



SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

April 16, 2015

Noe Contreras  
1912 N Arriba Way  
Santa Maria, CA 93458

**RE: Tree Removal Permit #ZON2014-00424; Villa Park Lot 38**

Dear Mr. Contreras,

We are currently processing your request to allow the following activities on Lot 38 of the Villa Park development (TR2262): remove most of the trees on the 20 acre lot, install a water well and construct a 50' by 25' agricultural building. It is our understanding the purpose for these activities will be to establish crop production in the areas proposed for clearing. With regards to the tree removal request, we offer the following background, important points and processing path.

**History**

**Previous Subdivision.** The original subdivision involved about 165 acres. The Residential Rural land use category allows average parcel density as small as 5 acres in this category, or in this case, up to 33 lots for the 165 acre area. To meet this density, the cluster subdivision was approved with 32 of the lots allowing residences along with 13 open space lots with no residential development potential, or further subdivision. Lot 38 is one of these open space lots.

**Open Space Lot/Agreement and Conditions of Approval.** The approved Open Space (OS) agreement on Lot 38 includes 'crop production' as an allowed use. The Conditions of Approval (COAs) for TR2262 also include provisions that relate to this open space lot. Please review the attached minutes of the Planning Commission hearing that shows this issue was discussed at some length. Condition 21 includes a requirement that a 50-foot buffer along Indiana Way be retained to protect the existing trees within this buffer. Condition 20d requires that a Tree Removal permit be obtained prior to removal of trees on Lot 38 (see next section). The County will be relying on the Open Space agreement and the above referenced COAs when reviewing Lot 38 for land use compliance.

**Tree Removal Permit**

COA 20d requires that a Tree Removal Permit be obtained prior to the removal of any trees within the two larger open space parcels (Lots 16 and 38). Furthermore, it states consideration shall be given to erosion control, visual resources and wildlife habitat. In reviewing the original Tract file, it appears a map was submitted at the second and final Planning Commission meeting that shows a 50-foot 'greenbelt' buffer on the two OS lots which would improve the visual resources, provide additional protection to the closest monarch butterfly preserve (Lot 32), and potentially reduce erosion to adjoining lots.

**Grading**

The County's Grading Ordinance (LUO 22.52.070) recognizes vegetation removal as a grading activity. However, as the end use is to establish crop production, subsection 22.52.070C provides for a potential 'Agricultural Grading' exemption upon submittal and approval of an Agricultural Grading Form. County approval of this form will require that the applicant has received 'Certification' of one of the programs offered

by the Resource Conservation District (see Ag Grading Form). Please review the attached form and submit as a first step to receiving a Tree Removal Permit.

### **CC&Rs**

CC&Rs serve primarily as the rules under which the Homeowner's Association operates and typically include rules related to individual property lot development and maintenance. The HOA is empowered to amend the CC&Rs by vote. However, it must receive County approval before amending certain sections, including the section concerning the open-space lots. Although the HOA has voted to amend the CC&Rs to prohibit crop production on the open-space lots, the County has not approved this amendment. As such, at this time, the County will consider only the Conditions of Approval, recorded map and 'second sheet,' and Open Space Agreement in determining what activities are permitted on the open-space lots.

### **Lot Line Adjustment/Pre-Application Meeting**

On March 31, 2015, you and Mr. Widmark came in to discuss the possibility of pursuing a lot line adjustment for up to four lots, including the two existing 20+ acre OS lots in the center of the existing cluster subdivision. One of the intentions was to possibly reconfigure these lots to potentially create a larger separation from the proposed crop production and some of the residential lots; as we discussed, a lot line adjustment would be subject to CEQA and environmental review. Such a process will allow the public and other agencies to weigh in on such a request.

### **Private Lease/Easement Option**

Also discussed at the Pre-Application meeting was the possibility of working directly with Mr. Widmark and leasing a portion of his 20+ acre OS lot for crop production, which could allow you to preserve areas (including the existing eucalyptus trees) to the south and east of your 20+ acre OS property that would result in greater separation from the residential lots to the south and east, while still providing for about 20 acres for crop production.

### **Compatibility with Residences**

As you may know, many conflicts can arise from the close proximity of residential and agricultural activities that can be detrimental to both users and cause ongoing friction for years or even decades. For instance residents may be impacted by noise, dust, and smells, while the agriculture operator can be impacted by increased liability due to trespassing and pet waste on produce.

As staff members who work on land use issues daily, we have seen many examples of harmonious and mutually beneficial interactions between agricultural and residential uses. The foundation of these positive relationships come not from government regulation but from residents and agriculturalist working together to find common ground and to be good neighbors. As staff, we recommend strongly that you and the surrounding residents meet and try to identify concerns from both perspectives, find common interests, and work to develop the site in a way that will provide both a successful farming operation and a continued high quality neighborhood.

As previously mentioned, the original Tract file shows a map was submitted to the Planning Commission with a 50-foot buffer/swath of trees retained along the east and south sides of your 20 + acre parcel. Please note the County's Right to Farm ordinance may not apply to your situation, which is intended to protect existing agriculture when new residential development is proposed nearby. In your case, the opposite is being proposed (establishing an intensive agricultural use near an existing residential area).

### **Path Forward**

Based on the above aspects, the County requests the following path be taken before we can issue the Tree Removal Permit:

- 1) Determine whether or not a mutually satisfactory site solution can be found either through a LLA or Private Lease/Easement Option; if one of these options is to be pursued, we would need to complete that

process first to determine the footprint of trees to be removed, and then go to items #2 and #3; if a mutually satisfactory solution cannot be found, continue to items #2 and #3;

- 2) Complete an Agricultural Grading Form for the stump removal portion of the project, which includes obtaining Certification from the RCD (see attached form);
- 3) Prior to a Tree Removal Permit being issued, please provide a graphic that shows
  - a) a 50-foot 'greenbelt' buffer on your larger OS lots (south and east edges) to provide a separation from the clustered residential lots (see attached)
  - b) the access road to be used (and if applicable, improved) to support the workers and vehicles used for crop production; the recorded map shows Indiana Way as having a 60-foot right-of-way (30 feet of which is within TR2262 boundaries) and
  - c) a 50-foot buffer/ tree protection area along the west (Indiana Way), side of the property, as measured from the edge of the ROW (or 80 feet from property line). The 50' buffer areas would need to be staked prior to the tree removal activities begin.
- 4) The current application references two parcels, 092-161-075 (OS lot with monarch preserve and 6,000 sf bldg. envelope) and 092-161-059 (20 acre OS lot 38). All of the above discussion pertains only to the larger 20-acre OS lot; if any activity is proposed on the monarch preserve parcel we will have additional comments due to the additional constraints on this lot.
- 5) The current application includes an agricultural production well and an agricultural building (50' by 25'); we are assuming these would be located on the larger 20-acre lot. Once the area of trees to be removed is finalized, please provide a site plan of their locations. The agricultural building will be subject to a separate building permit and the agricultural well will require a permit with the Environmental Health Division and an electrical permit with our Building Division.
- 6) See attached Tract 'Raptor Protection' condition that was added for all tract development/ construction, which would include Lot 38. If any tree removal will be occurring between March 1 and July 31, a preconstruction bird survey must be prepared to identify and protect any nesting raptors. Typical buffer requirements for nesting raptors is 250 feet around any active nests. Please specify when you intend to start your tree removal activities.

Should you have any questions, please do not hesitate to contact me. I can be reached at (805)781-5452.

Sincerely,

  
**John McKenzie**  
Senior Planner

cc- George Widmark  
Breana Stachura, Villa Park Phase I HOA representative

Attachments

- A. Ag Grading Form
- B. Graphic with 50' 'Greenbelt'
- C. Resolution for Tract 2262 Conditions of Approval (includes COA#20 and #21)
- D. Added 'Raptor Protection' measure for TR 2262
- E. PC minutes
- F. Open Space Agreements that include Lots 38 and 16
- G. Recorded Maps

# **Attachment A. Ag Grading Form**



# AGRICULTURAL GRADING FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING  
976 OSOS STREET ♦ ROOM 200 ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600

*Promoting the Wise Use of Land ♦ Helping to Build Great Communities*

I/we the undersigned intend to grade for agricultural purposes, as allowed by Section 22.52.070C of the Land Use Ordinance and Section 23.05.032.c of the Coastal Zone Land Use Ordinance, for the parcel(s) described in this application.

***Agricultural Grading in the Coastal Zone is not authorized until approval by the Coastal Commission.***

## APPLICANT INFORMATION

Landowner Name: \_\_\_\_\_ Daytime Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

## PROPERTY INFORMATION

Assessor Parcel Number(s): \_\_\_\_\_ Total Size of the Site\*: \_\_\_\_\_

Project Address: \_\_\_\_\_

Describe the current agricultural use of the property: \_\_\_\_\_

Is the project site in the Coastal Zone? \_\_\_\_\_

### \* All contiguous parcels under common ownership

- Agricultural Grading** – The following agricultural grading projects do not require a grading permit but must comply with the minimum standards for permit exemption:
- New Fields/Pastures.** Preparing new land for crop production or grazing on slopes with a natural gradient less than 30% (including drainage improvements related to crop production and range improvements).
  - Small Reservoir.** A small storage reservoir constructed to regulate or store a supply of water for frost protection and seasonal irrigation. Must be designed to contain no more than one acre-foot of water and storage must be entirely below grade.
  - Upland Restoration.** Projects which are undertaken for soil, water quality, habitat, or wildlife restoration, conservation, or enhancement occurring outside of the channel of a stream.
  - Imbalanced grading.** Grading projects intended to accommodate one or more of the projects identified above or as exempt grading per Section 22.52.070B, and involving importation or exportation of no more than 2,000 cubic yards on a site per year.

**You may proceed with work once this form has filed with and received by the Department of Planning and Building.**

**Via U.S. Mail or drop off location:** **Permit Center**  
**976 Osos Street, Room 200**  
**San Luis Obispo, CA 93408**

**Via Email:** [planning@co.slo.ca.us](mailto:planning@co.slo.ca.us)

**DESCRIPTION**

Please describe the nature of the proposed grading activity: \_\_\_\_\_

\_\_\_\_\_

Approximate Area of Disturbance: \_\_\_\_\_ Steepest Gradient where grading will occur: \_\_\_\_\_

Grading Quantities: (Cut) \_\_\_\_\_ (Fill) \_\_\_\_\_

Export Destination / Source of Import: \_\_\_\_\_

Time frame for work (estimated start date, end date): \_\_\_\_\_

\_\_\_\_\_

**CERTIFICATION**

Check the box below and provide a copy of the applicable course certification that authorizes you or your contractor to perform the above referenced agricultural grading activity.

- Certified Professional in Erosion and Sedimentation Control (CPESC), Certified Professional in Stormwater Quality (CPSWQ), and Certified Erosion, Sedimentation, and Stormwater Inspector (CESSWI)
- Certification in Erosion and Sediment Control
- Resource Conservation District Erosion and Sedimentation Control Short Course
- Certified California Sustainable Winegrowing (CCSW)
- Environmental Quality Incentives Program (EQIP) – Only for NRCS accepted grant projects
- Irrigated Agriculture Discharge Waiver
- Farm / Ranch Water Quality Short Course

**OUTSIDE AGENCIES**

Though your project may be exempt from County grading permits, there are other state, local, and federal agencies that **may** require permits. The County does not verify that all proper permits have been obtained for Agricultural Grading. If your project will include any of the following activities, the agency listed to the right of the activity **should** be contacted.

| Activity  | Agency  |
|---|---|
| <input type="checkbox"/> Altering a stream or watercourse or doing work near wetlands.      | Department of Fish and Game (559) 243-4005<br>Army Corps of Engineers:<br>North of Cuesta Grade (415) 977-8601<br>South of Cuesta Grade (213) 452-3921<br>US Fish and Wildlife Service (805) 644-1766<br>National Marine Fisheries Service (562) 980-4026 |
| <input type="checkbox"/> Site work to be done in endangered/threatened species habitat.     | Department of Fish and Game (559) 243-4005<br>US Fish and Wildlife Service (805) 644-1766   |
| <input type="checkbox"/> Utilizing surface water or riparian underflow in a pond/reservoir. | Department of Water Resources (916) 653-5791  |

Site disturbance of 1 acre or more.

Regional Water Quality Control Board (805) 549-3147  
State Water Resources Control Board (916) 341-5455

**BEST MANAGEMENT PRACTICES (BMPS)**

You are responsible for implementing BMPs for your project. Agricultural grading requires implementation of appropriate BMPs to minimize the potential for erosion and sedimentation from your grading activities (22.52.070C.1.c). Please provide a list of appropriate BMPs that will be implemented on your project (use another sheet if necessary) and graphically represent the BMPs on the attached site plan. If you are not experienced in implementing BMPs, consider consulting with the local Natural Resource Conservation Service (NRCS) or Resource Conservation District (RCD) office for guidance.

**LIST OF BMPS TO BE IMPLEMENTED**

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**ACKNOWLEDGEMENT OF STANDARDS AND LIMITATIONS**

- I understand that the County has not verified if permits from state and federal agencies are needed **prior to starting work**.
- I plan to incorporate all reasonable measures to ensure against erosion and sedimentation both during and after grading activities.
- I understand that any grading activities which could result in a hazardous condition are not exempt from grading permit requirements. A hazardous condition exists when activities create a hazard to life and limb, endanger property, adversely affect the safety, use or stability of a public right-of-way or drainage channel, or create a significant environmental impact.
- I understand that failure to adhere to these standards and limitations may result in a code enforcement violation.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

**SITE PLAN**

Please draw a rough diagram depicting parcel boundaries, roads, and the location of the proposed grading. Include a north arrow and labels, as appropriate (use another sheet if necessary):



# **Attachment B. Planning Commission Graphic with 50' 'Greenbelt'**



SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP  
DIRECTOR

BRYCE TINGLE, AICP  
ASSISTANT DIRECTOR

ELLEN CARROLL  
ENVIRONMENTAL COORDINATOR

BARNEY MCCAY  
CHIEF BUILDING OFFICIAL

PATRICK BRUN  
ADMINISTRATIVE SERVICE OFFICER

**DATE:** December 9, 1999  
**TO:** Planning Commission  
**FROM:** Jay Johnson, Senior Planner  
**SUBJECT:** S980128U - Widmark

Attached is the revised tentative map and supportive material prepared by the applicant. The project has been reduced to 32 buildable lots in a cluster design (as required by the South County area plan). Thirty one of the buildable lots are 2.5 acres in size. The other buildable lot (Lot 22) is an open space lot with a 6,000 square foot building site, as allowed by the Land Use Ordinance. The TDC portion of this project has been deleted. The lots will be served by individual wells, which may be shared by up to 4 lots.

