

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

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION AFFIRMING THE DECISION OF THE
PLANNING COMMISSION AND CONDITIONALLY APPROVING
THE APPLICATION OF CYPRESS RIDGE L.P. FOR A VESTING TENTATIVE TRACT
MAP 2993 AND CONDITIONAL USE PERMIT SUB2008-00028

The following resolution is now offered and read:

WHEREAS, on February 27, 2014, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the Planning Commission) duly considered and conditionally approved the application of Cypress Ridge L.P. for Vesting Tentative Tract Map 2993 and Conditional Use Permit SUB2008-00028; and

WHEREAS, Integrity SLO has appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the Board of Supervisors) pursuant to the applicable provisions of Title 22 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on April 22, 2014, and determination and decision was made on April 22, 2014; and

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WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Planning Commission should be affirmed, and that the application should be approved subject to the findings and conditions set forth below.

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

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Mitigated Negative Declaration prepared for this project, which has been supplemented with consistent additional mitigations added to Exhibit "B" as conditions 38.s.x and 38.s.xi and to Exhibit "D" as conditions 16.x and 16.xi, is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.
3. That the Board of Supervisors makes all of the findings of fact and determinations set forth in revised Exhibits A and C attached hereto and incorporated by reference herein as though set forth in full.
4. That the appeal filed by Integrity SLO is hereby denied and the decision of the Planning Commission is affirmed and that the application of Cypress Ridge L.P. for Vesting Tentative Tract Map 2993 and Conditional Use Permit SUB2008-00028 is

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hereby approved subject to the conditions of approval set forth in revised Exhibits B and D attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: Elizabeth S. Martyn
Deputy County Counsel

Dated: April 8, 2014

**EXHIBIT A - FINDINGS
VESTING TENTATIVE TRACT MAP 2993**

Environmental Determination

- A. The Environmental Coordinator, after completion of the initial study, found that there is no substantial evidence that the project as mitigated may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. The Board of Supervisors further finds that appellant has not presented substantial evidence which supports a fair argument that the proposed project may have a significant effect on the environment. Therefore, the Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) issued on November 7, 2013 is hereby adopted for this project.

- B. As part of that Mitigated Negative Declaration, mitigation measures are proposed and adopted to address aesthetics, agricultural resources, air quality, biological resources, cultural resources, noise, public services/utilities, recreation, water/hydrology along with a monitoring program for such measures to insure compliance during project implementation. Such mitigation measures are fully enforceable through permit conditions, agreements or other measures and are included as conditions of approval and incorporated into project design.

Tentative Map

- C. The proposed map is consistent with applicable county general and specific plans because it complies with applicable area plan standards and is being subdivided in a consistent manner with the Residential Rural land use category.

- D. The proposed map is consistent with the county zoning and subdivision ordinances because the parcels meet the minimum parcel size set by the Land Use Ordinance and the design standards of the Real Property Division Ordinance.

- E. The design and improvement of the proposed subdivision are consistent with the applicable county general and specific plans because the improvements will be completed consistent with county ordinances and conditions of approval and the design of the parcels meets applicable policies of the general plan and ordinances.

- F. The site is physically suitable for the type of development proposed because the proposed parcels contain adequate area for development of twenty-one single-family clustered residential parcels.

- G. The site is physically suitable for the proposed density of the development proposed because the site can adequately support twenty-one single-family clustered residential parcels.

- H. 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 because mitigation measures for aesthetics, agricultural resources, air quality, biological

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resources, cultural resources, noise, public services/utilities, recreation, water/hydrology are required.

- I. 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.
- J. The proposed map complies with Section 66474.6 of the State Subdivision Map Act, as to methods of handling and discharge of waste.

Adjustment – Street Trees (Section 21.03.010.c.7)

- K. That there special circumstances or conditions affecting the subdivision because the subdivision is a residential cluster that includes a mix of lot sizes with the majority over one acre, which corresponds to a more rural development.
- L. That the granting of the adjustment will not have a material adverse effect upon the health or safety of persons residing or working in the neighborhood of the subdivision because street trees will still be provided, but on an individual basis as parcels develop.
- M. That the granting of the adjustment will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood of the subdivision because street trees will still be provided, and will be less likely to be impacted during future construction of homes.

