chambless concluded that his personal opinion was that the project was not in compliance as the current regulations are outdated.

Commissioner Bettencourt noted for the record that he contacted the FAA, CalTrans Aviation, COG, the Airport Manager and several business owners at the airport regarding the project. Commissioner Bettencourt added that although the project complied with the current regulations, safety was of great concern. Commissioner Bettencourt also noted that he asked the applicant, Robert Rodriguez if he would termination operations once the new regulations were in place. From the audience, Mr. Rodriguez addressed the Commission. Commissioner Bettencourt requested Mr. Rodriguez to come to the podium.

Robert Rodriguez stated he was in compliance with the current land use regulations and was not aware of the time frame for an updated airport land use zones. Mr. Rodriguez also stated he believed that Mr. Chambless was misleading the Commission and public and that he felt he was being asked to give up his property rights. Mr. Rodriguez also questioned the City opening a dog park at the end of the runway and why that would be allowed.

Commissioner Bettencourt stated the neighbors were against the proposed flea market. Mr. Rodriguez advised the letters received were anonymous, unknown where they came from and not all the neighbors were against the flea market. Commissioner Machado called for point of order to end the debate reminding Commissioner Bettencourt the Public Hearing was closed.

Commissioner Machado stated he did not believe the flea market was an allowed use in the M2 zoning. AP Dolmage stated the use was not listed however the Commission concurred in February that this type of use could be considered. Commissioner Machado continued by reading from the February 3, 2010 minutes and disagreed that the use was compatible and that the Commission approved this type of use. Commissioner Machado stated the project should be a Conditional Use Permit, not M2. Commissioner Machado provided information from the Code that limits businesses in specific zoning and air rights restrictions and stated that flea markets and farmer's markets were different types of activities. Commissioner Machado concluded stating the County's Transportation Element does not allow this type of activity at this location and that he believed not only was the location wrong, zoning was in place for the protection of the public and that safety was a big concern.

Vice-Chair Culler stated he didn't believe this was good planning and called for a motion. Commissioner Machado moved to deny MDR 91-10, Commissioner Bettencourt offered a second to the motion which passed 3-1-1, Chair Scattini abstained and Commissioner DeVries was absent.

DoP Armstrong cited for the record the Appeal Notice process.

Vice-Chair Culler excused himself as the acting Chair and Chair Scattini was re-seated on the dais to preside over the remainder of the meeting.

DISCUSSION:

9. Consider holding November 17, 2010 meeting previously cancelled

DoP Armstrong advised the Commission there was a need to hold the previously cancelled meeting and requested consideration from the Commission.

After some brief discussion, Commissioner Culler moved to hold a regular meeting on November 17, 2010, Commissioner Bettencourt offered a second to the motion which passed 4-0-1, Commissioner DeVries was absent.

10. Commissioner Announcements/Reports/Discussions

The Commission had no announcements or reports.

ADJOURNMENT:

With no further business, Commissioner Bettencourt moved for adjournment, Commissioner Machado offered a second to the motion and the meeting was adjourned at 8:45 PM.

Minutes prepared by:
Trish Vieira-Maderis
Planning Commission Clerk