Engineering and Planning staffs are in the process of modifying the conditions of approval. We do not anticipate significant changes to the conditions other than making the necessary adjustments based on the new project description.

**Tract 2262, The Widmark Subdivision**  
**Project Information** (updated 11/15/99)

**THE PROPERTY**

*The property is 162.65 acres on the Nipomo Mesa, zoned RR; 5 acre minimum density with a cluster overlay requirement.*

**THE DESIGN**

*The lots are clustered on approximately half the acreage. The other half is in Open Space. There are thirty-one 2½-acre lots and fourteen Open Space Parcels. One Open Space Parcel has a 6000 sq. ft building envelope. The lots are laid out in a semi-circle around a large Open Space area.*

*To provide separation from existing lots along Indiana Way, new lots adjacent to Indiana are set back approximately 150 ft. There's also a 50-ft Treed Greenbelt (buffer) along the entire length of Indiana. Likewise, there is a 75-ft Treed Greenbelt (buffer) along the entire length of Eucalyptus Road. The CC&Rs will allow for the replacement of blue gun eucalyptus with other drought tolerant trees within the Treed Greenbelts.*

*Along the bluff all healthy trees within the first 50 feet of the bluff ridge will be retained as a visual buffer. The CC&Rs will allow for the replacement of blue gum eucalyptus with other drought tolerant trees. A building set back of 105 feet from the bluff ridge will apply to all lots along the bluff.*

*Along the east boundary a 10-ft wide band of eucalyptus trees will be retained as required.*

**OPEN SPACE PARCELS**

*Open Space Parcels 33 through 35 and 38 through 46 will be legally tied to adjacent building lots. Trees may be removed except in the Preserve and Treed Greenbelts. Acceptable uses will be as allowed by the LUO.*

*Open Space Parcels 36 and 37 are treed at this time. Trees may be removed or harvested at any time by the landowner. The 50-ft wide greenbelt around the perimeter adjacent to newly created lots is intended as a buffer to any acceptable uses as allowed by the LUO. The buffer may also include a single lane road and /or trail.*

*Open Space Parcel 22 has a 6000 sq. ft building envelope. Trees may be removed outside of the Monarch Knoll Preserve. Acceptable uses will be as allowed by the LUO.*

**MONARCH BUTTERFLIES**

*A monarch butterfly study has been completed. One location on the property has been determined to be an autumnal\* clustering site. Although not a significant finding in terms of*

numbers, a Monarch Preserve Easement has been established encompassing the aggregation area. The report is available at the Planning Department.

It is the opinion of the landowner/developer that any knoll on The Mesa is a potential clustering site for monarch butterflies. An elliptical clearing 60 feet east-west by 100 feet north-south on a knoll protected from the wind by a 150-foot wide band of tall eucalyptus trees around the perimeter will create the desired microclimate required. Several locations on the property are potential clustering sites. One such location is being preserved. Lot 22 an Open Space Parcel with a 6000 sq. ft building envelope.

*\*autumnal = temporary clustering site during autumn, usually until December when they leave for a true overwintering\*\* site.*

*\*\*overwintering = permanent clustering site, usually thousands of monarch butterflies until they start their northerly migration, towards the end of March. Overwintering sites have been declared an "endangered phenomena". The monarch butterfly is not endangered or threatened.*

#### ALTERNATE ACCESS

As an alternate paved access, a road may be constructed from the interior road going between lots 13 and 14, continuing along the south side of existing Parcel "D" to Scenic View Way and down to Eucalyptus Road. The access road between lots 4 and 5, and the road between lots 18 and 19 would be eliminated. See Sketch "Alternate Access".

#### PROVISIONS FOR TRAILS

Dedicated trail easement are provided as follows: 20-ft width along Eucalyptus Road; 15-ft width along Indiana Way; 15-ft width along Bluff Ridge Lane.

#### BUILDING SETBACKS

Lots 1 through 5 will have a building setback of 175 feet from Eucalyptus Road due to the agricultural operation across the street. When agricultural activities are permanently discontinued, this setback will cease to exist.

Lots 1 through 8 will have a 100 ft building setback from Eucalyptus Road.

All lots will have a street front building setback of 50 feet; water systems excluded.

All lots will have side building setbacks of 30 feet; water systems excluded.

Setbacks not identified will be by County Code.

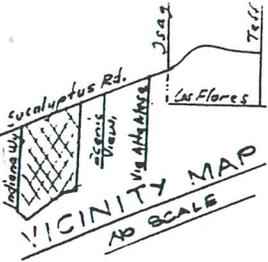
#### PHASING PLAN

*The project will be phased and built out over a number of years. Open Space will match proportionally the number of lots in each phase.*

**WATER**

*Individual wells or small shared systems will be installed. This is an excellent water area. The blow tests are expected to yield between 50 and 125 GPM.*

*Cal-Cities Water, a private stock owned company is the only community water source in the area. It is neither desired nor economically viable to connect to Cal-Cities.*



N 89° 29' 16" W 2136.50'

40. AC.  
EUCALYPTUS RD.

75' WIDE TREED GREENBELT  
W/ 20' DEDICATED TRAIL EASEMENT

50' WIDE TREED GREENBELT  
W/ 15' DEDICATED TRAIL  
EASEMENT

PARCEL A  
12.50  
PARCEL B

PARCEL C

PARCEL D  
SAC.

ALTERNATE ACCESS WAY

10' WIDE  
TREED GREENBELT

PARCEL A  
14.71 AC.

N 22° 53' 40" E 3458.46'

SCENIC VIEW WAY

FIELD

15' WIDE  
DEDICATED  
TRAIL EASEMENT

PARCEL B

105' BLDG. SETBACK  
50' TREED SECTION  
BLUFF RIDGE

PORT HARTFORD EUCALYPTUS TRACT  
(1/5 7/5)

N 22° 54' 03" E 3347.75'

INDIANA WAY

MONARCH  
WOLF  
RESERVE

ANB  
SIGN

N 78° 50' 25" E 1571.47'

DEVELOPMENT PLAN  
AND  
'VESTING'  
TENTATIVE  
TRACT MAP  
N<sup>o</sup> 2262

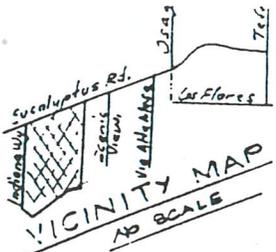
NOVEMBER 15, 1999 REV.

RANCHO  
GUADALUPE  
AMB 117

OWNER/DEVELOPER  
GEORGE WID MARK  
1620 SCENIC VIEW  
MORNING, CA 93140



N 25° 52' 47" E 462.95'



90 AC.  
EUCALYPTUS RD.  
N 89° 29' 16" W 2136.50'

75' WIDE TREED GREENBELT  
W/ 20' DEDICATED TRAIL EASEMENT

**PHASE I**

**PHASE II**

50' WIDE TREED GREENBELT  
W/ 15' DEDICATED TRAIL  
EASEMENT

**PHASE III**

PORT HARTFORD EUCALYPTUS TRACT  
INDIANA WAY  
N 22° 54' 03" E 3347.75'

**PHASE IV**

70' WIDE TREED GREENBELT  
PARCEL A  
14.71 AC.  
N 22° 53' 40" E 3458.46'

15' WIDE DEDICATED TRAIL EASEMENT  
PARCEL B  
105' BLDG. SETBACK  
50' TREED SECTION  
BLUFF RIDGE

N 78° 50' 25" E 1571.47'

DEVELOPMENT PLAN  
AND  
'VESTING'  
TENTATIVE  
TRACT MAP

NO 2262

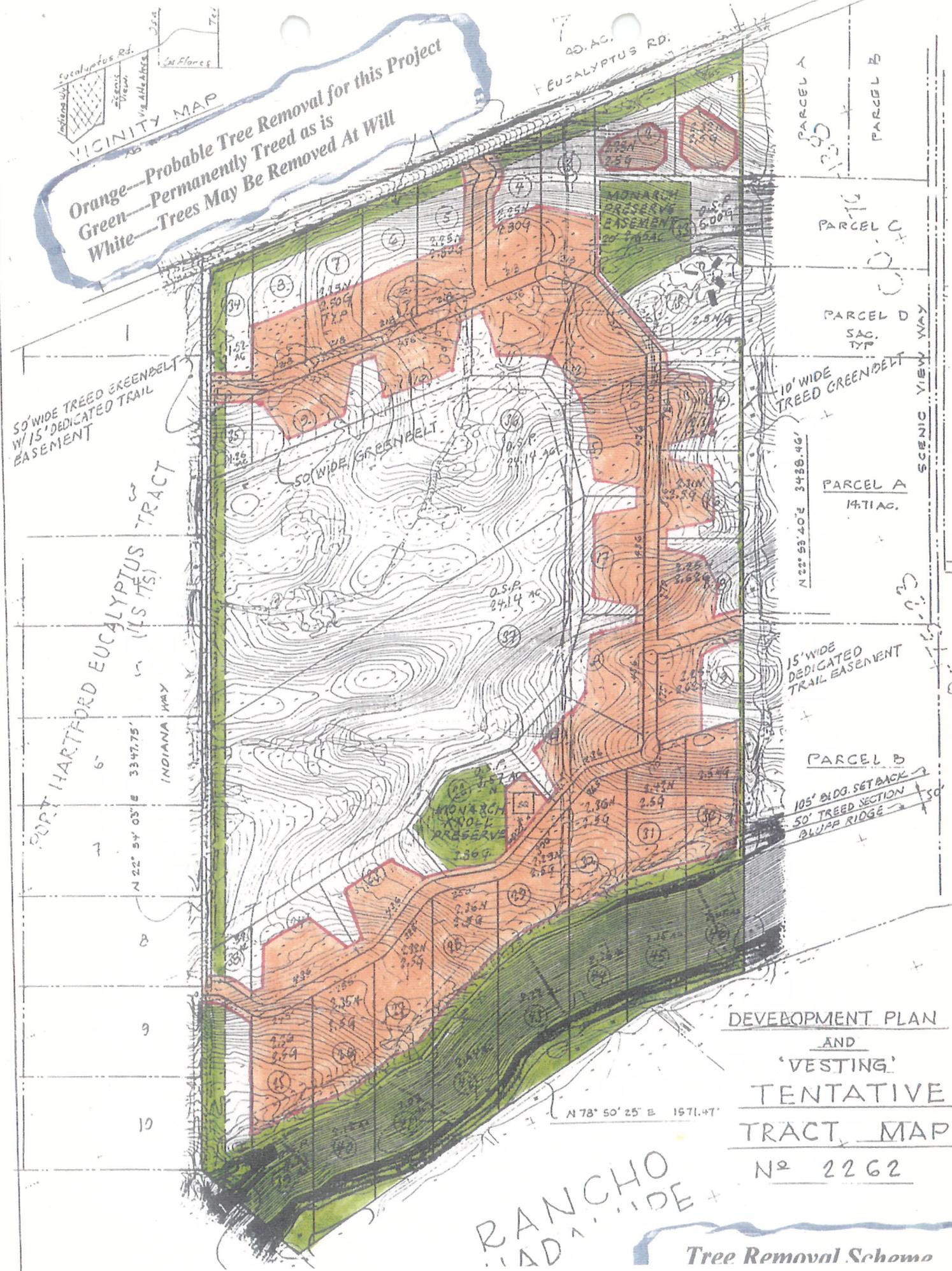
NOVEMBER 15, 1992 REV.

RANCHO  
GUADALUPE  
AMB 117

**PHASING PLAN**



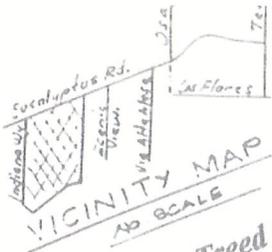
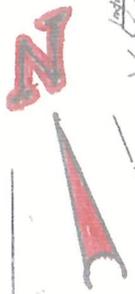
**Orange**—Probable Tree Removal for this Project  
**Green**—Permanently Treed as is  
**White**—Trees May Be Removed At Will



DEVELOPMENT PLAN  
 AND  
 'VESTING'  
 TENTATIVE  
 TRACT MAP  
 No 2262

RANCHO  
 "AD" "IDE"

Tree Removal Scheme



75-ft Treed Greenbelt  
w/ 20-ft wide Dedicated  
Trail Easement

Eucalyptus Road

N 89°29'16" W 2136.50'

Monarch Preserve  
Easement

PARCEL A

PARCEL B

PARCEL C

PARCEL D  
SAC  
TYP.

