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Planning & Bldg

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tues day November 12, 20 02

PRESENT: Supervisors Harry L. Ovitt, Peg Pinard, K.H. 'Katcho' Achadjian, Michael P. Ryan, Chairperson Shirley Bianchi

ABSENT: None

RESOLUTION NO. 2002-470

RESOLUTION APPROVING AGREEMENT FOR MITIGATIONS FOR TRACT 2262, PHASE 1, WITH VILLA PARK PROPERTIES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

The following Resolution is hereby offered and read:

WHEREAS, the Director of Planning and Building by letter dated November 12, 2002, has duly recommended that the Board of Supervisors enter into the above-mentioned agreement.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the Agreement for Mitigations for Tract 2262, Phase 1, a copy of which is attached hereto as Exhibit A and incorporated by reference herein as though set forth in full, is hereby approved by the County of San Luis Obispo and the Chairperson of the Board of Supervisors is hereby authorized and directed to execute said agreement on behalf of the County of San Luis Obispo.

2. That the County Clerk is hereby authorized and directed to record this resolution and the above agreement in the office of the County Recorder of the County of San Luis Obispo.

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Upon motion of Supervisor Ryan, seconded by Supervisor Ovitt, and on the following roll call votes, to-wit:

AYES: Supervisors Ryan, Ovitt, Pinard, Achadjian, Chairperson Bianchi

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

SHIRLEY BIANCHI
Chairperson of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk
of the Board of Supervisors, County
of San Luis Obispo, State of California
BY: VICKI M. SHELBY
Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: _____
Deputy County Counsel

Dated: October 28, 2002

A:\TR1710.MIT

STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO) ss

I, JULIE L. RODEWALD, County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Super-visors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors this 11/13/02

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the
Board of Supervisors

By _____
Deputy Clerk

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RECORDING REQUESTED BY:

County of San Luis Obispo

AND WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

APN 092-161-001

AGREEMENT FOR MITIGATIONS FOR TRACT 2262, PHASE 1

THIS AGREEMENT is made and entered into this 17th day of November 2004, by and between VILLA PARK PROPERTIES, LLC, a California limited liability company, hereinafter referred to as "Subdivider," and the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State of California, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, Subdivider is record owner of certain real property (hereinafter referred to as "Subdivider's Property") located in the unincorporated area of the County of San Luis Obispo described in Exhibit A attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, Subdivider has proposed to divide Subdivider's Property in its application for a tentative subdivision map for Tract 2262, Phase 1; and

ck. title rpt.

WHEREAS, the California Environmental Quality Act (hereinafter referred to as "CEQA") is applicable to all discretionary projects including approval of tentative subdivision maps; and

WHEREAS, the initial study conducted by the County's Environmental Coordinator in accordance with CEQA identified some potentially significant effects from the project; and

WHEREAS, Subdivider's tentative subdivision map qualified for a proposed negative declaration from the County's Environmental Coordinator based upon the agreement of the Subdivider to revise his project in order to mitigate the effects of the project to a point where clearly no significant effects would occur; and

WHEREAS, Subdivider has prepared and filed a final or parcel map of Tract 2262, Phase 1, in the County of San Luis Obispo for approval by County; and

WHEREAS, as a condition precedent to the approval of said final or parcel map by County, Subdivider is required to enter into an agreement with the County to mitigate the effects of the project to a point where clearly no significant effects would occur; and

WHEREAS, by the execution of this agreement by Subdivider and County, and the subsequent performance of the obligations of this agreement by Subdivider and his successors in interest, Subdivider will have satisfied the mitigation requirements of condition 16 of said conditions of approval of the tentative subdivision map; and

WHEREAS, Subdivider has supplied County with a current title company preliminary title report or preliminary subdivision guarantee listing all trust deed beneficiaries and mortgagees, if any, under prior recorded deeds of trust and mortgages on Subdivider's Property.

NOW, THEREFORE, in consideration of County approval of a final or parcel map for Tract 2262, Phase 1, and the benefits conferred thereby on Subdivider and Subdivider's Property, and in further consideration of the mutual promises, covenants and conditions herein contained, the parties hereto agree as follows:

1. Restrictions and mitigations. In order to mitigate the potentially significant effects identified in the initial study for the project, Subdivider agrees to each of the following restrictions and mitigations:

(a) Agricultural compatibility. In order to minimize the potential for significant land use conflicts between future residential development on Subdivider's Property and adjacent agricultural operations to the north, the Subdivider agrees to establish the agricultural buffer areas which are shown on Exhibit B attached hereto and incorporated by reference herein as though set forth in full. No residential structures shall be constructed or placed within said buffer areas.

(1) A horizontal setback buffer is hereby created one hundred seventy-five (175) feet in width along the northerly property line of Parcel 1 through Parcel 4, inclusive. Provided, however, in the event that farming on the adjacent agricultural land to the north is in the opinion of the Environmental Coordinator of the County, permanently discontinued, then the agricultural buffer shall no longer be in effect.

(b) Disclosure of agricultural activities. Disclosure is hereby made to prospective buyers of all parcels created by this subdivision of the consequences of existing and potential intensive agricultural operations on adjacent parcels, including but not limited to dust, noise, odors, and agricultural chemicals, and of the County's Right

to Farm Ordinance and Leash Ordinance currently in effect at the time the buyer's deed is recorded.

