

FINAL

**MONTEREY COUNTY PLANNING COMMISSION
January 28, 2004
MINUTES**

The Planning Commission met at 9:04 a.m. at the Board of Supervisors Chambers of the Courthouse at 240 Church Street, Salinas, California.

A. ROLL CALL

Present: Miguel Errea, Laurence Hawkins, Cosme Padilla, Juan Sanchez, Martha Diehl, Aurelio Salazar,
Don Rochester, Keith Vandevere
Absent: Sharon Parsons, John Wilmot

B. COMMENT PERIOD:

PUBLIC – Kim Stemler spoke on Child Care Program, Margie Kay requested definitions of fallow and uncultivation, and Hans Jongens spoke on development and cost benefit analysis on projects.

Commissioner Wilmot arrived at 9:08 a.m.

COMMISSION – *Chair Sanchez* welcomed Keith Vandevere as the new Commissioner replacing former Commissioner John Brennan.

Commissioner Errea commented on Mr. Jongens' comment on requiring country of origin labeling for all food products and the new Permit Center in Marina.

Jeff Main addressed the issue of consolidation of the two offices, new express permit center, the cost savings, and the availability of on-line permit applications. In addition, he commented on submission of documents and photos and that a new rule be made and brought forward at a future meeting.

Wendy Strimling, County Counsel, addressed future paperwork being submitted to the Secretary so the file has a complete set of evidence, and requested motions made and second to be clarified for the Recording Secretary Linda Rotharmel.

C. APPROVAL OF MINUTES

Commissioner Wilmot moved, seconded by Commissioner Hawkins, and passed by the following vote to approve the minutes of December 10, 2003:

AYES: Errea, Hawkins, Padilla, Sanchez, Salazar, Rochester, Wilmot
NOES: None
ABSENT: Parsons
ABSTAIN : Diehl, Vandevere

D. SCHEDULED ITEMS

1. MO CO GENERAL PLAN UPDATE (PLN010172)

RECEIVE BRIEFING ON THE PUBLIC REVIEW DRAFT MONTEREY COUNTY GENERAL PLAN, AND SET SCHEDULE FOR PLANNING COMMISSION PUBLIC HEARINGS AND MEETINGS ON THE DRAFT PLAN.

Lynne Burgess gave an overview of the General Plan Update, the Capital Improvement Program, the new components of Index A that have changed, and the upcoming Planning Commission and Subcommittee Meetings schedule. She stated that there were changes in the County-wide elements including correlation between the Land Use and Circulation elements, affordable housing overlay being developed in two phases, routine and ongoing agricultural activities, special treatment area designations to recognize property owner requests, and Big Sur area polices.

Annette Chaplin addressed the Capital Improvement Program and Implementation Plan.

Public Comment: Darlene Dinn, Douglas Fay, Bob Perkins, Chris Bunn, Jr., Sherri Damin, Julie Engle, and Brian Finnegan had a number of issues about availability of the General Plan Update, time allowed for speakers at the upcoming hearings, what polices would be discussed, building in one or two hearings for overflow issues, and the Implementation Plan.

Commission Comment: Concerns and issues discussed included: having an adequate hearing schedule, public comment and focus, public hearing during day and the special evening hearing, hearing time from 9:00 a.m. to 12:00 p.m. and 1:30 p.m. to 5:00 p.m. for day meetings, joint Planning Commission and Board of Supervisors meeting in February, and availability of EIR possibility at City Hall and libraries in area.

Commissioner Errea moved, seconded by Commissioner Diehl and passed by the following vote to make the period for the General Plan Update hearing to be from 9:00 a.m. to 12:00 p.m. and from 1:30 p.m. to 5:00 p.m. :

AYES: Errea, Hawkins, Padilla, Sanchez, Salazar, Rochester, Wilmot, Vandever, Diehl
NOES: None
ABSENT: Parsons
ABSTAIN: None

Commission Diehl moved seconded by Commissioner Padilla and passed by the following vote to recommend the various Subcommittee groups meet to talk about the process for the Subcommittees:

AYES: Errea, Hawkins, Padilla, Sanchez, Salazar, Rochester, Wilmot, Vandever, Diehl
NOES: None
ABSENT: Parsons
ABSTAIN: None

2. DELOS-GLOBAL ENTERPRISES INC (PLN030022)

Julie Radoman presented the project and it was noted that the staff report was not photo copied correctly.