10-ft Treed Greenbelt

50-ft Treed Greenbelt  
w/ 15-ft wide Dedicated  
Trail Easement

FORT HARTFORD EUCALYPTUS TRACT  
(1/2 S 1/2 S)

Indiana Way

PARCEL  
14.71 AC

N 22° 53' 40" E 3438.46'

Scenic View Way

15-ft wide Dedicated  
Trail Easement

PARCEL B

105' BLDG. SET BACK  
50' TREED SECTION  
BLUFF RIDGE

Monarch Knoll  
Preserve

10

Steep Bluff Slope

DEVELOPMENT PLAN  
AND  
VESTING TENTATIVE TRACT  
MAP NO. 2262

**Attachment C. Resolution for Tract 2262  
Conditions of Approval (includes COA#20  
and #21)**

COUNTY PLANNING COMMISSION  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, December 9, 1999

PRESENT: Commissioners Wayne Cooper, Diane Hull, Doreen Liberto-Blanck, Cliff Smith,  
Chairman Pat Veasart

ABSENT: None

RESOLUTION NO. 99-101  
RESOLUTION RELATIVE TO THE GRANTING  
OF A TENTATIVE TRACT MAP

WHEREAS, The County Planning Commission of the County of San Luis Obispo, State of California, did, on the 9th day of December, 1999, grant a Tentative Tract Map to GEORGE WIDMARK to allow cluster subdivision of a 162.65 acre parcel into 31 parcels ranging in size from 2.5 acres to 2.8 acres each and 15 open space parcels totaling 81.33 acres, with one 6,000 square foot building site on one of the open space parcels, in the Residential Rural Land Use Category. The property is located in the county at 951 Eucalyptus Road, immediately southeast of the intersection of Eucalyptus Road and Indiana Way, approximately 0.4 miles west of the Nipomo URL, APN: 092-161-001, in the South County Planning Area. County File Number: TR 2262/S970128U.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this Permit subject to the Findings listed in Exhibit A.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 9th day of December, 1999, does hereby grant the aforesaid Permit, Tract 2262/S970128U.

If the use authorized by this Permit approval has not been established or if substantial work on the

property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Sections 66412.3, 66473 and 66474 of the Subdivision Map Act and Section 21.48.080 of the Real Property Division Ordinance.

On motion of Commissioner Hull, seconded by Commissioner Cooper, and on the following roll call vote, to-wit:

AYES: Commissioners Hull, Cooper, Liberto-Blanck, Smith

NOES: Chairman Veasant

ABSENT: None

the foregoing resolution is hereby adopted.

Pat Veasant  
Chairman of the Planning Commission

ATTEST:

Deane R. Tingle  
Secretary, Planning Commission

**Exhibit C**  
**Findings - Tract 2262**

**Environmental Determination**

- A. On the basis of the Initial Study and all the comments received, there is no substantial evidence that the project will have a significant effect on the environment.

**Tentative Map**

- B. The proposed map is consistent with applicable county general and specific plans.
- C. The design and improvement of the proposed subdivision are consistent with the applicable county general and specific plans.
- D. The site is physically suitable for the type of development proposed.
- E. The site is physically suitable for the proposed density of the development proposed.
- F. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- G. The design of the subdivision or the type of improvement will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision; or that substantially equivalent alternate easements are provided.
- H. The proposed subdivision complies with Section 66474.6 of the State Subdivision Map Act, as to methods of handling and discharge of waste.
- I. The proposed subdivision be found consistent with the county zoning and subdivision ordinance.

**Exhibit D**  
**Conditions of Approval - Tract 2262**

**Access and Improvements**

1. Roads and/or streets shall be constructed to the following standards:
  - a. Roads "A" and "B", Bluff Ridge Lane, and the extension of Calle Cielo to the easterly property line as shown on the tentative map shall be constructed to an A-1 (rural) section within a 50 foot dedicated right-of-way and consistent with Monarch Butterfly Habitat study. Road A and Bluff Ridge Lane will terminate in County Standard cul de sac and be consistent with Real Property Division Ordinance and will have an all weather extension to Indiana Way as approved by CDF.
  - b. A road from the project to Eucalyptus Road and a road from the project to either Calle Cielo or Scenic Way to the east be constructed to an A-1 Rural section with a 50 foot dedicated right of way
  - c. Emergency access be provided from the cul de sac to Indiana Way in consultation with CDF.
2. The applicant shall offer for dedication to the public by certificate on the map or separate document:
  - a. The 50 foot road easements as shown on the tentative parcel map with a 20 foot radius property line return at the intersection of all streets.
  - b. The 50 foot road easement terminating in a county cul-de-sac.
  - c. Trail easements along Eucalyptus Road and the bluff top (within the 105 foot setback shown on the tentative map) with a minimum width of 25 feet; trail easement along Indiana Way with a minimum width of 15 feet as shown on the tentative map and trail easements that connect the bluff trail to Indiana Way on the westerly end of the trail and to the internal road along the easterly end of the trail with a minimum width of 10 feet.
3. Applicant shall offer for dedication by certificate on the map or separate document a six foot Public Utility Easement behind all streets in the subdivision.

**Drainage**

4. Applicant shall submit complete drainage calculations to the County Engineer for review and approval.
5. If calculations so indicate, drainage must be retained in a drainage basin on the property. The design of the basin to be approved by the County Engineer, in accordance with county standards. The basins shall be less than two feet deep with slopes of 5:1 or flatter.
6. If a drainage basin is required, the drainage basin along with rights of ingress and egress shall

be offered for dedication to the public by certificate on the map with an additional easement reserved in favor of the owners and assigns.

### Utilities

7. Electric and telephone lines shall be installed underground.
8. Cable T.V. conduits shall be installed in the street.
9. Gas lines are to be installed.

### Plans

10. Improvement plans be prepared in accordance with San Luis Obispo Improvement Standards and Specifications by a Registered Civil Engineer and submitted to the County Engineer, County Health Department, Department of Planning and Building, and the County Parks Department for approval. The plan to include:
  - a. Street plan and profile;
  - b. Drainage ditches, culverts, and other structures (if drainage calculations require);
  - c. Water Plan (County Health);
  - d. Grading and erosion control plan for subdivision related improvements;
  - e. Public utility.
11. The applicant shall enter into an agreement with the county for inspection of said improvements, and for checking the improvement plans and the map.
12. The engineer, upon completion of the improvements, must certify to the County Engineer that the improvements are made in accordance with Subdivision Review Board/Planning Commission requirements and the approved plans. All public improvements shall be completed prior to occupancy of any structure.

### Biological Resources

13. Prior to final tract map approval, the applicant shall offer to the County or an appropriate non-profit organization approved by the Environmental Coordinator, a permanent open space or conservation easement over the Monarch Preserve, as shown in Exhibit A, to assure that this parcel remain in permanent open space in perpetuity. This approximately two acre parcel shall be maintained in its present condition as a eucalyptus grove to provide an autumnal roosting site for monarch butterflies. There will be no changes made to the tree stand within the Monarch Preserve that would affect the site's usefulness as Monarch butterfly habitat. The easement shall allow the County or appropriate non-profit organization, upon 24-hour notice, to regularly visit the eucalyptus grove in order to verify its suitability as an autumnal roosting site for monarch butterflies. The terms and conditions of the easement shall be reviewed and approved by the Environmental Coordinator.
14. Prior to final tract map approval, the applicant shall install a fence between Lots 1, 2, 3 and 13 and the Monarch Preserve, consistent with Exhibit A of the Negative Declaration, to give additional protection against ingress from those lots.

### Fire Safety

15. Prior to final tract map approval, the applicant shall meet all fire safety measures as outlined in the California Fire Department correspondence, dated March 31, 1998.

### Agricultural Compatibility

16. **Prior to final tract map approval, the developer shall enter into an agreement with the County, in a form acceptable to the County Council, whereby the developer agrees, on behalf of himself and his successors in interest, that:**

Agricultural buffers, as recommended by the County Agricultural Commissioner, shall be provided between future homesites on the property and the proposed agricultural land uses located to the north of Eucalyptus Road. These buffer areas, as shown on the attached Exhibit B, shall include the following:

- a. Horizontal setback buffer of 175 feet in width along a portion of the northern property line where it adjoins the adjacent agricultural land. In the event farming on the adjacent agricultural land is permanently discontinued, the setback requirement shall no longer be in effect.

#### Design

17. The lots shall be numbered in sequence including the open space parcels.

#### Additional Map Sheet

18. **Prior to recordation of the final map, the applicant shall prepare an additional map sheet, to be approved by the Director of Planning and Building and recorded with the final map. The additional map sheet shall include the following:**

- a. A note that identifies the approved development plan (File nos.: Tract 2262 and S970128U) and that prospective buyers should contact the County Department of Planning and Building to review the conditions of approval for that development plan. The conditions of approval run with the land and they affect the location of development within the tract including but not limited to the placement of structures, septic systems and drainage facilities.
- b. A note that the approval of the land division included the use of TDC's, the number of credits used and their registration numbers, and the location and assessor's parcel number of the sending site.
- c. All public improvements shall be constructed prior to occupancy of any structure.

#### Parks and Recreation Fees

19. Unless exempted by Chapter 21.09 of the county Real Property Division Ordinance or California Government Code section 66477, prior to filing of the map, the applicant shall pay the "in-lieu" fee that will be used for community park and recreational purposes as required by Chapter 21.09. The fee shall be based on the total number of new parcels or remainder parcels shown on the map that do not already have legal residential units on them or the number of dwelling units proposed in the case of a condominium, stock cooperative, or community apartment project.

#### Affordable Housing Fee

20. Prior to recording the parcel map, the applicant shall pay an affordable housing in-lieu fee of 3.5 percent of the adopted public facility fee effective at the time of recording for each residential lot.

#### Covenants, Conditions and Restrictions

21. The developer shall submit proposed covenants, conditions, and restrictions for the

subdivision to the county Department of Planning and Building for review and approval. The developer at a minimum shall provide for:

- a. Maintenance of drainage basins and open space parcels.
- b. Reference to the approved development plan.

#### Open Space Agreement

22. **Prior to recordation of the final map, the applicant shall record an open space easement, in a form approved by County Counsel, for the open space portions shown on the final map. The open space parcels shall total a minimum of 81.33 acres for the entire project. The areas to be covered by the easement shall be consistent with Section 22.04.036. Each parcel is to be held in single ownership or transferred to a public or conservancy agency approved by the Planning Director. The open space area is to be maintained as such in perpetuity.**

#### Miscellaneous

23. This subdivision is also subject to the standard conditions of approval for all subdivisions utilizing on-site wells and septic systems, copies of which is attached hereto and incorporated by reference herein as though set forth in full.
24. **Prior to recordation of the final map or approval of improvement plans, the applicant shall provide the County Engineer with written evidence from the Director of Planning and Building that all applicable conditions of approval for the associated development plan have been met.**
25. The applicant shall apply with the Department of Planning and Building for road names.

PLANNING COMMISSION  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, December 9, 1999

PRESENT: Commissioners Wayne Cooper, Diane Hull, Doreen Liberto-Blanck, Cliff Smith,  
Chairman Pat Veersart

ABSENT: None

RESOLUTION NO. 99-100  
RESOLUTION RELATIVE TO THE GRANTING  
OF A DEVELOPMENT PLAN

WHEREAS, The County Planning Commission of the County of San Luis Obispo, State of California, did, on the 9th day of December, 1999, grant a Development Plan to GEORGIE WIDMARK to allow cluster subdivision of a 162.65 acre parcel into 31 parcels ranging in size from 2.5 acres to 2.8 acres each and 15 open space parcels totaling 81.33 acres, with one 6,000 square foot building site on one of the open space parcels, in the Residential Rural Land Use Category. The property is located in the county at 951 Eucalyptus Road, immediately southeast of the intersection of Eucalyptus Road and Indiana Way, approximately 0.4 miles west of the Nipomo URL, APN: 092-161-001, in the South County Planning Area. County File Number: TR 2262/S970128U.

WHEREAS, The Planning Commission, after considering the facts relating to such application, approves this Permit subject to the Findings listed in Exhibit A.

WHEREAS, The Planning Commission, after considering the facts relating to such application, approves this Permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 9th day of December, 1999, does hereby grant the aforesaid Permit No. TR 2262/S970128U.

If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 22.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six months (6) or conditions have not been complied with.

such Permit approval shall become void.

On motion of Commissioner Hull, seconded by Commissioner Cooper, and on the following roll call vote, to-wit:

AYES: Commissioners Hull, Cooper, Liberto-Blanck, Smith

NOES: Commissioner Veasant

ABSENT: None

the foregoing resolution is hereby adopted.

Pat Veasant  
Chairman of the Planning Commission

ATTEST:

Deane Trumbo  
Secretary, Planning Commission

**EXHIBIT A**  
**FINDINGS - Development Plan**

- A. The proposed project or use is consistent with the land use element of the general plan because cluster subdivisions are allowed in the Residential Rural land use category and the South County Area allows less open space than required by the Land Use Ordinance where important resources are protected.
- B. As conditioned, the proposed project or use satisfies all applicable provisions of the Land Use Ordinance.
- C. The establishment and consequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or detrimental or injurious to property or improvements in the vicinity of the use because a monarch butterfly preserve will be provided, steep slopes will be preserved, and bluff setbacks can be met.
- D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because trails will be provided, the project will have 2.5 acre parcels with lot widths similar to the neighboring properties, the bluff setbacks apply to other properties in the area.
- E. The proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project.
- F. The proposed project qualifies as a TDC receiver site because the additional density will not create significant unavoidable adverse environmental impacts; the site is not within an agricultural preserve; the site is within 10 miles of an Urban Reserve Line; project footprint will not be located on slopes 30 percent or greater; the project footprint is not located in a Sensitive Resource Area, Flood hazard, Geologic Hazard Area, Earthquake Fault Zone, or a Very High Fire Hazard Area; the project footprint is outside of a Natural Area or Significant Biological Geographical or Riparian Habitat; and the development will comply with county standards for water, wastewater and access.
- G. The proposed project qualifies for a 75% density bonus under the county's TDC program because the project is within 5 miles of Nipomo and the applicant will be providing additional trails, buffers and landscape beyond what is normally required.
- H. On the basis of the Initial Study and all the comments received, there is no substantial evidence that the project will have a significant effect on the environment.