2. Indemnification. The Subdivider shall defend, indemnify and save harmless the County of San Luis Obispo, its officers, agents and employees from any and all claims, demands, damages, costs, expenses, judgments, or liability occasioned by the performance or attempted performance of the provisions hereof, or in any way arising out of this agreement, including, but not limited to, those predicated upon theories of violation of statute, ordinance or regulation, violation of civil rights, inverse condemnation, equitable relief, or any wrongful act or any negligent act or omission to act on the part of the Subdivider or of agents, employees, or independent contractors directly responsible to the Subdivider; providing further that the foregoing obligation to defend, indemnify, and save harmless shall apply to any wrongful acts, or any passively negligent acts or omissions to act, committed jointly or concurrently by the Subdivider, the Subdivider's agents, employees, or independent contractors and the County, its agents, employees or independent contractors. Nothing contained in the foregoing indemnity provisions shall be construed to require the Subdivider to indemnify the County against any responsibility or liability in contravention of Section 2782 of the Civil Code.

3. Binding on successors in interest. This agreement shall be deemed an equitable servitude and a covenant running with the land described herein and shall be binding on the parties hereto and their heirs, assigns, and successors in interest. Any conveyance, transfer, or sale made by Subdivider of said property or any portion thereof shall be deemed to incorporate by reference, and be subject to, each of the provisions of this agreement.

4. Effect of waiver. County's waiver of breach of any one term, covenant, or other provision of this agreement, shall not be a waiver of a subsequent breach of the same term, covenant, or provision of this agreement or of the breach of any other term, covenant, or provision of this agreement.

5. Judicial enforcement. Enforcement shall be by proceeding at law or in equity, either to restrain a violation or an attempted violation or by suit to recover damages against any person or persons violating or attempting to violate any covenant or restriction contained herein.

6. Law governing and venue. This agreement has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of California. All duties and obligations of the parties created thereunder are performable in the County of San Luis Obispo, and such County shall be that venue for any action, or proceeding that may be brought, or arise out of, in connection with or by reason of this agreement.

7. Enforceability. If any term, covenant, condition or provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

8. Notices. Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first class mail, postage prepaid. Notices required to be given to County shall be addressed as follows: Director of Planning and Building, County of San Luis Obispo, County Government Center, San Luis Obispo, California 93408. Notices required to be given to the Subdivider shall be

addressed as follows: George Widmark, 1620 Scenic View Way, Nipomo, California 93444.

Provided that any party may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

9. Subdivider not agent of County. Neither Subdivider nor any of Subdivider's agents or contractors are or shall be considered to be agents of County in connection with the performance of Subdivider's obligations under this agreement.

10. Entire agreement and modifications. This agreement sets forth the full and entire understanding of the parties regarding the matter set forth herein, and any other prior or existing understandings or agreements by the parties, whether formal or informal, regarding such matters are hereby superseded or terminated in their entirety. No changes, amendments, or alterations to the provisions of this agreement shall be effective unless in writing and executed by the parties hereto or their assigns and successors in interest.

11. Agreement to be recorded. Subdivider and County intend and consent to the recordation of this agreement in the office of the County Recorder of the County of San Luis Obispo, and such recordation of this agreement shall serve as constructive notice of the obligations contained herein to be performed by the Subdivider and the successors in interest to all or any portion of Subdivider's Property.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

OWNER

VILLA PARK PROPERTIES, LLC,
a California limited liability company

By: _____
GEORGE WIDMARK, Member

By: _____
LYDIA WIDMARK, Member

By: _____
DONALD A. COUDRIET, Member

By: _____
JOANNE M. COUDRIET, Member

COUNTY OF SAN LUIS OBISPO

By: SHIRLEY BIANCHI
Chairperson of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors
By: VICKI M. SHELBY
Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By:_____
Deputy County Counsel

Dated: October 28, 2002

APPROVED AS TO CONTENT:

VICTOR HOLANDA, AICP
Director of Planning and Building

By:_____

Dated:_____

[NOTE: This Agreement For Mitigations will be recorded. All signatures to this agreement must be acknowledged by a notary.]

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

On November 12, 2002 before me, **Vicki M. Shelby,** Deputy County Clerk-Recorder, County of San Luis Obispo, State of California, personally appeared **Shirley Bianchi** personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacities, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

JULIE L. RODEWALD, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors

By: _____
Deputy County Clerk-Recorder

(SEAL)

EXHIBIT A

All of Tract 2262, Phase 1, as shown on a map recorded in Book ____, Page ____ of Maps, in the office of the County Recorder of the County of San Luis Obispo, State of California.

INDIANA WAY
EUCALYPTUS ROAD
1" = 300'
PHASE 16
REMAINDER
175' AGG. BUFFER
175'
15
14
9
8
7
6
10
1
11
5
4
12
3
2
13
1

EXHIBIT B

STATE OF Nevada)
) SS.
COUNTY OF Washoe)

This instrument was acknowledged before me on October 24, 2002, 199__, by Donald A. Cadriet Joanne M. Cadriet.

MICHELE FORTE
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 99-2391-2 - Expires DEC. 11, 2002

Michele Forte
Notary Public

MID-STATE BANK & TRUST

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Luis Obispo

On October 23, 2002 before me, Joline D Coles, Notary Public, personally appeared George Widmark and Lydia Widmark,

☐ personally known to me - **OR** - ☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she~~/they executed the same in ~~his/her~~/their authorized capacity(ies), and that by ~~his/her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

SM01 JOLINE D. COLES COMM. #1342196 NOTARY PUBLIC-CALIFORNIA SAN LUIS OBISPO COUNTY My Comm. Expires February 2, 2006 SM01

Joline D Coles

Signature of Notary

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

☐ Individual
☐ Corporate Officer

Title

☐ Partner(s) ☐ Limited ☐ General

☐ Attorney-in-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Absent Signer (Principal) is Representing:

DESCRIPTION OF ATTACHED DOCUMENT

Agreement for Mitigations for Tract 2262, Phase I

Title or Type of Document

11

Number of Pages

10/23/2002

Date of Document

Donald A. Coudriet and Joanne M. Coudriet

Signer(s) Other Than Name(s) Above

ADM-005 (07/01)