Adjustment – Private Easement (Section 21.03.010.d.7)

- N. That there special circumstances or conditions affecting the subdivision because the proposed road is a combination of privately-owned common roadway and private easements as an extension of the Cypress Ridge Parkway, a private street into the community.
- O. That the granting of the adjustment will not have a material adverse effect upon the health or safety of persons residing or working in the neighborhood of the subdivision because the private road will connect through to Zenon Way and will include a gate equipped with access to residents of the subdivision.
- P. That the granting of the adjustment will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood of the subdivision because the private road will connect through to Zenon Way and will include a gate equipped with access to residents of the subdivision..

Road Exception (Section 21.03.010.d.1)

- Q. That there are special circumstances or conditions affecting the property being subdivided because the site takes access from an existing 30-foot roadway parcel containing a 24-foot paved road through an adjacent parcel.
- R. That the granting of the adjustment will not be detrimental to the traffic circulation system, the public utility and storm drainage systems, or vehicular or pedestrian safety because the 30-foot roadway parcel plus 10-foot public easements for pedestrian access and drainage provide a 50-foot road envelope, which is sufficient for the purposes of the development. Pedestrian access is provided on one side only to retain a rural feel, and

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vegetated swales convey drainage to the basin in place of curb and gutters.

- S. That the granting of the adjustment will not result in any unreasonable costs in the maintenance of the improvement by the entity charged with such maintenance responsibility because the proposed street is privately maintained and will be a similar configuration as a 50-foot dedicated street.
- T. That the granting of the adjustment will not be detrimental to, nor degrade, any portion of the improvement work involved in the subdivision because the road is privately maintained and the overall width of right-of-way plus easements is the minimum 50 feet required.

Transfer of Development Credits

- U. That the designation of the site as a Receiving Site for Transfer of Development Credits meets the criteria shown in Section 22.24.070 because:
 - a. The site is not in the Agriculture land use category.
 - b. The site is within a Community-Based TDC program area (Black Lake Canyon).
 - c. The footprint of the area proposed for development (including new access roads and driveways) is less than 30 percent slope.
 - d. The footprint of the area proposed for development is outside of the Sensitive Resource Area (SRA), Flood Hazard (FH), Geologic Study Area (GSA), Earthquake Fault Zone, or Very High Fire Hazard Area as defined by the Land Use Element.
 - e. The footprint of the area proposed for development is outside of a Natural Area or Significant Biological Geographical or Riparian Habitat as defined by the Natural Areas Plan, the Land Use Element, or a subsequent revision or update of any element of the general plan.
 - f. The development will comply with: all development standards, water, sewage disposal and access standards, and land division standards as contained in Titles 19, 21, 22 and 23 of the county code except where adjustments have been requested.
 - g. The site was not an approved sending site, and also has a valid conservation easement recorded against the sending site.

**EXHIBIT B – CONDITIONS OF APPROVAL
VESTING TENTATIVE TRACT MAP 2993**

Approved Project

1. A Vesting Tentative Tract Map (TR 2993) and Conditional Use Permit to allow a cluster subdivision of two existing 20.78 and 40.02 acre parcels resulting in twenty-one residential parcels ranging between 0.84 and 1.27 acres each for the purpose of sale and/or development and two non-buildable open space parcels of 21.2 and 14.6 acres.
2. A Transfer of Development Credit (TDC) to transfer nine (9) residential credits to the property from the Land Conservancy's Choine parcel on Zenon Way, which will become permanent open space.
3. No secondary dwellings are allowed on any parcel in the subdivision.

Site Development

4. **At the time of application for construction permits** plans submitted shall show all development consistent with the approved site plan and landscape plan.
5. **At the time of application for construction permits**, the applicant shall identify the boundaries of the open space parcel on the project plans.

Access and Improvements

6. Roads and/or streets to be constructed to the following standards, unless design adjustments are approved by the Public Works Department in accordance with Section 1.2 of the Public Improvement Standards:
 - a. Zenon Way shall be widened to complete the project frontage to a County Standard A-1 rural road section fronting the property and within a dedicated right-of-way easement of sufficient width to contain all elements of the roadway prism.
 - b. A new road identified as Private Road 'A' on the tentative map shall be constructed to Cal Fire access road standards within a private access and utility easement having a width as necessary to contain all elements of the roadway prism. Private Road 'A' shall terminate in a county standard A-6 cul-de-sac.
 - c. A new road identified as Emergency Road between the Private Road 'A' cul-de-sac and Zenon Way shall be constructed to Cal Fire access road standards within a private access and utility easement having a width as necessary to contain all elements of the roadway prism.
 - d. The intersection of Private Road 'A' and Cypress Ridge Parkway shall be designed and constructed to accommodate Cal Fire vehicles and commercial moving vehicle turning movements. All gates shall be constructed in accordance with Cal Fire standards.
 - e. The intersection of the Emergency Road and Zenon Way shall be designed and constructed in accordance with county standards for a B-1 series rural driveway