**EXHIBIT B**  
**CONDITIONS OF APPROVAL - Development Plan**

**Subdivision Related Approvals**

1. This approval authorizes a cluster division of a 162.65 acre site into 31 clustered lots ranging from 2.5 acres to 2.8 acres each and 15 open space parcels totaling 81.33 acres with one 6,000 square foot building site on one of the open space parcels.
2. This approval is effective for a period of 24 months from the date of the approval of the tentative map by the Planning Commission. Development Plan time extensions shall run concurrently with the Tentative Map time extensions thereafter, until expiration of the tentative map. Time extensions for the tentative map must be requested by the applicant or agent and are subject to further review.
3. Further design and improvement requirements for the project shall be established through the approval of the Tentative Map in accordance with the approved development plan.
4. Any significant revisions in the Tentative Map not authorized by this approval shall require reconsideration by the Planning Commission.

**Phasing**

5. The project is approved as a phased project. With each phase the cumulative open space shall be at a minimum 50% of the site area (not including area to be recorded with future phases). This may require the final map to include open space lot(s) that exceed 50% for that phase. After the time the 15 open space parcels shown on the tentative map have recorded, subsequent phases may record without including an open space parcel.

**Open Space Agreement**

6. Prior to recordation of the final map, the applicant shall record an open space easement, in a form approved by County Counsel, for the open space portions shown on the final map. The open space parcels shall total a minimum of 81.33 acres for the entire project. The areas to be covered by the easement shall be consistent with Section 22.04.036. Each parcel is to be held in single ownership or transferred to a public trust or conservancy agency approved by the Planning Director. The open space area is to be maintained as such in perpetuity.

**Biological Resources**

7. Prior to final tract map approval, the applicant shall offer to the County or an appropriate non-profit organization approved by the Environmental Coordinator, a permanent open space or conservation easement over the Monarch Preserve, as shown in Exhibit A, to assure that this parcel remain in permanent open space in perpetuity. This approximately two acre parcel shall be maintained in its present condition as a eucalyptus grove to provide an autumnal roosting site for monarch butterflies. There will be no changes made to the tree stand within the Monarch Preserve that would affect the site's usefulness as Monarch butterfly habitat. The easement shall allow the County or appropriate non-profit organization, upon 24-hour notice, to regularly visit the eucalyptus grove in order to verify its suitability as an autumnal roosting site for monarch butterflies. The terms and conditions of the easement shall be reviewed and approved by the Environmental Coordinator.

8. **Prior to final tract map approval, the applicant shall install a fence between Lots 1, 2, 3 and 13 and the Monarch Preserve, consistent with Exhibit A of the Negative Declaration, to give additional protection against ingress from those lots.**
9. All fire places within the new homes of the project shall conform with the latest EPA fire place standards.
10. All wood-burning appliances on Lots 1-4 and 11-13 shall meet an EPA emission rate of 2.4 grams per hour or cleaner.
11. The applicant shall maintain a fence between Lots 1, 2, 3 and 13 and the Monarch Preserve, consistent with Exhibit A of the Negative Declaration.

#### Air Quality

12. **During all ground disturbing activities on the project site related to road grading, parcel grading, tree removals, utility trenching, etc., the applicant shall implement the following particulate (dust) control measures. These measures shall be shown on all grading and building plans. In addition, the contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust off site. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD prior to commencement of grading activities.**
  - a. Reduce the amount of disturbed area where possible
  - b. Before any grading on the site occurs, a reliable water source shall be available on the project site to support dust suppression activities.
  - c. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency may be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water should be used whenever possible.
  - d. All dirt stock pile areas should be sprayed as needed and/or maintained to prevent airborne dust from leaving the area.
  - e. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating native grass seed and watered until vegetation is established.
  - f. All disturbed soil areas not subject to revegetation must be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by APCD.
  - g. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
  - h. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.

- i. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with California Vehicle Code Section 23114.
- j. Before any grading on the site occurs, a reliable water source shall be available on the project site to support dust suppression activities sufficient to prevent airborne particulate matter from leaving the site.

#### Agricultural Compatibility

13. Prior to final tract map approval, the developer shall enter into an agreement with the County, in a form acceptable to the County Council, whereby the developer agrees, on behalf of himself and his successors in interest, that:

Agricultural buffers, as recommended by the County Agricultural Commissioner, shall be provided between future homesites on the property and the proposed agricultural land uses located to the north of Eucalyptus Road. These buffer areas, as shown on the attached Exhibit B, shall include the following:

- a. Horizontal setback buffer of 175 feet in width along a portion of the northern property line where it adjoins the adjacent agricultural land. In the event farming on the adjacent agricultural land is permanently discontinued, the setback requirement shall no longer be in effect.
14. Prior to transfer of the parcels created by this subdivision, the applicant shall disclose to prospective buyers, of all parcels created by this proposal, the consequences of existing and potential intensive agricultural operations on adjacent parcels including, but not limited to: dust, noise, odors and agricultural chemicals and the county's Right to Farm and Lease ordinances currently in effect at the time said deed(s) are recorded.

#### Landscape

15. Prior to recordation of the final map for bluff top lots, the applicant shall submit a landscape plan to the Development Review Section for review and approval for the buffer area. The plan shall be prepared consistent with Section 22.04.186.
16. All revegetation and landscape enhancement plans shall use plant material from the county approved plant list.

#### Setbacks

17. Bluff top lots are subject to the setback requirements of the South County Area Plan for structures and septic systems.
18. Buildings on Lots 25-32 shall be setback 105 feet from the top of the bluff.

#### Drainage

19. Drainage is to be directed away from the bluff edge.

#### Use of Open Space

20. Except for the Monarch Preserve on Lot 33 and the bluff edge where slopes exceed 15%, this development plan authorizes the open space parcel to be used for passive recreation.

equestrian uses, and crop production (does not include greenhouses). Tree removal on the open space parcel is limited as follows:

- a. Monarch preserve - hazardous, dead or severely diseased and consistent with condition number 13.
- b. Tree buffers (75 feet along Eucalyptus Road and 50 feet along Indiana Way) - consistent with condition number 22.
- c. Bluff - hazardous, dead or severely diseased and be replaced with native vegetation.
- d. Other portions of the open space parcels - hazardous, dead or severely diseased, or as approved with a Tree Removal Permit to accommodate an authorized use, to develop trails and drainage facilities, or to be replaced with native vegetation. Consideration shall be given to erosion control and visual impacts and wildlife habitat.

#### Tree Buffers

21. Trees within the buffer areas along Eucalyptus Road (75 feet wide), Indiana Way (50 feet wide) and the easterly property line (10 feet wide) as shown on the tentative map shall not be removed unless they are determined to be hazardous, dead or severely diseased, or to be replaced with trees approved by the Development Review Section.

#### Water Storage Tanks

22. Prior to issuance of construction permits, the applicant shall submit water tank and screening plans to the Development Review Section for review and approval.

**Attachment D. Added 'Raptor Protection'  
measure for TR 2262**

DATE: December 21, 1999

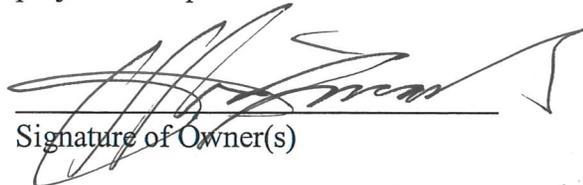
**MODIFIED PROJECT DESCRIPTION FOR WIDMARK TRACT MAP  
(S970128U)**

I, <sup>George</sup>~~Richard~~ Widmark, agree to incorporate the following mitigation measure into the proposed Tract 98-2262. This mitigation measure becomes a part of the project description. All development activity must occur in strict compliance with the following mitigation measure. This mitigation measure shall be perpetual and run with the land. This measure is binding on all successors in interest of the subject property.

**Raptor Protection**

1. For areas within Tract 98-2262 which are scheduled for construction between March and July, a pre-construction survey shall be conducted for nesting raptors. Trees containing active raptor nests shall be identified by a wildlife biologist, who is approved by the County Department of Planning & Building. Destruction of such breeding sites shall be avoided for the duration of the breeding season by establishment of an appropriate setback as determined by consultation with California Department of Fish and Game and/or the U.S. Fish & Wildlife Service. An exclusion barrier shall be installed around the perimeter to prevent destruction of nest trees which would result in destruction of nests, eggs, and/or nestlings per Fish & Game Code Section 3503.5.

By signing this agreement, I agree to and accept the incorporation of the above measures into the project description.

  
Signature of Owner(s)

12-21-99  
Date

George Widmark  
Name (Print)



# **Attachment E. Planning Commission Hearing Minutes**

Thursday, December 9, 1999

Minutes of the Regular Session of the County Planning Commission held in the Board of Supervisors Chambers, County Government Center, San Luis Obispo, CA, at 8:45 a.m.

PRESENT: COMMISSIONERS WAYNE COOPER, DIANE HULL, DOREEN LIBERTO-BLANCK, CLIFF SMITH, CHAIRMAN PAT VEESART

ABSENT: NONE

STAFF

PRESENT: Bryce Tingle, Assistant Planning Director  
Mike Drazo, Development Review Section  
Jay Johnson, Development Review Section  
Ted Bench, Development Review Section  
Bill Roalman, Development Review Section

OTHERS

PRESENT: Jae Crawford, County Counsel  
Richard Marshall, County Engineering

The meeting is called to order by Chairman Veasart.

The following action minutes are listed as they were acted upon by the Planning Commission and as listed on the agenda for the Regular Meeting of December 9, 1999, together with the maps and staff reports attached thereto and incorporated therein by reference.

1. Commissioner Hull thanks Chairman Veasart for his work on the commission, states she has deep respect for him. Commissioner Liberto-Blanck states she also appreciates Chairman Veasart's work on the commission.
2. Planning Staff updates. Mike Drazo comments on fiber optics program starting in this county. A steering committee was formed a few months ago to work with companies coming through this county dealing with fiber optics. There are 56 companies dealing with telecommunications in the county now, such as: ATT, MCI, Williams Communications, Level 3, etc. The county is concerned with this going through the county and not stopping here, so they started this committee to see how they can tie into the systems. Commissioner Liberto-Blanck asks about integrated transportation system and asks Mr. Drazo to keep them informed about it. Pat Beck comments on winery ordinance changes, and states they met as follow up with Ag Commissioner's Office, and will now meet with Winery Task Force. They all felt the ordinance should not go forward at this time. Reminder that there will be a meeting regarding Strategic Planning meeting tomorrow in the a.m. with staff and in the p.m. with interested persons and the Commission if they wish to attend.
3. CONSENT AGENDA: (RECOMMEND APPROVAL) Commissioner Hull comments on item a, thought this was handled before during another hearing on the same property. Staff states no. Commissioner Hull would like to see property that has multiple projects on it all handled at the same time to save processing time. Commissioner Smith comments on item 2c1, Plum Orchard Road, and asks if a vote for non conformance stops the process. Leonard Mansell answers no, it will still go to the County Engineer for processing, and if the applicant wants a hearing at the Board level he can go forward with it. Thereafter, on motion of Commissioner Cooper.

seconded by Commissioner Smith, and unanimously carried, the Consent Agenda is approved as followed:

- a. General Plan Conformity Report for the abandonment of a strip of Right of Way on the south side of Airpark Drive, approximately 100 feet east of the intersection of Palace Avenue, in the community of Oceano. (FIND IN CONFORMANCE)
  - b. General Plan Conformity Report for the abandonment of a portion of San Miguel Road in rural San Luis Obispo County. (FIND IN CONFORMANCE)
  - c. General Plan Conformity Report for the abandonment of a portion of Plum Orchard Lane, located approximately 1800 feet south of its intersection of Santa Rita Road, outside the Urban Reserve Line of the community of Templeton. (FIND IN NON CONFORMANCE)
  - d. EMERGENCY PERMIT #P990307E  
Applicant: Cellular One  
APN: 079-241-006  
Location: end of Longview Street just outside city of Pismo Beach  
Issued: November 12, 1999  
Filing Date: November 10, 1999  
Description: Installation of two panel antennas, one digital relay dish and one 6' x 5' pre fabricated building on existing cellular site tower. Cellular One provides service for the emergency call boxes throughout the county. Due to increased cellular use in County (both by residents and people traveling through County), cellular service has reached capacity. There is concern that emergency use of call boxes will be adversely affected during processing time of development plan D990354D. Hence emergency permit is being granted. (INFORMATION ONLY)
4. This being the time set for continued hearing to consider the proposal by ROBERT SMITH for a Development Plan to allow modification of the designated building site and grade driveway and house pad on slopes exceeding 30%. A portion of the proposed driveway has been graded without the benefit of a permit, in the Rural Residential Land Use Category. The property is located in the county on Lot 25, Tract 1516, on the southeastern side of upper Los Berros, APN: 090-010-034, 037, and 051, in the South County Planning Area. County File Number: D970063D. Commissioner Hull questions why this is continued and if something else could have been put on in its place. Mike Drazz states no, nothing was held off, there is a full agenda today. Bill Roalman, staff, states Mr. Smith has a botanist that came up with a different conclusion than the staff botanist. The report was sent to Mr. Smith for his review and staff is waiting for Mr. Smith to get back to staff with his comments. Thereafter, on motion of Commissioner Smith, seconded by Commissioner Liberto-Blanck, and unanimously carried, this item is continued to January 27, 2000, at 8:45 a.m.
  5. This being the time set for hearing the proposal by DENNIS SCHNEIDER for a Minor Use Permit and Variance to allow construction of a single family residence and a 1.25 mile access road in the Agriculture Land Use Category. The property is located in the county on the west side of Highway 1, approximately one mile north of Villa Creek Road, north of the community of Cayucos, APN: 046-082-008, in the Estero Planning Area. County File Number: D980279V/ D980010P. On motion of Commissioner Liberto-Blanck, seconded by Commissioner Hull, and unanimously carried, this item is continued to January 27, 2000, at 8:45 a.m.
  6. This being the time set for continued hearing to consider proposal by GEORGE WIDMARK for

