

# **SAN BENITO COUNTY PLANNING COMMISSION**

## **August 18, 2010**

### **Minutes**

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

COUNTY STAFF: Director of Planning (DoP) Gary Armstrong; Assistant Director of Planning (ADoP) Byron Turner; Associate Planner (AP) Michael Krausie; Assistant County Counsel (ACC) Barbara Thompson; Public Works Engineer (PWE) Art Bliss and Clerk Trish Maderis.

Chair Scattini called the meeting to order at 6:00 PM as he led the pledge of allegiance to the flag. Clerk Maderis noted Commissioner DeVries absent and introduced newly appointed Director of Planning Gary Armstrong to the Commission.

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

DoP Armstrong reported there would be a scoping meeting on the Fairview Corners project on August 19, 2010 at 6:00 PM at the Veteran's Memorial Building

#### ***CONSENT AGENDA:***

1. Acknowledge Public Hearing Notice
2. Acknowledge Certificate of Posting
3. Minutes of August 4, 2010

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

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

Chair Scattini opened the Public Comment period. With no one wishing to address the Commission on items not appearing on the Agenda, Chair Scattini closed the Public Comment period.

**CONTINUED PUBLIC HEARING:**

4. **Zone Change No. 10-170:** OWNER/APPLICANT: JMK Golf, LLC/Alex Kehriotis. LOCATION: 3800 Airline Highway, Hollister REQUEST: Applicant is requesting a Zone Change from Single-Family Residential (R-1) to Neighborhood Commercial (C-2) ZONING: Single-Family Residential (R-1) ENVIRONMENTAL EVALUATION: Mitigated Negative Declaration. (*continued from 8-4-10*)

ADoP Turner explained the project aided by PowerPoint slides noting the area for the re-zone request and reminding the Commission the project had been continued from the previous meeting in order for staff to meet with the project applicant for possible revisions. ADoP Turner noted the application was for a re-zone of 2.43 acres to correct a zoning violation and added that the applicant wished to have the Commission consider the application as originally submitted.

ADoP Turner advised no new buildings or construction was proposed at this time, that the real estate building was the only structure on site and a C District Review application would be required for any improvements or construction in the future. ADoP Turner also advised that a C District Review would require an environmental document and public hearing for consideration.

Commissioner Bettencourt requested ADoP Turner to explain the process of a C District Review. ADoP Turner advised a C District Review was similar to a Use Permit process but the activities were commercial in nature.

*NOTE: Commissioner DeVries arrived (6:07 PM)*

Chair Scattini requested the applicant, Alex Kehriotis to come to the podium and speak.

Alex Kehriotis, 3800 Airline Hwy, Hollister advised the Commission that the Zone Change application was to correct a zoning violation and future development was not proposed at this time. Mr. Kehriotis requested the original application for 2.43 acres be considered and the road sharing agreement was not a Planning Commission decision.

Chair Scattini advised he visited the site and better understood the application and established the hearing was for the consideration of the Zone Change only. Chair Scattini requested that the Zone Change only be discussed during the public hearing. Chair Scattini then opened the Public Hearing.

ACC Thompson noted the public could speak freely within their time limit.

Sue Dillon, 1170 Sonny's Way, Hollister, member of the Board of Directors for Ridgemark Homeowner's Association advised the roads were owned by the Association and did not allow access to the commercial property as proposed in the Zone Change. Ms. Dillon added only an easement for golf carts existed and requested denial of the Zone Change.

Commissioner DeVries asked Ms. Dillon if the Association was against commercial use on the site which Ms. Dillon stated the Association wished to see what the uses would be prior to a re-zone and that JMK has no right of access.

Tarasa Bettencourt, 633 Marks Drive, Hollister, President of the Ridgemark Homeowner's Association stated the re-zone would have direct impacts on the roads and JMK should share the costs of road maintenance. Ms. Bettencourt added there was no opposition to commercial development but the parties should share the responsibilities of road maintenance costs.

Commissioner Bettencourt noted for the record that he and the speaker were not related.

Steve Rosati, 381 Donald Drive, Hollister advised the Commission the re-zone should be only for the location of the building and related parking and didn't believe it would be right to re-zone the entire acreage. Mr. Rosati requested denial of the re-zone as presented.

Chuck Schallhorn, 50 Villa Pacheco Ct., Hollister; President of Villa Pacheco Homeowner's Association requested the acreage in the Zone Change request be reduced to only include the real estate office and parking. Mr. Schallhorn added any commercial development would affect the quality of life and concluded by requesting denial of the re-zone.