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- and A-5 series sight distance. The gate shall be constructed in accordance with Cal Fire standards.
- f. Except for the Emergency Road, all existing access connections to Zenon Way shall be demolished, scarified, revegetated and the Zenon Way shoulder restored in accordance with County rural road standards.
 - g. All grading shall be done in accordance with Appendix Chapter 33 of the 1997 Uniform Building Code. All lot lines shall be considered as Site Area Boundaries with slopes setback accordingly.
7. The applicant offer for dedication to the public by certificate on the map or by separate document:
- a. If required for road widening purposes a variable road right-of-way along Zenon Way of sufficient width to contain all elements of the roadway prism.
 - b. Public utility easements along Private Road 'A' and the Emergency Road plus those additional easements as required by the utility companies shall be shown on the final map.
 - c. If required for Zenon Way widening, public drainage easement(s) as necessary to contain proposed drainage improvements including any basins.
8. The applicant shall reserve the following private easements by certificate on the map or by separate document:
- a. A shared private access easement over the proposed Private Road 'A' and the Emergency Road in favor of all parcels within Tracts 2993 and 1933; and Lot 14 of Tract 1939.
 - b. Private drainage easement(s) as necessary to contain all subdivision related drainage improvements.
9. The applicant shall reserve the following private easements by separate document:
- a. An offsite shared private access and utility easement over Lot 417 of Tract 1933 (the Golden State Water parcel) in favor of all parcels within Tract 2993; and Lot 14 of Tract 1939.
 - b. An offsite shared private access and utility easement over all or specific existing roads within Tract 1933 and back to a public maintained road(s) in favor of all parcels in Tract 2993.
10. All drainage basin areas shall be indicated as a building restriction on the map.
11. The 30 foot road easement along the northerly property line as shown on the tentative map shall be quitclaimed to Cypress Ridge L.P. prior to filing the final map.
12. **Prior to map recordation**, the applicant shall provide a 10-foot wide trail easement that provides trail access from Zenon Way to the western property line of APN075-351-028. The easement shall be consistent with the County Parks and Recreation Element and shall be approved by County Counsel and County Parks. This condition may be met by providing an offer to dedicate a 10-foot wide trail easement on APN 075-351-028 starting at Zenon Way heading west along the southern property line until it reaches the proposed street, where it may run adjacent to the private street until meeting the western

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property line of APN 075-351-028. The easement would then traverse north along the western property line of APN 075-351-028 (consistent with Applicant's Exhibit A).

Improvement Plans

13. Improvement plans shall be prepared in accordance with County Public Improvement Standards by a Registered Civil Engineer and submitted to the Department of Public Works and the county Health Department for approval. The plan is to include, as applicable:
 - a. Street plan and profile.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Water plan to be approved jointly with County Environmental Health.
 - d. Sewer plan to be approved jointly with County Environmental Health
 - e. Sedimentation and erosion control plan for subdivision related improvement locations.
 - f. Public utility plan, showing all existing utilities and installation of all utilities stubbed to serve every lot.
 - g. Tree removal/retention plan for trees to be removed and retained associated with the required improvement for the land division to be approved jointly with the Department of Planning and Building
 - h. Trail plan, to be approved jointly with the Park Division.