Commissioner Diehl moved, seconded by Commissioner Rochester and passed by the following vote to trail this matter until after lunch for staff to provide a complete packet.

AYES: Errea, Hawkins, Padilla, Sanchez, Vandevere, Salazar, Rochester, Wilmot, Diehl
NOES: None
ABSENT: Parsons
ABSTAIN: None

The matter was heard at 1:35 p.m.

Benjamin Alexander, representative and applicant, accepted the conditions.

Jeff Main stated that this is the kind of project that could be put on a future Consent Agenda.

Commissioner Errea moved, seconded by Commissioner Wilmot and passed by the following vote to approve the Use Permit in PLN030022 and adopt Resolution #04001:

AYES: Errea, Hawkins, Padilla, Sanchez, Vandevere, Salazar, Rochester, Wilmot
NOES: None
ABSENT: Parsons, Diehl
ABSTAIN: None

3. MOCO PUBLIC WORKS DEPARTMENT (PLN030615)

Michael McCormick presented the project, stated that in paragraph #3 in the "Overview of Proposed Action" the easement has not been recorded, and recommended that the Board of Supervisors approve the variance to Ordinance 499 based on the recommended Findings and Evidence.

Ed Muniz, Public Works, defined a tieback levee.

Public Comment: Andrew Esperanza gave a letter to the commission stating that he has given up property for this tieback levee to be built and he is between the river and the tieback levee and asked for assistance from the County to get a levee built behind his house so that it truly does everyone some good.

Commissioner Hawkins moved, seconded by Commissioner Errea and passed by the following vote to approve Staff's recommendation and adopt Resolution #04002:

AYES: Errea, Hawkins, Padilla, Sanchez, Vandevere, Salazar, Rochester, Wilmot, Diehl
NOES: None
ABSENT: Parsons
ABSTAIN: None

4. POPPY HOLDING INC (PLN030525)

Timothy Johnston presented the project, addressed key issues of B-8 designation and Tree Protection. He revised Condition #5 to add “. . . unless or until the General Development Plan is amended or the B-8 designation . . .”, added Condition #12 related to the applicant submitting a report from a certified arborist, subject to approval by the Director of Planning & Building Inspection, that prescribes measures necessary to ensure the protection, retention, and survival of protected trees along the eastern edge of the parking lot, and revised Condition #4 related to permit notices to address 12 conditions reflecting the added condition. The Del Monte Forest Land Use Advisory Committee recommended approval of the project.

There was discussion by the Commission regarding where the cut and fill would be located, how traffic would be managed, and additional parking spaces.

Aengus Jeffers, for the applicant, stated the purpose of the project is relieve office congestion at the Northern California Golf Association headquarters, expand lobby space, and create meeting spaces for employees and board members. He stated there was concern for Condition #11 requiring installation of at least 20 bike racks, stated that space would be provided for bicycles in the secured and covered cart storage facility in lieu of the required racks, and requested a waiver. Poppy Hills does not have a General Development Plan at the moment and are coming into conformance with that requirement. He addressed the grading issue and looking for on-site locations that would be appropriate for the disposal of the excess fill. He asked the Commission to consider another condition, which would limit the use of any trucks to haul the fill during off peak hours, which are not inconvenient for any Del Monte Forest residents. In addition, he addressed the issue of the parking spaces. Mr. Jeffers accepted the conditions, except for Condition #11.

Mr. Johnston read Condition #7 into the record as it was omitted from the Staff report and amended Condition #11 to provide alternate space within the project for bicycles in lieu of the required bicycle racks, as part of the General Development Plan.

Commissioner Diehl proposed a condition in accordance that if the fill is to be removed off-site, that the Commission require that the Poppy Hills Corporation enter into a construction traffic management plan amiable to Public Works, which will prevent inconvenience at rush hour. (Condition #13)

Mr. Jeffers stated it was acceptable with the applicant.

Commissioner Diehl moved, seconded by Commissioner Errea and passed by the following vote to approve Staff's recommendation as amended by staff, with the discussed amendment to Condition #11, that states "space will be provided for bicycles in lieu of the required bicycle racks, Condition #7 as read into the record, include new Condition #13, adopt Resolution #04003 and to approve the Combined Development Permit:

Jeff Main suggested amending the motion to include the relocation of the bicycle accommodations to be amended in the General Development Plan and on the permit plans.

The amended was acceptable to the maker of the motion and second.

A motion is on the floor and Commissioner Wilmot called for the question.