With no further public testimony, the Public Hearing was closed.

Commissioner DeVries confirmed that a C District Review would show any designs, impacts on roads, trip ends and uses. ADoP Turner confirmed a C District Review application will require all aspects of a proposed use including a traffic study and would be a public hearing before the Planning Commission.

Commissioner Machado stated he felt the re-zone should be just for the area where the existing building is located and a C District Review should either be done prior to a Zone Change or submitted with a Zone Change to be considered as a whole.

Commissioner DeVries stated the focus should be only on the application before the Commission which is the Zone Change and reminded the public when and if the C District Review is applied for, they could participate in the design, note the impacts and oppose or support any proposed development.

Commissioner Culler concurred that the C District Review and Zone Change should be submitted together but also noted the allowed uses in C2 did fit the area.

After some brief discussion, Chair Scattini called for a vote.

ACC Thompson noted corrections to the Resolution prior to the vote, noting the following:

- ❖ General Plan Amendment language removed in the Hold Harmless portion of the Resolution.
- ❖ Change Condition No. 3 C District Review to C2
- ❖ Correct date to August 18, 2010

Commissioner Bettencourt requested Conditions No. 3 and No. 7 be reviewed for duplication. ACC Thompson stated Condition No. 7 could be deleted.

Commissioner DeVries moved to approve Resolution No. 2010-09 with amendments and corrections as noted; making certain findings and recommending to the Board of Supervisors adoption of the Mitigated Negative Declaration, the Mitigation Monitoring and Reporting Program and approval of Zone Change No. 10-170 based on the findings and conditions of approval contained in the staff report. Commissioner Culler offered a second to the motion which passed 4-1-0; Commissioner Machado opposed.

ACC Thompson requested a brief break. Chair Scattini called for a break at 6:52 PM. The meeting was called back to order at 7:02 PM with all Commissioners and staff present.

### ***PUBLIC HEARING:***

6. **Use Permit No. 1029-10-Scenic Corridor Review:** OWNER/APPLICANT: Frank Paura/Robert Postigo LOCATION: 9466 Betabel Rd, San Juan Bautista APN: 013-015-020 REQUEST: The applicant requests approval to erect a sign for the purpose of onsite advertisement. ZONING: Agricultural Rangeland (AR)/Scenic Corridor (SC)/Flood Plain (FP) ENVIRONMENTAL EVALUATION: Categorically exempt; listed under section 15311(a).

AP Krausie presented the application aided by PowerPoint slides. AP Krausie explained the request was for an on-site 2-sided sign 9 x 12 in size and approximately 7 feet from the ground. AP Krausie also noted the sign color would be a white background with blue and red lettering similar to the RV park signage. AP Krausie concluded his presentation requesting the Planning Commission find that the project is categorically exempt from CEQA pursuant to Section 115311(a) and approval was recommended. AP Krausie also noted the numbering to the Conditions of Approval be corrected to sequential numbering.

Chair Scattini asked the applicant Frank Paura what material the sign was made of. Mr. Paura stated the sign is made from a special wood material designed to retain the paint.

After some discussion regarding the Sign Ordinance and ADoP Turner noted the current Ordinance was being reviewed for amendments to make advertising easier for businesses.

Chair Scattini opened and closed the Public Hearing as no one wished to speak on the project.

Commissioner Machado moved for approval of Use Permit 1029-10; Commissioner DeVries offered a second to the motion which passed 5-0.