a Tentative Tract Map to allow subdivision of a 162.65 acre parcel into 54 parcels ranging in size from 0.5 acres to 4.0 acres; two open space parcels of approximately 20 acres each, with building envelopes; and two open space parcels of approximately five acres each, without building envelopes, for sale and/or development of each proposed parcel. Twenty-four of the 56 buildable lots would result from the applicant obtaining Transferred Development Credits, in the Residential Rural Land Use Category. The property is located in the county at 951 Eucalyptus Road, immediately southeast of the intersection of Eucalyptus Road and Indiana Way, approximately 0.4 miles west of the Nipomo URL, APN: 092-161-001, in the South County Planning Area. County File Number: TR 2262/S970128U. Jay Johnson, staff, presents this matter, hands out suggested condition changes. Bryce Tingle comments on water capacity study for the Nipomo Mesa that will go to the Commission and the Board of Supervisors. Staff is reviewing this material trying to figure out implications of the ground water basin study and how to react to that. Commissioner Smith asks about paving Indiana Way. Jay Johnson states it is required by the Real Division Ordinance. Terry Orton, agent for Mr. Widmark, states they decided to go with 32 lots, felt some commissioners didn't like the TDC's used on this site. Homeowners Association is for trail maintenance and other improvements, matter of road improvements discussed. Richard Marshall states the road must be at County standards for them to take it into the county maintained system, or else their crews cannot maintain them. Matter opened to the floor. Alton Aulton would like an EIR prepared, this will have an effect on the environment. It could have impact on their water supply, they do not want the road paved. Marvin Maggio asks at what width the road will be paved, is it a soft shoulder, where will the retention basin be, will there be fencing along Indiana. Sol Mayesh, Indiana Way, asks for a full EIR, need to look at cumulative impact of the water, wildlife, traffic, etc. does not want development on the open space parcel. Bonnie Mayesh speaks about subsidence of her parcel due to ground water withdrawal, one of the roads into this subdivision will be right in front of where she loads her horses. She wants to work with developmentally disabled children in the county with the horses, and this road at this location would create a dangerous place for them. Albert Locher, Indiana Way, concerned about traffic on this road. Nora Janae states there are many benefits from the trees, such as they are a buffer from crop smells, they filter the air, place for Monarch butterflies and other wildlife to winter over; she wants an EIR to answer all their questions. Jessie Hill hands out letter regarding DWR report of June 99 - Water Resources of the Arroyo Grande Nipomo Mesa area. Mary Caldwell, Nipomo Community Pathways, feels the present plan does meet their needs, bluff trail should be set aside as a scenic ride, would be great. Lowell Davis asks if the open space parcel could have green houses on it. Terry Orton, agent, comments on subsidence issue, will work with Richard Marshall for road improvements, their density is same as people surrounding them and appropriate for the area. Jan Dileo, County Parks, states they will maintain trails. Richard Marshall suggests new condition for road improvements. Commissioner Liberto-Blanck comments on open space, would not like to see large block walls here, asks Richard if they can bond for road improvements, Richard Marshall states they can, however there is the need now for people who will live there for roads, drainage facilities, utilities, so they are not recommending bonding. Bryce Tingle suggests making Indiana Way a cul de sac and taking access off of existing county roads and also at the north point of map so they will have 2 accesses. Commissioner Liberto-Blanck comments on cul de sac with access and all weather road at Indiana Way, and cul de sac at new road. CDF needs discussed, they do not like breakaway gates. Open space should be open space with no crop production, trail should be along the bluff. Commissioner Smith states fencing is no real concern with him, but he does not want a solid wall, open space could support Ag uses but does not want greenhouses or that kind of thing, trails support cul de sac idea and also alternate accesses to the east. Commissioner Cooper agrees with Commissioner Smith, does not need trails across driveways, feels no problem if open space parcel is used for Ag, no problem with cul de sac idea and eliminate access to Indiana Way, fencing should be left to individual lot owners.

Commissioner Hull agrees with Commissioners Smith and Cooper, open space could be kept for some Ag uses. Chairman Veasart states he has problem with this proposal because of water use, the open space should be left as natural as possible, concerned with buffer between houses and crops. Bryce Tingle states the last 5 lots could be served by an easement and cul de sac could be in front of them, eliminate pavement at this location if they want. Thereafter, on motion of Commissioner Hull, seconded by Commissioner Cooper, with Chairman Veasart voting no, RESOLUTION NO. 99-100 granting a Development Plan to GEORGE WIDMARK for the above referenced project, based on Findings A through H, and Conditions 1 through 23, as amended by staff handout and further amended condition 21 add words "does not include greenhouses" and delete "in addition to those uses authorized in the standard open space agreement"; and 21d add "and wildlife habitat"; and RESOLUTION NO. 99-101 granting a Tentative Tract Map to GEORGE WIDMARK for the above referenced project, based on Findings A through I, and Conditions 1 through 25, amended as follows: 1a add: "and consistent with Monarch Butterfly Habitat study. Road A and Bluff Ridge Lane will terminate in County Standard cul de sac and be consistent with Real Property Division Ordinance, and will have an all weather extension to Indiana Way as approved by CDF"; 1b "A road from the project to Eucalyptus Road and a road from the project to either Calle Cielo . Scenic Way to the east be constructed to an A-1 Rural section with a 50 foot dedicated right of way" deleted c and d, and add new c to read: "Emergency access be provided from the cul de sac to Indiana Way in consultation with CDF"; 12 and 18c to read: "All public improvements shall be completed prior to occupancy of any structure", adopted.

7 This being the time set for hearing the proposal by GUEN H. GONG for a Tentative Tract Map to allow subdivision of a 4.54 acre parcel into 13 parcels ranging in size from 10,049 square feet to 15,516 square feet in the Residential Single Family Land Use Category. The property is located in the county on the east side of Tefft Street, approximately 300 feet south of Orchard Road, in the community of Nipomo, APN: 092-123-001, in the South County Planning Area. County File Number: TR 2347/S980303T. Bill Roalman, staff, comments on road improvements. Jack Boysen, agent, recommends approval. Laurie Tamura, Urban Planning Concepts, recommends approval. Thereafter, on motion of Commissioner Hull, seconded by Commissioner Cooper, and unanimously carried, RESOLUTION NO. 99-102 granting a Tentative Tract Map to GUEN H. GONG for the above referenced matter, based on Findings A through M, and Conditions 1 through 34, with corrections as follows: condition 17 add at end "all public improvements shall be completed prior to occupancy is being granted..."; conditions 19, 20 and 21 begins "Prior to recordation of the final map...", and conditions 24, 25, 26 to begin "Prior to construction of tract map improvements....", and condition 28 begin "If archaeological resources or human remains are accidentally discovered during grading or construction associated with tract map improvements...", adopted.

8. This being the time set for hearing the proposal by MID STATE PROPERTIES for a Tentative Tract Map to allow subdivision of a 1.01 acre parcel into 5 lots ranging in size from 6,000 square feet to 11,000 square feet in the Residential Single Family Land Use Category. The property is located in the county on the south side of Juniper Street, approximately 250 feet east of the intersection of Pomeroy Road and Juniper Street, in the community of Nipomo, APN: 092-134-056, in the South County Planning Area. County File Number: TRACT 2346/S990033T. Bill Roalman, staff, presents this matter. Terry Orton, agent, appears on this matter, explains project. Thereafter, on motion of Commissioner Hull, seconded by Commissioner Smith, and unanimously carried, to amend the description that property line on lot 4 border be adjusted by 25 foot easement be removed, and approval of the negative declaration in accordance with CEQA guidelines, and RESOLUTION NO. 99-103 granting a Tentative Tract Map for the above referenced matter, based on Findings A through P, and Conditions 1 through 24, as

amended: condition 14 add "all public improvements shall be completed prior to any construction...", and delete condition 23, and modify condition 24h to read: "All existing and future structures on lots 1-5 shall meet minimum setback standards, with the exception of the existing garage at the northwest corner of lot 5 which can be maintained at the existing 16 foot setback (as legal nonconforming use)", and add 24i "all public improvements shall be completed prior to any construction", adopted.

9. This being the time set for hearing the proposal by CYPRESS RIDGE LIMITED PARTNERSHIP for a Development Plan and Tentative Tract Map to substitute road improvements, as outlined in the August 6, 1999, Higgins Traffic Study, in place of traffic signalization of the Halcyon Road/Highway 1 northern intersection as originally required in the Cypress Ridge Tract Map Conditions of Approval, and to modify the Cypress Ridge Development Plan project description to allow either Rural Water Company or Cal Cities Water Company to operate the 386 residential parcels Cypress Ridge water distribution system, in the Residential Suburban Land Use Category. The property is located in the county approximately one mile east of Highway 1 within the Palo Mesa Village. The site is bordered by Halcyon Road to the north, El Campo Road to the northwest, and Woodlands Hills Road to the southeast. County File Number: TRACT 1933/D890413D. Jay Johnson, staff, presents this matter. Brad Brechwald, John Wallace & Associates, is here to answer any questions. John Snyder states he likes the project, feels there is enough water for the project, conditions should be amended to reflect conditions of current EIR, or allow them to have their own mutual water company. Robert Christiansen states his concern with traffic circulation and lack of water on the mesa. Dennis Sullivan, applicant, states this project will contribute \$1.5 million in road fees. Thereafter, on motion of Commissioner Hull seconded by Commissioner Cooper, and unanimously carried, RESOLUTION NO. 99-104 granting a reconsideration to CYPRESS RIDGE LIMITED PARTNERSHIP for Development Plan D890413D and TR 1933 for the above referenced project, based on Findings A through E, and use original conditions of approval of this Development Plan, and RESOLUTION NO. 99-105 granting a reconsideration to for CYPRESS RIDGE LIMITED PARTNERSHIP for Tentative Tract Map 1933 for the above referenced project, based on Findings A through H, and Conditions 1 through 33, condition 2 corrected to read: "the applicant shall make the following road improvements: a. right-turn channelization to the northern intersection of Halcyon Road and Highway One per the Highway One/Halcyon Road - North Intersection Design Study prepared by Higgins Associates, dated August 6, 1999" and b. "Install traffic signals at the southern intersection of Halcyon Road and Highway One. (or provide an equivalent traffic mitigation acceptable by the County Engineer and Caltrans) (any alternate mitigation shall be based on a subsequent Environmental Determination) and condition 34 added "Time for filing a final map, Section 21.06.010 of the Real Property Division Ordinance, shall be based on the original approval date of March 18, 1997", adopted.

10. This being the time set for hearing the proposal by BURT POLIN/JEFF EDWARDS for a Minor Use Permit and Variance to allow grading on slopes in excess of 20%; and a residence of approximately 3,450 square feet with an attached garage, access driveway, septic system, utility extensions; and eucalyptus tree removal on the 9,153 square foot residential parcel and adjacent State Park property, in the Residential Suburban Land Use Category. The property is located in the county on the south side of Pecho Valley Road at State Park Entrance, in the community of Los Osos, APN: 074-024-031, in the Estero Planning Area. County File Number: D980277V/D990107P. Terry Wahler, staff, presents this matter, states that some trees will have to be removed. Commissioners ask about morro manzanita in this area. Jeff Edwards, agent, states they have successfully replanted this area with morro manzanita, this was approved by Los Osos Advisory Council. Asks for one change in condition 1c. Chairman Veasart comments on taking

cuttings from local bushes and oaks. Jeff Edwards states the oaks are local genetics. Commissioner Hull asks about area in driveway. Jeff Edwards states it is 100 feet. Mike Hodge, EDA, spoke with South Bay Fire, and their solution to protecting this building is to grade a turnout off Pecho Valley Road, and they can get to within 150 feet from anywhere on the site. They will need a retaining wall for the turnout. Matter opened to the floor. Peter Stephens, neighbor, has about 400 eucalyptus trees on his property, plus other vegetation, supports this project, concerned with drainage every time it rains it creates a large mud flow and they have to sand bag. Asks if there will be a scenic setback required on this property because this is a scenic corridor. Chalys Stevens wants to know why applicant is going to State Park to remove trees in the park. Jeff Edwards answers questions on why they are removing trees in the State Park, will put in smaller trees and put on drip irrigation to get them established. Terry Wahler states the eucalyptus trees are choking out the morro manzanita. Matter closed. Thereafter, on motion of Commissioner Liberto-Blanck, seconded by Commissioner Hull, and unanimously carried, RESOLUTION NO. 99-106 granting a Variance to BURT POLIN for the above referenced matter, based on Findings A through F, and RESOLUTION NO. 99-107 granting a Minor Use Permit to BURT POLIN for the above referenced matter, based on Findings A through J, and Conditions 1 through 13, amended as follows: 1 add words "and pygmy oak trees" after "morro manzanita", 1c change 16% to 20%; adopted.

11. This being the time set for hearing the proposal by NME/TWIN CITIES HOSPITAL for a Development Plan to allow addition of a 1,700 square foot nursing station onto the hospital building, and to authorize the continued use of five modular units with parking lots on the adjoining lot west of the hospital, the modulars to be used for office and meeting spaces, in the Public Facility, Office-Professional, Commercial Retail Land Use Categories. The property is located in the county at 1100 Las Tables Road, Twin Cities Hospital, and the adjacent lot to the west, APN: 40-289-03 and 05, in the Salinas River Planning Area. County File Number: D980350D. Ted Bench, staff, presents this matter. Jeff Lead, EDA, explains project. Jim Bechel, DBP architects for hospital, shows landscaped plans, if Las Tables Road is only to be 3 lanes the original landscape plans would be used. Commissioner Smith asks what does approval by regional transit authority mean. Ted Bench states staff will be sure the design works for buses to get in and out. Commissioner Smith asks about installing sodium parking lot lights. Ted Bench states this is a suggestion from Air Pollution Control District. Thereafter, on motion of Commissioner Smith, seconded by Commissioner Cooper, and unanimously carried, RESOLUTION NO. 99-108 granting a Development Plan to NME/TWIN CITIES HOSPITAL for the above referenced matter, based on Findings A through F, and Conditions 1 through 12, corrected as follows: 3b add at the end: "Drainage plans may be excluded if TCSD allows the project to be served by the Templeton Community service District's community drainage system"; 3c replace the name "state Architect" with "state OSHPD"; 3g replace with "A 4 foot wide asphalt sidewalk shall be constructed from the driveway entrance of the modular unit parking area (Lot U) to the existing sidewalk fronting the hospital, at a location to be approved by the Planning and Engineering Departments. The roadside landscaping in front of the modular unit lot (Lot U) shall include a screening berm with trees, and a groundcover strip, as follows: the landscaped berm shall be constructed between the sidewalk and the parking lot of the modular units, and groundcover strip shall be planted in the space between the sidewalk and the road. The landscaped berm shall incorporate the following: It shall have a height of at least 3 feet. It shall use a mix of 15 gallon and 24" boxed trees (or larger)"; 3j delete "5 install sodium parking lot lights" 3k replace with "Construct pedestrian access between the hospital and the proposed modular units. This access shall create two pedestrian access points between the modular units and the hospital, in the locations shown on the approved site plan"; 5 add word "county" in front of "building"; 6 replace with "County staff has agreed to grant a waiver of the road requirements, so the hospital does not need to construct full road improvements at this

time"; 9 start with "Prior to final inspection or any of the modular units and prior to use of the two new modular units: " adopted.