Drainage

14. Submit complete drainage calculations to the Department of Public Works for review and approval. The project drains to the Black Lake (Laguna Negro) Slough, drainage must be retained in a shallow drainage basin on the property [21.03.010(e)(2)]. The design of the basin is to be approved by the Department of Public Works, in accordance with county standards.
15. The project site may be subject to potential flooding within undrained depressions on the Nipomo Mesa. As required per County Code, Section 22.112.040A2a, prepare a detailed flood analysis for review and approval by Public Works to delineate the extent of the flood hazard and identify the areas suitable for building.
16. All project related drainage shall be designed and constructed in accordance with the recommendations of the Nipomo Drainage and Flood Control Study.
17. The applicant shall enter into an agreement with the county for the cost of checking the map, the improvement plans if any, and the cost of inspection of any such improvements by the county or its designated representative. The applicant shall also provide the county with an Engineer of Work Agreement retaining a Registered Civil Engineer to furnish construction phase services, Record Drawings and to certify the final product to the Department of Public Works.
18. The Registered Civil Engineer, upon completion of the improvements, shall certify to the Department of Public Works that the improvements are made in accordance with all conditions of approval, including any related land use permit conditions and the

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approved improvement plans. All public improvements shall be completed prior to occupancy of any new structure.

Stormwater Pollution Prevention

19. **At the time of application for construction permits**, the applicant shall demonstrate the project has incorporated at least two County approved LID structural practices into the project. Refer to the brochure Interim Low Impact Development Guidelines for further information and references for LID design.
20. In accordance with the Land Use Ordinance, Section 22.10.155 for Stormwater Management, the "*Private Stormwater Conveyance Management and Maintenance System*" shall be submitted to the Department of Public Works for review and approval. Upon approval, the applicant shall record with the County Recorder's Office the "*Private Stormwater Conveyance Management and Maintenance System*" to document on-going and permanent storm drainage control, management, treatment, disposal and reporting.

Wastewater Disposal

21. The community sewage system shall be designed by a Registered Civil Engineer and operated in accordance with county, state, federal and maintenance entity laws, standards and requirements. A waste discharge permit, if required, shall be issued by the Central Coast State Regional Water Quality Control Board prior to the filing of the final parcel or tract map.

Soils Report

22. A final soils report by a Registered Civil Engineer be submitted for review prior to the final inspection of the improvements.
23. Three (3) copies of a Preliminary Soils Report prepared by a Registered Civil Engineer in accordance with Sections 17953, 17954, 17955 of the California Health and Safety Code shall be submitted to the Public Works, Health and Planning and Building Departments prior to the filing of the final parcel or tract map. The date and person who prepared the report are to be noted on the map.

Utilities

24. All new electric power, telephone and cable television services shall be completed to each new parcel and ready for service. Applicant responsibilities for electric service and distribution line extensions (facilities and equipment) are detailed in PG&E Electric Rule No.15 and Rule No.16, respectively.
25. Prior to final map recordation, electric, telephone, and cable television services shall be completed, and shall meet the utilities' installation requirements, unless (in-lieu) financial arrangements with the utility for the installation of these systems have been made.

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26. New gas distribution mains shall be installed along the entire project frontage(s) and gas service laterals shall be stubbed to each new parcel unless otherwise directed by the gas purveyor.

Design

27. The lots shall be numbered in sequence.
28. The applicant shall apply to the Department of Planning and Building for approval of new street names prior to the filing of the final parcel or tract map. Approved street names shall be shown on the final parcel or tract map.

Vector Control and Solid Waste

29. A determination of method of pick-up shall be specified by the waste handler and if centralized facilities for the pick-up are required, provisions shall be made within the project for central facilities that meet Land Use Ordinance requirements for trash enclosures. If centralized facilities are established, this shall include provisions for recycling if service is available or subsequent installation of such facilities if recycling service becomes available in the future.

Fire Protection

30. The applicant shall obtain a fire safety clearance letter from the California Department of Forestry (CDF)/County Fire Department establishing fire safety requirements prior to filing the final parcel or tract map.

Parks and Recreation (Quimby) Fees

31. Unless exempted by Chapter 21.09 of the county Real Property Division Ordinance or California Government Code section 66477, prior to filing of the final parcel or tract 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.

Inclusionary Housing

32. **Prior to filing the final parcel map or tract map**, the applicant shall enter into an inclusionary housing agreement to ensure the construction of inclusionary housing unit(s), in conformance with Section 22.12.080. As an alternative, the applicant may pay the residential in-lieu fee pursuant to Section 22.12.080.C.2.b, or defer in-lieu fee payment pursuant to Section 22.12.080.J.4.c.

Easements

33. **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 portion(s). The

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two open space parcels of 21.2 and 14.6 acres each shall total a minimum of 35.8 acres. The area(s) to be covered by the easement shall be consistent with Section 22.22.140. The parcel(s) are 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.