## **CONDITIONS OF APPROVAL:**

- 1. Compliance Documentation:** In the event that approval is granted subject to conditions, the applicant shall, within 15 days after receiving a copy of the Notice of Decision, notify the Planning Director in writing of acceptance of all imposed conditions. The required written acceptance document shall be submitted prior to the issuance of a building permit. In addition, the applicant shall provide evidence of compliance with imposed conditions prior to issuance of a building permit. [Planning]
- 2. Conformity to Site Plan:** The development and use of the site shall conform substantially-to the photo representations and Conditions of Approval as approved by Planning Commission. Any increase in the nature or intensity of land use on the site shall be subject to further Planning review and approval. [Planning and Building]
- 3. 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 Use Permit and applicable proceedings. [Planning]
- 4. 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]
- 5. Term of Permit:** A use permit shall expire one year from the date of granting said permit unless construction and activities authorized by the permit for use of the subject property in conformance with the permit has commenced, in good faith, within one year of the approval date. If any such use ceases for a period of at least one year, the use permit shall become invalid and a new permit must be obtained prior to continuing said use. [Planning and Building]
- 6. Modification and Revocation:** The terms and conditions of any conditional use permit granted by the county may be modified or the use permit as a whole may be revoked. The use permit may be modified or revoked if the permit fails to comply with the reasonable terms or conditions expressed in the use permit granted or if there is a compelling public necessity. A compelling public necessity warranting the revocation of a use permit for a lawful business or use may exist where the conduct of the business constitutes a nuisance. [Planning and Building]
- 7. Sign Removal:** if at anytime the use, operation of a seasonal flea market becomes invalid, the applicant/property owner shall cause the sign to be removed.
- 8. Sign Lighting:** Sign shall not have internal, external or exposed bulb illumination. [Planning and Building]
- 9. Construction Hours:** As required by County Ordinance, construction shall be limited to the hours of 7 a.m. to 7 p.m., Monday through Saturday. No construction activities shall be allowed on Sundays and holidays. The applicants for building permits associated with this Use Permit shall be required to place a note to this effect on all construction plans.[Planning]

**10. Use Permit 1006-08:** This permit shall not alter any condition of approval established through the approval of UP 1006-08.

**11. Archeological:** 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:

1. 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.
2. 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.
3. 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 Chapter 5B of the San Benito County Code and consistent with Section 7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code. [Planning]

**WORKSHOP:** *continued from 7-7-10 & 8-4-10*

**6. Proposed Transfer of Development Credits (TDC) Ordinance**

ADoP Turner requested input and comments from the Commission regarding the Draft Ordinance as presented on August 4<sup>th</sup>. ADoP Turner added the Ordinance would be presented as a Public Hearing on September 15<sup>th</sup> and the following amendments were noted:

- ❖ A General Plan Amendment would not be required when participating in the TDC Program
- ❖ LAFCo and the Cities (San Juan Bautista & Hollister) would be removed as partnering agencies
- ❖ Sending & Receiving areas would be reviewed and recommended by the General Plan Advisory Committee
- ❖ Presentation to the Board of Supervisors as a skeleton Ordinance in order to allow projects to use TDC's and move forward.

Commissioner DeVries provided three areas of comment as follows:

1. Concept of mandatory sending & receiving areas should be eliminated.
2. Clustering should be eliminated
3. Removal of City's Sphere and Planning areas

Commissioner Machado disagreed with Commissioner DeVries stating he was in favor of clustering.

Commissioner Bettencourt stated he met with Scott Fuller, San Juan Oaks to discuss their TDC project. Commissioner Bettencourt stated he felt the TDC Program's intent was to preserve agricultural land and preserve San Juan Valley. Commissioner Bettencourt stated the Program should be voluntary and concurred with Commissioner DeVries suggestions.

Commissioner Culler agreed with Commissioner DeVries's suggestions. Commissioner DeVries added that credits should be different for commercial and residential development.

Chair Scattini stated he also concurred with Commissioner DeVries and then opened the Public Comment period.

Scott Fuller, 3825 Union Road, Hollister (San Juan Oaks) stated he also would like to see the clustering portion removed from the Draft Ordinance and requesting the Ordinance move forward to the Board quickly.

Richard Saxe, 2956 Anzar Road, Aromas; Member TDC Committee requested the Ordinance remain as presented.

Janet Brians, 747 Shore Road, Hollister; Member TDC Committee requested the Ordinance move forward and keep the agricultural industry vibrant and producing and the Ordinance was an important tool to accomplish that.

With no further speakers; Chair Scattini closed the Public Comment period.

Commissioner Machado commented that he felt Section 21.09.07 needed to be re-defined or clarified.

Commissioner Bettencourt complimented the TDC Committee for their dedication and work on the program and stated he did not like the wording of perpetuity.

ACC Thompson suggested staff review the Ordinance in the areas of 'should' and 'shall' to better clarify mandatory or optional requirements

ADoP Turner reminded the Commission that the item would be returned on September 15<sup>th</sup> for a Public Hearing and recommendation to the Board of Supervisors.

## ***DISCUSSION:***

### **7. Commissioner Announcements/Reports/Discussions**

The Commission had no announcements or reports.

***ADJOURNMENT:***

8. Adjourn to September 1, 2010 @ 6:00 pm

With no further business, Commissioner Culler moved for adjournment, Commissioner DeVries offered a second to the motion and the meeting was adjourned at 8:01 PM.

***Minutes prepared by:***  
*Trish Vieira-Maderis*  
*Planning Commission Clerk*