CHAIRMAN VEESART VACATES THE CHAIR, VICE CHAIRMAN HULL ASSUMES THE CHAIR.

12. This being the time set for hearing the proposal by JOE TODD for a Minor Use Permit to allow construction of a single family residence with 1497 square feet of footprint, 2308 square feet of gross structural area and 333 square feet of Transferable Development Credits. The subject property is approximately 4,077 square feet in size, in the Residential Single Family Land Use Category. The property is located in the county on the south side of Wales Road, approximately 275 feet west of St. James Road, Lodge Hill, Cambria, APN: 023-163-026, in the North Coast Planning Area. County File Number: D980201P. Karen Nall and Steve McMasters, presents this matter. Steve McMasters goes over archeological resources present on the site, they are across the entire parcel. Commissioner Smith asks about phase 1 surface study, and phase 2 subsurface evaluation, he asks about the significance of the site. Use of TDC's discussed. Staff states they can use them if they don't result in footprint disturbance. Gary Swauger, agent, explains how the building will be built to be sensitive to the site. Tarren Collins, attorney for Chumash Council, states cultural resources are nonrenewable, speaks about TDC program, and the ways to amend this ordinance to help the Chumash and owners property. Joe Todd, applicant, states he wants to work with staff to not disturb the site as best he can. Gary Swauger speaks on foundation design to minimize the disturbance. They will use hand digging crews rather than machines. Mark Vigil explains importance of artifacts found on this site. Thereafter, on motion of Commission Liberto-Blanck, seconded by Commissioner Cooper, and Commissioner Smith voting no, in the absence of Chairman Veasart, RESOLUTION NO. 99-109 granting a Minor Use Permit to JOE TODD for the above referenced matter, based on Findings A through N, and Conditions 1 through 13 changes in 5, 12 "all landscaping shall be permitted and installation approved by Planning Department during finish grading, where feasible. 12"...of fill soil shall be placed over the entire site to minimize disruption of landscaping". and 13 "...title report notification is required to property owners on architectural artifacts on-site"; adopted, and approval of the negative declaration in accordance with CEQA guidelines. Commission has further discussion on reviewing use of TDC's on sensitive sites, such as artifacts found on this site. Bryce Tingle states there are many important sites around the county that need to be addressed.

There being no further business, the meeting is adjourned.

Respectfully submitted,

DIANE R. TINGLE, SECRETARY  
COUNTY PLANNING COMMISSION

# **Attachment F. Open Space Agreements that include Lots 38 and 16**

RECEIVED

NOV 14 2002

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. 2002-472

RESOLUTION APPROVING AND ACCEPTING AN OPEN-SPACE AGREEMENT  
GRANTING AN OPEN-SPACE EASEMENT TO THE  
COUNTY OF SAN LUIS OBISPO BY VILLA PARK PROPERTIES, LLC, A LIMITED LIABILITY  
COMPANY

The following resolution is now offered and read:

WHEREAS, the County of San Luis Obispo has been duly requested to approve and accept a certain grant and offer to dedicate to the County of San Luis Obispo as open-space that certain real property described in the open-space agreement attached hereto and made a part hereof; and

WHEREAS, the Director of Planning and Building by letter dated November 12, 2002, has duly recommended that the Board of Supervisors approve and accept such offer of dedication to the County of San Luis Obispo, and has further recommended that such action is consistent with the County's general plan.

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. The Board of Supervisors finds and determines that the preservation of land offered for dedication to the County of San Luis Obispo as open-space in the attached agreement is consistent with the County's general plan; that the land is essentially unimproved and if retained in its natural state has scenic value to the public and is valuable as a watershed, and the offer of dedication contained in said agreement contains appropriate covenants to that end; that it is in the public interest that the land be retained as open-space because such land will add to the amenities of living in neighboring urbanized areas; and that approval of the above agreement is categorically exempt from the requirements of the California Environmental Quality Act.

2. The Open-Space Agreement Granting An Open-Space Easement To The County of San Luis Obispo, a copy of which is attached hereto as Exhibit A and is incorporated by reference herein as though set forth in full, is hereby approved and the dedication contained therein is hereby accepted 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.

3. The County Clerk is hereby authorized and directed to record the above agreement and a certified copy of this resolution in the office of the County Recorder of the County of San Luis Obispo, and file a copy of said agreement and resolution with the County Assessor of the County of San Luis Obispo.

Upon motion of Supervisor Ryan, seconded by Supervisor Ovitt, and on the following role call vote, 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

Clerk of the Board of Supervisors  
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

|  |
|--|
| STATE OF CALIFORNIA )<br>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 remain- ing of record in my office. |
| Witness, my hand and seal of said Board of Super- visors this <u>11/13/02</u>  |
| <b>JULIE L. RODEWALD</b><br>County Clerk and Ex-Officio Clerk of the Board of Supervisors  |
| By <u>Vicki M. Shelby</u> Deputy Clerk   |

[SEAL]

522  
44

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

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APN 092-161-001

OPEN-SPACE AGREEMENT GRANTING AN OPEN-SPACE EASEMENT  
TO THE COUNTY OF SAN LUIS OBISPO

THIS AGREEMENT is made and entered into this 12<sup>th</sup> day of November, 2008, by and between VILLA PARK PROPERTIES, LLC, a California limited liability company, hereinafter referred to as "Owner," and the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State of California, hereinafter referred to as "County."

WITNESSETH:

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

WHEREAS, as a condition of approval of a development plan authorizing a cluster division of real property (S970128U) and as a condition precedent to the approval of a final subdivision map for Tract 2262, Phase 1, by County for Owner's Property, Owner is required to enter into two agreements with the County, on behalf of

ck. title rpt./cluster

himself and his successors in interest, whereby the Owner grants an open-space easement to the County for the benefit of the public, including the lots being created in said subdivision; and

WHEREAS, Owner intends that the restrictions contained in this agreement shall apply to that portion of Owner's Property (hereinafter referred to as the "Subject Property") which is more particularly described in Exhibit B attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, execution of this agreement by Owner and County, and the subsequent performance of its obligations by Owner and his successors in interest, will satisfy part of the requirement for dedication of open-space easements imposed by the County's general plan and land use regulations and made a condition of approval of the development plan and the tentative subdivision map referred to above; and

WHEREAS, the Subject Property has certain natural scenic beauty and existing openness, and both Owner and County desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of said property of the Owner; and

WHEREAS, Owner is willing to grant to County the scenic use, as hereinafter expressed, of the land and thereby protect the present scenic beauty and existing openness of the Subject Property by the restricted use of said property by Owner through the imposition of the conditions hereinafter expressed; and

WHEREAS, both Owner and County intend that the terms, conditions, and restrictions of the open-space easement granted in this agreement are in compliance with Government Code sections 51070 through 51097, inclusive, hereinafter referred to

as the "Open-Space Easement Act of 1974," so as to be an enforceable restriction under the provisions of Revenue and Taxation Code section 422; and

WHEREAS, Owner 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 the Subject Property.

NOW, THEREFORE, in consideration of the premises and in compliance with the provisions of Government Code sections 51070 through 51097, inclusive, and in further consideration of the mutual promises, covenants, and conditions herein contained and the substantial public benefits to be derived therefrom, the parties hereto agree as follows:

1. Grant of open-space easement. Owner hereby grants to County, for the term specified in paragraph 8 below, an open-space easement in and to the Subject Property described above. The open-space easement granted herein conveys to County an estate and interest in the real property of the nature and character specified in the Open-Space Easement Act of 1974, which is subject to the express conditions and restrictions imposed herein upon the use of the property by Owner. To that end, and for the purpose of accomplishing the intent of the parties hereto, Owner covenants on behalf of himself, his successors and assigns with the County, its successors and assigns to do and refrain from doing, severally and collectively, upon the Subject Property, the various acts hereinafter mentioned.

2. Restrictions on use of the Subject Property. The restrictions imposed upon the use of the Subject Property by Owner and his successors in interest and the acts

which Owner and his successors in interest shall refrain from doing, and permit to be done, upon the Subject Property are as follows:

(a) No buildings, structures, or other improvements shall be placed, constructed, or erected upon the Subject Property except for agriculture accessory buildings as permitted by Section 22.04.036 of the San Luis Obispo County Code, and except as otherwise authorized by the approved development plan and subdivision map referred to above.

(b) No advertising of any kind or nature shall be located on or within the Subject Property.

(c) Owner shall not plant or permit to be planted any vegetation upon the Subject Property except for crop production, range land grasses, natural or ornamental landscaping, and as otherwise authorized by the approved development plan and subdivision map referred to above, and as necessary for erosion control.

(d) Except for the construction, alteration, relocation, and maintenance of public roads, private access roads, or driveways, if any, as shown on the approved development plan or final subdivision map referred to above, the general topography of the landscape shall be maintained in its present condition and no grading, excavation, or topographic changes shall be made.

(e) No use of the Subject Property which will or does materially alter the landscape or other attractive scenic features of the property, other than those specified herein, shall be done or suffered.

(f) Owner shall not extract natural resources from the Subject Property, except for development of Owner's underlying water rights.

(g) Owner shall not cut timber, trees, or other natural growth, except as may be required for agricultural use of the Subject Property and fire protection, thinning, elimination of diseased growth, and similar protective measures.

(h) Owner shall not use the Subject Property or any portion thereof as a parking lot, storage area, or dump site or otherwise deposit or allow to be deposited on the Subject Property or any portion thereof, temporarily or otherwise, anything whatsoever which is not indigenous or natural to the Subject Property.

(i) Owner shall not cover or cause the Subject Property to be covered in whole or in part with any asphalt, stone, concrete, or other material which does not constitute natural cover for the land nor otherwise disturb the natural cover of the land unless otherwise authorized by the provisions of this agreement.

(j) Except for a resubdivision involving all of this Tract, no further land division of a legal parcel within the Subject Property shall occur or be applied for by Owner or his successors in interest, nor shall Owner or his successors in interest otherwise convey (other than under threat of condemnation) a portion of a legal parcel within the Subject Property less than the whole to one or more parties or convey a legal parcel within the Subject Property to two or more parties each of whom acquire title to less than the whole of said parcel. Any such conveyance or transfer of a legal parcel within the Subject Property or a portion thereof by Owner or his successors in interest shall be considered null and void.

3. Reservations of use by Owner. Notwithstanding the provisions of paragraph 2 above, the following property rights in the Subject Property are excepted from this grant and are expressly reserved to Owner:

(a) The right to maintain all existing private roads, bridges, trails, and structures lawfully erected and maintained upon the Subject Property.

(b) The right to construct, develop, and maintain all roads, utilities, structures, and other improvements authorized in the approved development plan and final subdivision map referred to above, and any amendments or modifications thereto which may be approved by the County.

(c) The right to construct, develop, and maintain private water sources and water systems on the Subject Property for the use and benefit of the Subject Property and the clustered lots authorized to be created by the approved development plan and final subdivision map referred to above.

(d) The right to undertake any of those uses (including agricultural cultivation) permitted by Section 22.04.036 of the San Luis Obispo County Code.

4. Compliance with County regulations. Land uses permitted or reserved to Owner in this agreement are subject to and require compliance with all County ordinances and regulations, including those regulating land use.

5. Construction of improvements. Owner shall not construct or permit the construction of any improvements on the Subject Property except as expressly reserved herein or as authorized in the Open-Space Easement Act of 1974. Provided, however, nothing contained in this agreement shall prohibit the construction of either public service facilities installed for the benefit of the Subject Property or public service facilities installed pursuant to an authorization of the Board of Supervisors of the County or the Public Utilities Commission.

6. No authorization for public trespass. The grant of easement contained herein and its acceptance by the County of San Luis Obispo does not authorize and is not to

be construed as authorizing the public or any member thereof to trespass upon or use all or any portion of the Subject Property or as granting to the public or any member thereof any tangible rights in or to the Subject Property or the right to go upon or use or utilize the Subject Property in any manner whatsoever. It is understood that the purpose of this agreement is solely to restrict the uses to which the Subject Property may be put so that the property may be kept as near as possible in its natural condition for the benefit of the public, including the lots being created in the above subdivision.

7. Effect on prior easements. Nothing contained in this agreement shall limit or affect any easements that are of record and that have been heretofore granted by Owner on, over, under, or across the Subject Property or any portion thereof.

8. Duration of easement. The grant of easement to County contained in this agreement shall be effective when it has been approved and accepted by resolution of the Board of Supervisors in the manner required by law, and it shall remain in effect in perpetuity unless abandoned or otherwise terminated by the Board of Supervisors in accordance with the provisions of the Open-Space Easement Act of 1974.

9. Enforceable restriction. Upon acceptance of the open-space easement granted herein, the Subject Property shall be deemed to be "enforceably restricted" within the meaning of section 422 of the Revenue and Taxation Code and section 8 of Article XIII of the Constitution of the State of California.

10. 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.

11. Effect of waiver. County's waiver of the breach of any one term, covenant, or 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.