Landscape Plans

34. If a drainage basin is required, then submit detailed landscaping plans in compliance with Chapter 22.16et seq. to the Department of Planning and Building for review and approval prior to approval of improvement plans or filing of the final parcel or tract map, whichever occurs first. Said plans to include location, species, size, and method of maintenance of all proposed plant materials. All proposed plant materials shall be of a drought tolerant variety and be sized to provide a mature appearance within three years of installation. Plan shall include landscaping for erosion control.
35. All approved landscaping shall be installed or bonded for prior to completion of the improvements or filing of the final parcel or tract map whichever occurs first, and thereafter maintained in a viable condition on a continuing basis. If bonded for, landscaping shall be installed within 120 days of completion of the improvements.
36. **Prior to map recordation**, the applicant shall provide a Street Tree Plan showing one tree for every twenty-five feet of frontage along the private street in accordance with Section 21.03.010.c.7 of the Real Property Division Ordinance.

Property Transfer to Land Conservancy

37. **Prior to recordation of the final map**, the applicant shall transfer of ownership of 13 acres of property (Hero property, APNs 075-291-005 & 091-173-001) to the San Luis Obispo County Land Conservancy to allow a public trail development.

Additional Map Sheet

38. The applicant shall prepare an additional map sheet to be approved by the county Department of Planning and Building and the Department of Public Works. The additional map sheet shall be recorded with the final parcel or tract map. The additional map sheet shall include the following:
 - a. Notification to prospective buyers that all subdivision roads and streets are to be privately maintained, indicating the proposed maintenance mechanism.
 - b. If a fenced drainage basin is required, that the owner(s) of Lots 1-22 is responsible for on-going maintenance of drainage basin fencing, in perpetuity.
 - c. If a drainage basin is required, that the owner(s) of Lots 1-22 is responsible for on-going maintenance of drainage basin and adjacent landscaping in a viable condition on a continuing basis into perpetuity. The basin(s) area shall be indicated as a building restriction.
 - d. All driveway approaches shall be constructed in accordance with County Public Improvement Standards. All driveway approaches constructed on County roads

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- or project related roads to be accepted for County maintenance shall require an encroachment permit.
- e. Secondary dwellings shall not be allowed on any lot within the land division on lots.
 - f. The limits of inundation from undrained depressions on the Nipomo Mesa (per Section 22.112.040.A.2) shall be shown on the additional map sheet and note the required building restriction on the sheet. Building sites shall be located out of areas subject to flooding.
 - g. If improvements are bonded for, all public improvements (roads, drainage, and utilities) shall be completed prior to occupancy of any new structure.
 - h. In accordance with Title 13.01 of the County Code, the applicant shall be responsible for paying to the Department of Public Works the South County Area 2 Road Improvement Fee and the Tract 1933 Road Improvement Fee for each future building permit in the amount prevailing at the time of payment.
 - i. The applicant shall demonstrate that the project construction plans are in conformance with the Source Control BMPs as identified for project incorporation in the applicant's Stormwater Quality Plan Application for Priority Projects.
 - j. The additional map sheet shall contain the final conditions of approval for the Development Plan as they are shown in the Notice of Final Action.
 - k. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
 - i) Construction activities shall cease, and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
 - ii) In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.
 - l. Notification to prospective buyers that the street within the subdivision are to be privately maintained, indicating the proposed maintenance mechanism.
 - m. Prior to occupancy or final inspection of individual residences, the owner shall plant street trees in accordance with the approved Street Tree Plan for the project.

Mitigations

Aesthetics

- n. AS-1 **At the time of application for construction permits**, the Applicant shall submit an Exterior Lighting Plan for both permanent and temporary facilities, for County review and approval. The Plan shall define the height, location, and intensity of all exterior lighting. All lighting fixtures shall be positioned "down and into" the development, and shielded so that neither the lamp nor the related reflector interior surface is visible from surrounding properties. All lighting poles, fixtures, and hoods shall be dark colored. When nighttime lighting is required for construction, temporary lighting shall be hooded to the extent consistent with safety. The Lighting Plan shall focus on keeping the lumen/light intensity level to

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the lowest possible while still meeting minimum safety and security requirements. These measures shall be shown on applicable construction drawings prior to issuance of construction permits and permanent lighting shall be installed prior to final inspection.