All those in favor of the motion:

AYES: Hawkins, Padilla, Errea, Wilmot, Vandever, Salazar, Rochester, Sanchez, Diehl
NOES: None
ABSENT: Parsons
ABSTAIN: None

Break for lunch at 12:13 p.m.

Planning Commission reconvened at 1:35 p.m.

Commission Diehl arrived at 1:39 p.m.

5. CATANIA GIUSEPPE & NELLA (PLN030489)

Eric Lee presented the project and recommend denial.

The applicant has requested a continuance to review the new design submitted.

The Commission discussed the options of new design and sending the design back to LUAC for changes, or denial.

Paul Davis, architect for the project, stated the Catania's requested a continuance.

Commissioner Diehl moved, seconded by Commissioner Wilmot and passed by the following vote to continue the project to February 25, 2004, for a new design:

AYES: Errea, Hawkins, Padilla, Sanchez, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: Parsons
ABSTAIN: Vandever

6. CRIST FRANK L & ELIZABETH R (PLN030307)

Paul Mugan presented the project.

Michael Stamp, on behalf of the Sierra Club, spoke of the applicant's concerns of countywide implications, countywide applications of existing ordinances and how they are interpreted, entered documents into record to delete Conditions #13 & 14 and add new language, which doesn't create a precedent for the millions of other acres that might not be in conformance.

Scott Crist, Appellant, agreed to the language of the new proposed Finding and Evidence.

The Commission discussed the new language and requested County Counsel to comment on the legal nonconforming aspects of the proposed language.

Wendy Strimling, County Counsel, addressed the definition of legal nonconforming use in Regulation 21.66.030 as any use of land, structure, or land and structure, which was legally established but is nonconforming to subsequently adopted land use regulations. She advised that it is a matter of the Commission's discretion regarding the interpretation of Regulation 21.66.030.

The Commission addressed its concerns about precedent setting and adopting the language of the Sierra Club.

Commissioner Errea moved, seconded by Commissioner Rochester and passed by the following vote to adopt language as presented in the Staff Report:

There was discussion regarding the issues of adopting the language of the Sierra Club as presented by Michael Stamp.

Commissioner Diehl called for the question.

AYES: Errea, Sanchez, Salazar, Rochester
NOES: Hawkins, Padilla, Diehl, Wilmot
ABSENT: Parsons
ABSTAIN: Vandever

It was a tie vote and motion fails.

The Commission questioned staff's position and staff stated that the Commission would need to deliberate the issue pursuant to the Zoning Code. The language would certainly characterize the situation as a legal nonconforming use.

Jeff Main discussed the issues surrounding whether under the code the use was legal non-conforming in the context of the cultivation either being abandon or ongoing and in this context whether potentially it had been an ongoing use instead of a legal non-conforming use.

Wendy Strimling, County Counsel, clarified that normally the way a legal nonconforming use works is you have a use that is legally permitted at the time it is begun under some current regulations. Then new regulations are adopted and under those new regulations, you could not have that use, and so the use is essentially grandfathered because it was in place before the regulations changed. The interpretation of Section 21.66.030 is the conversion of uncultivated land, a cropland, shall not be permitted on slopes over 25%. That regulation was enacted in 1992. The compromise position that has been agreed to by the applicant is there was cultivated land as of 1992, when this took effect and so it is still allowed now as a legal nonconforming use, regardless of whether it would be allowed under 21.66.030. It is allowed because it was happening in 1992.

The Commission further discussed the issue that the land was cultivated prior to 1992. There was discussion regarding deleting Findings and Evidence #13 & 14 and it was proposed that substitute language include, "The area in question was not uncultivated land because the subject site was cultivated in 1992 at the time Section 21.66.030 was adopted and the land was subsequently idle. The vineyards are permitted at the subject site as a legal nonconforming use to be followed by evidence as shown on the handout from the Sierra Club."

Commissioner Diehl moved, seconded by Commissioner Errea and passed by the following vote to approve Staff's recommendation with the changes of removing Finding #13 and 14 and substituting the new Finding #13 as proposed and to uphold the appeal by Appellant, as shown in Resolution # 04004.

AYES: Errea, Hawkins, Padilla, Sanchez, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: Parsons
ABSTAIN: Vandever

7. KONIECZNY GERD & NANCY E KONIE (PLN010036)

Wendy Strimling, County Counsel, recommended the Planning Commission approve Staff's recommendation to set aside its approval of Gerd and Nancy Konieczny's deer slaughterhouse Use Permit and adopt the proposed resolution, thus vacating Resolution 02040.