12. 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.

13. 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 hereunder 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.

14. 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.

15. 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 Owner shall be addressed as follows: George Widmark, 1620 Scenic View Way, Nipomo, California 93444.

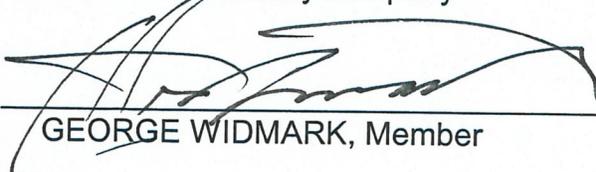
Provided that any party may change such address by notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

16. Agreement to be recorded. Owner 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 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.

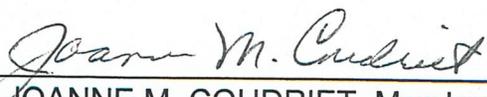
OWNER

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

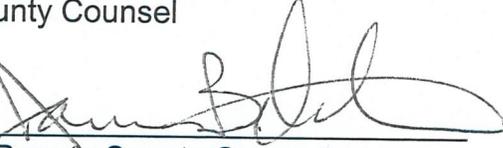
ATTEST:

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

[NOTE: This Open-Space Agreement 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: *Vicki M. Shelby*  
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.

1023lbjagr.wpd-A

**EXHIBIT B**

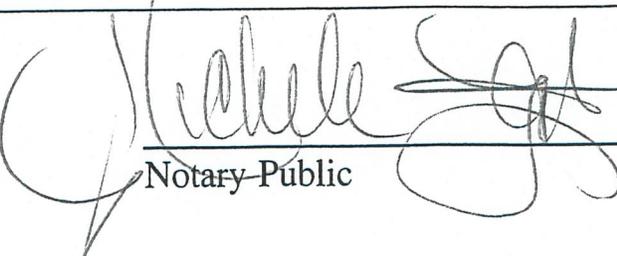
Parcels 14, 15, and 16 of Tract 2262, Phase 1, as shown on a map recorded in  
Book \_\_\_\_\_, Page \_\_\_\_\_ of Maps, in the office of the County Recorder of the County of  
San Luis Obispo, State of California.

1023lbjagr.wpd-B

STATE OF Nevada )  
COUNTY OF Washoe ) SS.

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: 69-2391-2 - Expires DEC. 11, 2002

  
\_\_\_\_\_  
Notary Public



C-2112

**JULIE RODEWALD**  
San Luis Obispo County – Clerk/Recorder

IF  
8/18/2008  
8:28 AM

Recorded at the request of  
**Chicago Title Company**

DOC#: **2008042280**

Titles: 1 Pages: 17



Fees 0.00  
Taxes 0.00  
Others 0.00  
PAID \$0.00

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:  
CO. CLERK

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

Tues day August 5th, 2008

PRESENT: Supervisors Harry L. Ovitt, Bruce S. Gibson, Jerry Lenthall,  
K.H. 'Katcho' Achadjian, and Chairperson James R. Patterson

ABSENT: None

RESOLUTION NO. 2008-262

**RESOLUTION APPROVING AND ACCEPTING AN OPEN-SPACE AGREEMENT GRANTING AN  
OPEN-SPACE EASEMENT TO THE COUNTY OF SAN LUIS OBISPO BY VILLA PARK  
PROPERTIES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY**

The following resolution is now offered and read:

**WHEREAS**, the County of San Luis Obispo has been duly requested to approve and accept a certain grant and offer to dedicate to the County of San Luis Obispo as open-space that certain real property described in the open-space agreement attached hereto and made a part hereof; and

**WHEREAS**, the Director of Planning and Building by letter dated August 5, 2008, has duly recommended that the Board of Supervisors approve and accept such offer of dedication to the County of San Luis Obispo, and has further recommended that such action is consistent with the County's general plan.

**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. The Board of Supervisors finds and determines that the preservation of land offered for dedication to the County of San Luis Obispo as open-space in the attached agreement is consistent with the County's general plan; that the land is essentially unimproved and if retained in its natural state has scenic value to the public and is valuable as a watershed, and the offer of dedication contained in said agreement contains appropriate covenants to that end; that it is in the public interest that the land be retained as open-space because such land will add to the amenities of living in neighboring urbanized areas; and that approval of the above agreement is categorically exempt from the requirements of the California Environmental Quality Act.

2. The Open-Space Agreement Granting An Open-Space Easement To The County of San Luis Obispo, a copy of which is attached hereto and is incorporated by reference herein as though set forth in full, is hereby approved and the dedication contained therein is hereby accepted 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.

3. The County Clerk is hereby authorized and directed to record the above agreement and a certified copy of this resolution in the office of the County Recorder of the County of San Luis Obispo, and file a copy of said agreement and resolution with the County Assessor of the County of San Luis Obispo.

Upon motion of Supervisor Achadjian, seconded by Supervisor Lenthall, and on the following roll call vote,

to-wit:

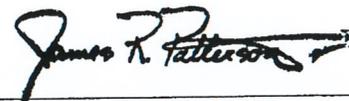
AYES: Supervisors Achadjian, Lenthall, Ovitt, Gibson, Chairperson Patterson

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.



Chairman of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD

Clerk of the Board of Supervisors  
of the Board of Supervisors, County  
of San Luis Obispo, State of California

By: C. Christensen Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

R. WYATT CASH.  
County Counsel

BY: [Signature]  
Deputy County Counsel

DATED: June 26, 2005

[SEAL]

|   |
|---|
| STATE OF CALIFORNIA )<br>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 Supervisors, and now remaining of record in my office. |
| Witness, my hand and seal of said Board of Supervisors this <u>8/11/08</u>  |
| <b>JULIE L. RODEWALD</b><br>County Clerk and Ex-Officio Clerk<br>of the Board of Supervisors  |
| By <u>C. Christensen</u><br>Deputy Clerk  |

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 \_\_\_\_\_

OPEN-SPACE AGREEMENT GRANTING AN OPEN-SPACE EASEMENT  
TO THE COUNTY OF SAN LUIS OBISPO

THIS AGREEMENT is made and entered into this 5<sup>th</sup> day of August,  
2008, by and between VILLA PARK PROPERTIES, LLC, a California limited liability  
company, hereinafter referred to as "Owner," and the COUNTY OF SAN LUIS OBISPO,  
a political subdivision of the State of California, hereinafter referred to as "County."

WITNESSETH:

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

WHEREAS, as a condition of approval of a development plan authorizing a  
cluster division of real property (S970128U) and as a condition precedent to the

ck. title rpt./cluster/Tract 2262, Phase 2  
Revised: June 10, 2008

approval of a final subdivision map for Tract 2262, Phase 2, by County for Owner's Property, Owner is required to enter into two agreements with the County, on behalf of himself and his successors in interest, whereby the Owner grants an open-space easement to the County for the benefit of the public, including the lots being created in said subdivision; and

WHEREAS, Owner intends that the restrictions contained in this agreement shall apply to that portion of Owner's Property (hereinafter referred to as the "Subject Property") which is more particularly described in Exhibit B attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, execution of this agreement by Owner and County, and the subsequent performance of its obligations by Owner and his successors in interest, will satisfy part of the requirement for dedication of open-space easements imposed by the County's general plan and land use regulations and made a condition of approval of the development plan and the tentative subdivision map referred to above; and

WHEREAS, the Subject Property has certain natural scenic beauty and existing openness, and both Owner and County desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of said property of the Owner; and

WHEREAS, Owner is willing to grant to County the scenic use, as hereinafter expressed, of the land and thereby protect the present scenic beauty and existing openness of the Subject Property by the restricted use of said property by Owner through the imposition of the conditions hereinafter expressed; and

WHEREAS, both Owner and County intend that the terms, conditions, and restrictions of the open-space easement granted in this agreement are in compliance

with Government Code sections 51070 through 51097, inclusive, hereinafter referred to as the "Open-Space Easement Act of 1974," so as to be an enforceable restriction under the provisions of Revenue and Taxation Code section 422; and

WHEREAS, Owner 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 the Subject Property.

NOW, THEREFORE, in consideration of the premises and in compliance with the provisions of Government Code sections 51070 through 51097, inclusive, and in further consideration of the mutual promises, covenants, and conditions herein contained and the substantial public benefits to be derived therefrom, the parties hereto agree as follows:

1. Grant of open-space easement. Owner hereby grants to County, for the term specified in paragraph 8 below, an open-space easement in and to the Subject Property described above. The open-space easement granted herein conveys to County an estate and interest in the real property of the nature and character specified in the Open-Space Easement Act of 1974, which is subject to the express conditions and restrictions imposed herein upon the use of the property by Owner. To that end, and for the purpose of accomplishing the intent of the parties hereto, Owner covenants on behalf of himself, his successors and assigns with the County, its successors and assigns to do and refrain from doing, severally and collectively, upon the Subject Property, the various acts hereinafter mentioned.

2. Restrictions on use of the Subject Property. The restrictions imposed upon the use of the Subject Property by Owner and his successors in interest and the acts

which Owner and his successors in interest shall refrain from doing, and permit to be done, upon the Subject Property are as follows:

(a) No buildings, structures, or other improvements shall be placed, constructed, or erected upon the Subject Property except for agriculture accessory buildings as permitted by Section 22.22.140 [old Section 22.04.036] of the San Luis Obispo County Code, and as otherwise authorized by the approved development plan and subdivision map referred to above.

(b) No advertising of any kind or nature shall be located on or within the Subject Property.

(c) Owner shall not plant or permit to be planted any vegetation upon the Subject Property except for crop production, range land grasses, natural or ornamental landscaping, and as otherwise authorized by the approved development plan and subdivision map referred to above, and as necessary for erosion control.

(d) Except for the construction, alteration, relocation, and maintenance of public roads, private access roads, or driveways, if any, as shown on the approved development plan or final subdivision map referred to above, the general topography of the landscape shall be maintained in its present condition and no grading, excavation, or topographic changes shall be made.

(e) No use of the Subject Property which will or does materially alter the landscape or other attractive scenic features of the property, other than those specified herein, shall be done or suffered.

(f) Owner shall not extract natural resources from the Subject Property, except for development of Owner's underlying water rights.

(g) Owner shall not cut timber, trees, or other natural growth, except as may be required for agricultural use of the Subject Property and fire protection, thinning, elimination of diseased growth, and similar protective measures.

(h) Owner shall not use the Subject Property or any portion thereof as a parking lot, storage area, or dump site or otherwise deposit or allow to be deposited on the Subject Property or any portion thereof, temporarily or otherwise, anything whatsoever which is not indigenous or natural to the Subject Property.

(i) Owner shall not cover or cause the Subject Property to be covered in whole or in part with any asphalt, stone, concrete, or other material which does not constitute natural cover for the land nor otherwise disturb the natural cover of the land unless otherwise authorized by the provisions of this agreement.

(j) Except for a resubdivision involving all of this Tract, no land division of a legal parcel within the Subject Property shall occur or be applied for by Owner or his successors in interest, nor shall Owner or his successors in interest otherwise convey (other than under threat of condemnation) a portion of a legal parcel within the Subject Property less than the whole to one or more parties or convey a legal parcel within the Subject Property to two or more parties each of whom acquire title to less than the whole of said parcel. Any such conveyance or transfer of a legal parcel within the Subject Property or a portion thereof by Owner or his successors in interest shall be considered null and void.

3. Reservations of use by Owner. Notwithstanding the provisions of paragraph 2 above, the following property rights in the Subject Property are excepted from this grant and are expressly reserved to Owner:

(a) The right to maintain all existing private roads, trails, and structures lawfully erected and maintained upon the Subject Property.

(b) The right to construct, develop, and maintain all roads, utilities, trails, and other improvements authorized in the approved development plan and final subdivision map referred to above, and any amendments or modifications thereto which may be approved by the County.

(c) The right to construct, develop, and maintain private water sources and water systems on the Subject Property for the use and benefit of the Subject Property and the clustered lots authorized to be created by the approved development plan and final subdivision map referred to above.

(d) The right to undertake any of those uses (including agricultural cultivation) permitted by Section 22.22.140 [old Section 22.04.036] of the San Luis Obispo County Code.

4. Compliance with County regulations. Land uses permitted or reserved to Owner in this agreement are subject to and require compliance with all applicable County ordinances and regulations, including those regulating land use.

5. Construction of improvements. Owner shall not construct or permit the construction of any improvements on the Subject Property except as expressly reserved herein or as authorized in the Open-Space Easement Act of 1974. Provided, however, nothing contained in this agreement shall prohibit the construction of either public service facilities installed for the benefit of the Subject Property or public service facilities installed pursuant to an authorization of the Board of Supervisors of the County or the Public Utilities Commission.

6. No authorization for public trespass. The grant of easement contained herein and its acceptance by the County of San Luis Obispo does not authorize and is not to be construed as authorizing the public or any member thereof to trespass upon or use all or any portion of the Subject Property or as granting to the public or any member thereof any tangible rights in or to the Subject Property or the right to go upon or use or utilize the Subject Property in any manner whatsoever. It is understood that the purpose of this agreement is solely to restrict the uses to which the Subject Property may be put so that the property may be kept as near as possible in its natural condition for the benefit of the public, including the lots being created in the above subdivision.

7. Effect on prior easements. Nothing contained in this agreement shall limit or affect any easements that are of record and that have been heretofore granted by Owner on, over, under, or across the Subject Property or any portion thereof.

8. Duration of easement. The grant of easement to County contained in this agreement shall be effective when it has been approved and accepted by resolution of the Board of Supervisors in the manner required by law, and it shall remain in effect in perpetuity unless abandoned or otherwise terminated by the Board of Supervisors in accordance with the provisions of the Open-Space Easement Act of 1974. Provided, however, no easement shall be abandoned or otherwise terminated without first obtaining approval of an amendment to the development plan (S970128U) authorizing such abandonment or termination.