Agricultural Resources

- o. AS-1 Right-to-Farm Disclosure. **Prior to transfer of the parcel(s)**, the applicant shall disclose to prospective buyers, of all parcels included in the proposed project, 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 ordinance (County Agriculture Element, Appendix D) currently in effect at the time said deed(s) are recorded.
- p. AS-2 **At the time of application for construction permits or subdivision improvements**, the applicant shall submit a vegetative screening plan between the proposed pedestrian trail and the greenhouse nursery to the south. The screening plan shall show a layered canopy that results in effective screening within five years of installation. Vegetation shall be low-water use evergreen trees and/or shrubs with foliage extending from the base to the crown. Prior to final inspection of any construction permit or subdivision improvements, the applicant shall demonstrate that the screening has been planted.

Air Quality

- q. AQ-1 Only the following types of wood burning devices shall be allowed (based on District Rule 504): a) EPA-Certified Phase II wood burning devices; b) catalytic wood burning devices emitting less than or equal to 4.1 grams per hour of particulate matter, as verified by a nationally-recognized testing lab; c) non catalytic wood burning devices which emit less than or equal to 7.5 grams per hour of particulate matter, as verified by a nationally-recognized testing lab; d) pellet-fueled wood heaters; or e) dedicated gas-fired fireplaces. Prior to construction permit issuance, such devices shall be shown on all applicable plans, and installed as approved by the County.
- r. AQ-2 As of February 25, 2000, the APCD prohibits developmental burning of vegetative material within San Luis Obispo County. However, under certain circumstances where no technically feasible alternatives are available, limited developmental burning under restrictions may be allowed. Any such exception must complete the following prior to any burning: APCD approval; payment of fee to APCD based on the size of the project; and issuance of a burn permit by the APCD and the local fire department authority. As a part of APCD approval, the applicant shall furnish them with the study of technical feasibility (which includes costs and other constraints) at the time of application. For any questions regarding these requirements, Karen Brooks of APCD's Enforcement Division may be contacted (805/781-5912).
- s. AQ-3 Fugitive PM10 Mitigation Measures All required PM10 measures shall be shown on applicable grading or construction plans. In addition, the developer shall designate personnel to insure compliance and monitor the effectiveness of the required dust control measures (as conditions dictate, monitor duties may be necessary on weekends and holidays to insure compliance); the name and

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telephone number of the designated monitor(s) shall be provided to the APCD prior to construction/ grading permit issuance)

- i. Reduce the amount of the disturbed area where possible;
- ii. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible;
- iii. All dirt stock-pile areas should be sprayed daily as needed;
- iv. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities;
- v. 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;
- vi. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
- vii. 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;
- viii. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
- ix. 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 CVC Section 23114.
- x. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.
- xi. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.

Prior to commencement of construction activities, the applicant shall notify the APCD, by letter, that the above air quality mitigation measures have been applied.

Biological Resources

- t. BR-1 Nesting Birds. **Prior to commencement of any tree removal during construction/ improvements**, to avoid conflicts with nesting raptors, construction activities shall not be allowed during to the nesting season (March to July), unless a County-approved, qualified biologist has surveyed the impact zone and determined that no nesting activities will be adversely impacted. At such time, if any evidence of nesting activities are found, the biologist will determine if any construction activities can occur during the nesting period and to what extent. The results of the surveys will be passed immediately to the County (Planning Department). If birds are found recommendations may include delaying of construction, variable buffer zones, as needed, around individual nests, or other appropriate measures. The applicant agrees to incorporate those recommendations approved by the County.

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Cultural Resources

- u. CR-1 Cultural Resources - Monitoring Plan. **Prior to issuance of construction permits or subdivision public improvement plans**, the Applicant shall submit a Monitoring Plan, prepared by a County-approved archaeologist, for review and approval by the County Department of Planning and Building. The intent of this Plan is to monitor all earth-disturbing activities in areas identified as potentially sensitive for cultural resources, per the approved Plan. The Monitoring Plan shall include at a minimum:
 - i. List of personnel involved in the monitoring activities;
 - ii. Inclusion of involvement of the Native American community, as appropriate;
 - iii. Description of how the monitoring shall occur;
 - iv. Description of frequency of monitoring (e.g., full-time, part time, spot checking);
 - v. Description of what resources are expected to be encountered;
 - vi. Description of circumstances that would result in the halting of work at the project site (e.g., What is considered “significant” archaeological resources?);
 - vii. Description of procedures for halting work on the site and notification procedures; and
 - viii. Description of monitoring reporting procedures.