The Commission questioned that the Judge acknowledged the Mitigated Negative Declaration was adequate for the processing facility itself, and if so why is the Commission vacating something the Judge acknowledged was adequate.

Wendy Strimling said that the Judge stated that it was adequate in all respects except for analysis of the disease transmission related to deer *babesiosis*. In addition, the Judge wanted the project plan to consider including a solid waste management plan and septic design.

Commissioner Diehl moved, seconded by Commissioner Hawkins and passed by the following vote to adopt Resolution #04005.

AYES: Errea, Hawkins, Padilla, Sanchez, Diehl, Salazar, Wilmot
NOES: None
ABSENT: Parsons
ABSTAIN: Rochester, Vandevere

E. ADVISORY COMMITTEE APPOINTMENTS

It was moved by Commission Diehl, seconded by Commissioner Rochester and passed by the following vote to reappoint Janice O'Brien to the Del Monte Forest Land Use Advisory Committee.

AYES: Errea, Vandevere, Hawkins, Padilla, Sanchez, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: Parsons
ABSTAIN: None

It was moved by Commissioner Diehl, seconded by Commissioner Rochester and passed by the following vote to reappoint William Connors to the Del Monte Forest Land Use Advisory Committee.

AYES: Errea, Vandevere, Hawkins, Padilla, Sanchez, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: Parsons
ABSTAIN: None

It was moved by Commissioner Diehl, seconded by Commissioner Errea and passed by the following vote to reappoint Janet Brennan to the Carmel Valley Land Use Advisory Committee.

AYES: Errea, Vandevere, Hawkins, Padilla, Sanchez, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: Parsons
ABSTAIN: None

It was moved by Commissioner Hawkins, seconded by Commissioner Diehl and passed by the following vote to reappoint Michael Grant to the Toro Land Use Advisory Committee.

AYES: Errea, Vandever, Hawkins, Padilla, Sanchez, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: Parsons
ABSTAIN: None

DEPARTMENT REPORT

Commissioner Rochester gave an update on the Nomination Subcommittee, stated Commissioner Wilmot was nominated Chair, and since Commissioner Brennan was going to be nominated as Vice Chair and has resigned, Commissioner Diehl was recommended for nomination to Vice Chair. The report was accepted by Chair Sanchez and the election will be the first meeting in February, 2004.

Jeff Main, Secretary to the Commission, reminded the Commission of the request for a field trip to Hidden Canyon Quarry in Soledad on February 4, 2004, The plan is to leave the Planning and Building Inspection Department at 9:00 a.m. in Salinas with the field trip starting at 10:00 a.m. There was also an invitation to go to the operating quarry outside of Aromas to see what the operation would be like.

Jeff Main also reminded the Commission about the Pebble Beach project field trip on February 18, 2004, at 9:00 a.m. at the Pebble Beach Community Services District's Carmel Hill Fire Station located inside the Highway 1 gate.

Mr. Main advised that placed in their areas in front of them is a revised Initial Study for the D'Arrigo processing plant outside of Spreckles. The project will be on the Agenda for February 25, 2004. He stated that if you wish a field trip to let him know so that it can be scheduled.

At the last meeting, streamlining actions that the Planning and Building Inspection Department are considering in response to the budget issues was requested to be presented before the Planning Commission. It was reported that Mr. Main and Dale Ellis are reviewing a draft of an emergency ordinance for some streamlining actions and Mr. Main advised that if it is the pleasure of the Planning Commission, prior to it going to the Board, it can be circulated to the Commission. Mr. Main advised that because an emergency ordinance goes directly to the Board that the Department was not planning on presenting it to the Planning Commission for consideration. It would be taken directly to the Board for appropriate action.

In addition, the concern was by the Commission and noted that the ordinance would have a lot to do with the way they do business at the Planning Commission and recommended that there be an opportunity to discuss it in public,

whatever the recommendations may be, so that the Commission and the public can understand what is being proposed. The consensus was that input from the Commission might be useful in fine-tuning any recommendations.

Commissioners also questioned why it is an emergency and in response, Jeff Main stated that it had to do with the budget situation and the need to reduce costs.

There was further discussion regarding the Commission directing staff to put the item on the next Agenda. The item will be put on the February 11, 2004 Agenda.

ADJOURNMENT

The meeting was adjourned at 2:35 p.m.

ATTEST

Jeff Main, Secretary

/lr