9. Enforceable restriction. Upon acceptance of the open-space easement granted herein, the Subject Property shall be deemed to be "enforceably restricted" within the meaning of section 422 of the Revenue and Taxation Code and section 8 of Article XIII of the Constitution of the State of California.

10. 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.

11. Effect of waiver. County's waiver of the breach of any one term, covenant, or 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.

12. 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.

13. 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 hereunder 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.

14. 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.

15. 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, Room 300, San Luis Obispo, California 93408. Notices required to be given to Owner shall be addressed as follows: Villa Park Properties, LLC, Attention: George Widmark, 2243 Signal Avenue, Santa Maria, California 93454.

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.

16. Agreement to be recorded. Owner 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 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..

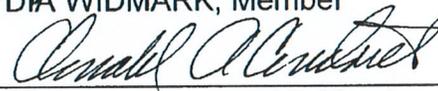
IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

OWNER

VILLA PARK PROPERTIES, LLC,  
a California limited liability company

By:   
GEORGE WIDMARK, Member

By:   
LYDIA WIDMARK, Member

By:   
DONALD A. COUDRIET, Member

STATE OF NEVADA )  
 ) ss.  
COUNTY OF WASHOE )

This instrument was acknowledged for me, a Notary Public, on this 19<sup>th</sup> day of June, 2008, by Donald A. Coudriet and Joanne M. Coudriet.

Kelly Bradshaw  
Notary Public

My Commission Expires: 11/13/11



# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }  
 County of San Luis Obispo } ss.

On June 11, 2008 before me, Doreen Michelle Gomez, personally appeared George Widmark and Lydia Widmark, who

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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



(Seal)

*Doreen Michelle Gomez*  
 Signature of Notary Public

### 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

**DESCRIPTION OF ATTACHED DOCUMENT**

Open-Space Agreement Granting an Open-Space Easement to the County of San Luis Obispo

**Title**

- Partner(s)
  - Attorney-in-Fact
  - Trustee(s)
  - Guardian/Conservator
  - Other:
- Limited
  - General

*Title or Type of Document*

*Number of Pages*

*Date of Document*

06/11/2008

**Absent Signer (Principal) is Representing:**

*Signer(s) Other Than Name(s) Above*

By: Joanne M. Coudriet  
JOANNE M. COUDRIET, Member

COUNTY OF SAN LUIS OBISPO

By: James R. Patterson  
Chairman of the Board of Supervisors

ATTEST:

**JULIE L. RODEWALD**  
Clerk of the Board of Supervisors

By: C. Christensen  
Deputy Clerk

APPROVED AS TO FORM AND LEGAL EFFECT:

R. WYATT CASH  
County Counsel

By: [Signature]  
Deputy County Counsel

Dated: June 26, 2008

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

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

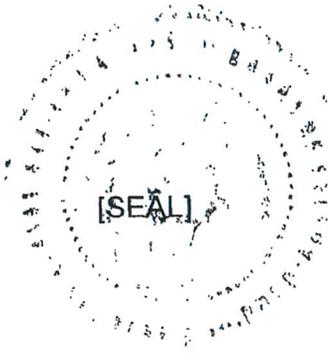
On 8/5/2008, before me, **C.M. CHRISTENSEN**,  
Deputy County Clerk-Recorder, County of San Luis Obispo, State of California,  
personally appeared JAMES R. PATTERSON,  
who proved to me on the basis of satisfactory evidence to be the person whose name is  
subscribed to the within instrument and acknowledged to me that he/she executed the  
same in his/her authorized capacity, and that by his/her signature on the instrument the  
person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California  
that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

JULIE L. RODEWALD, County Clerk-Recorder  
and Ex-Officio Clerk of the  
Board of Supervisors, County of  
San Luis Obispo, State of California

By: *C.M. Christensen*  
Deputy County Clerk-Recorder



**EXHIBIT A**

All of Tract 2262, Phase 2, as shown on a map recorded in Book 31, Pages  
67 through 72 inclusive of Maps, in the office of the County Recorder of the  
County of San Luis Obispo, State of California.

**EXHIBIT B**

Parcels 21, 38, 39, 40, 41, 42, 43, 44, 45, and 46 of Tract 2262, Phase 2, as shown on a map recorded in Book 31, Pages 67 through 72 inclusive of Maps, in the Office of the County Recorder of the County of San Luis Obispo, State of California.

# **Attachment G. Recorded Maps**

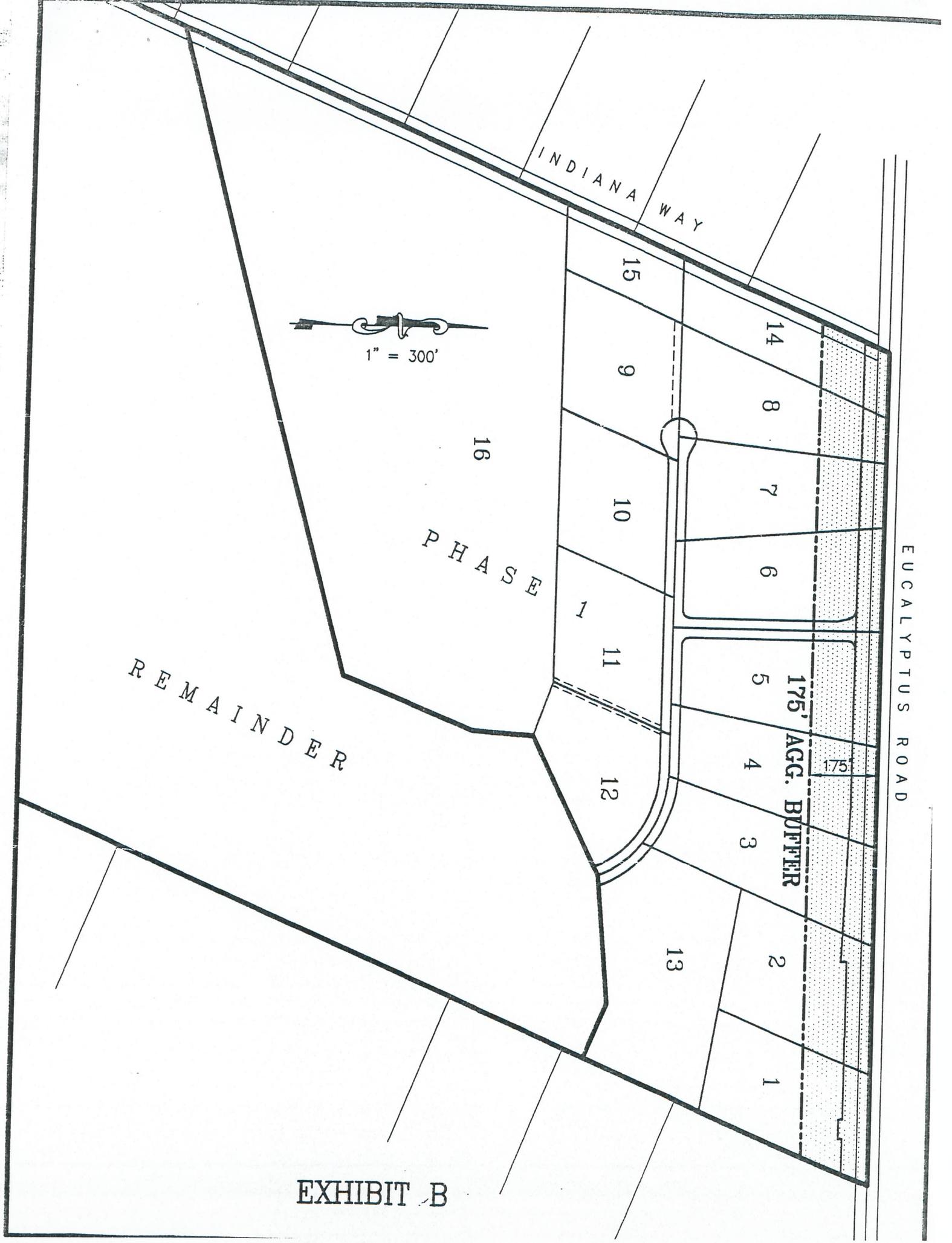
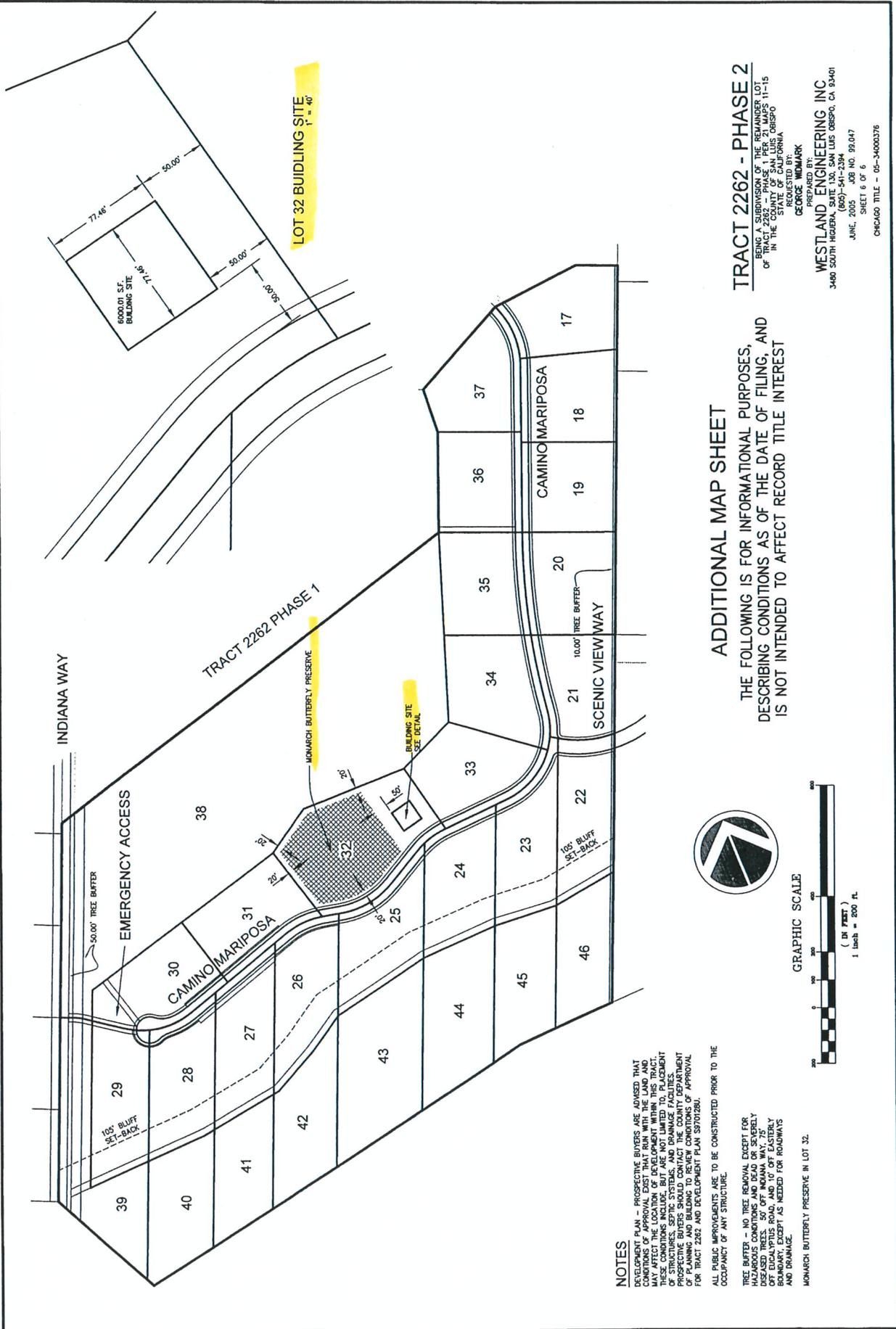


EXHIBIT B



**ADDITIONAL MAP SHEET**  
 THE FOLLOWING IS FOR INFORMATIONAL PURPOSES,  
 DESCRIBING CONDITIONS AS OF THE DATE OF FILING, AND  
 IS NOT INTENDED TO AFFECT RECORD TITLE INTEREST

**TRACT 2262 - PHASE 2**  
 BEING A SUBDIVISION OF THE REMAINDER LOT  
 11-15 OF THE TRACT 2262, BEING A SUBDIVISION  
 OF IN THE COUNTY OF SAN LUIS OBISPO  
 STATE OF CALIFORNIA

PREPARED BY:  
**GEORGE WIDMARK**  
 WESTLAND ENGINEERING INC  
 3480 SOUTH HIGHWAY, SUITE 130, SAN LUIS OBISPO, CA 95401  
 (805)-541-2384  
 JUNE, 2005 JOB NO. 99.047  
 SHEET 6 OF 6  
 CHICAGO TITLE - 05-34000376

**NOTES**  
 DEVELOPMENT PLAN - PROSPECTIVE BUYERS ARE ADVISED THAT CONDITIONS OF APPROVAL EXIST THAT RUN WITH THE LAND AND MAY AFFECT THE LOCATION OF DEVELOPMENT WITHIN THIS TRACT. IF YOU ARE PURSUING AN OFFER TO BUY THIS TRACT, YOU SHOULD CONSULT WITH YOUR ATTORNEY AND CONTACT THE COUNTY DEPARTMENT OF PLANNING AND BUILDING TO REVIEW CONDITIONS OF APPROVAL FOR TRACT 2262 AND DEVELOPMENT PLAN SPT0262B.

ALL PUBLIC IMPROVEMENTS ARE TO BE CONSTRUCTED PRIOR TO THE OCCUPANCY OF ANY STRUCTURE.

TREE BUFFER - NO TREE REMOVAL EXCEPT FOR DISEASED TREES. 50' OFF INDIANA WAY, 75' OFF EDUCALPTIS ROAD, AND 10' OFF EASTERLY BOUNDARY, EXCEPT AS NEEDED FOR ROADS AND DRAINAGE.

MONARCH BUTTERFLY PRESERVE IN LOT 32.