Crew Education. The monitoring plan shall also include provisions defining education of the construction crew and establishing protocol for treating unanticipated finds. In consultation with a County-approved archaeologist, the Applicant shall provide cultural resources awareness training to all field crews and field supervisors. This training will include a description of the types of resources that may be found in the project area, the protocols to be used in the event of an unanticipated discovery, the importance of cultural resources to the Native American community, and the laws protecting significant archaeological and historical sites. In addition, the Applicant shall provide all field supervisors with maps showing those areas sensitive for potential buried resources.

Cultural Resource Monitoring – Completion Report. Upon completion of all monitoring/ mitigation activities, and prior to acceptance of subdivision improvements or map recordation, the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met.

Noise

- v. NS-1 Noise - Standard Noise-Element Measures for Interior Noise. **At the time of application for a construction permit or subdivision improvement plans**, the applicant shall show the following on the project plans/ drawings:
 - i. The structure is provided with air conditioning or mechanical ventilation.
 - ii. All exterior doors are solid core with perimeter weather stripping and threshold seals.
 - iii. All fresh air inlets or exhaust vents located on the south side of the structure incorporate sound attenuation and noise baffling.
 - iv. Glass in both windows and doors in all rooms on the south side of the structure does not exceed 20% of the floor area of the room.

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- v. Exterior walls consist of stucco or brick veneer, or wood siding with a ½" minimum thickness fiberboard (i.e. soundboard) underlayer is used.

Prior to acceptance of subdivision improvements or final inspection/ occupancy of individual lot construction permits, the applicant shall provide verification to the satisfaction of the County that the above measures have been adhered to.

Water

- w. WC-1 Water Conservation – **Prior to construction permit issuance or approval of subdivision improvement plans**, the following measures shall be shown on applicable drawings and applied to the proposed turf areas for the life of the project:
 - i. To maximize drought-tolerance and minimize water usage, warm season grasses (excludes bermuda grass) such as buffalo grass, shall be used;
 - ii. To minimize establishment of shallow roots, the following shall be avoided on turf areas, and provided in all applicable documents (e.g., educational brochure, CC&Rs, landscape plans): close mowing, overwatering, excessive fertilization, soil compaction and accumulation of thatch;
 - iii. Watering times shall be programmed for longer and less frequently rather than for short periods and more frequently.

Prior to acceptance of subdivision improvements or final inspection/ occupancy of individual lot construction permits, the County shall verify installation of the above items. These items shall be kept in good working order and shall not exceed the approved parameters for the life of the project.

- x. WC-2 Turf Removal – **Prior to construction permit issuance or approval of subdivision improvement plans**, the applicant shall submit a turf removal plan consistent with the approved plans that identifies the location of 1.5 acres of turf removal within the Nipomo Mesa Water Conservation Area. Prior to acceptance of subdivision improvements or final inspection/ occupancy of individual lot construction permits, the County shall verify removal of the turf. These requirements shall be adhered to for the life of the project, and the applicant shall submit plans for future turf plantings at the Cypress Ridge Golf Course to ensure they are consistent with the turf removal plan.

Covenants, Conditions and Restrictions

- 39. The developer shall submit proposed Covenants, Conditions, and Restrictions (CC&R) for the subdivision to the county Department of Planning and Building for review and approval, and shall either join the existing Cypress Ridge Owners' Association or establish a new Property Owners' Association or other organized and perpetual mechanism to ensure adequate private maintenance, acceptable to the Department of Planning & Building, and in conformance with the requirements of the State Bureau of Real Estate. The CC&R shall provide at a minimum the following provisions:

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40. The owner(s) of Lots 1 - 22 are responsible for the maintenance of Private Road 'A' and the Emergency Road in perpetuity.
 - a. The owner(s) of Lots 1 - 22 are proportionally responsible for the maintenance of all existing offsite roads within Tract 1933 used to provide access between the subdivision and an existing public maintained road in perpetuity.
 - b. Notification that the Emergency Road over Lots 14 and 15 must only be used for vehicle egress and ingress in the event of an emergency.
 - c. If a fenced drainage basin is required, the owner(s) of Lots 1 - 22 are responsible for maintenance of drainage basin fencing in perpetuity.
 - d. The owner(s) of Lots 1 - 22 are responsible for maintenance of the drainage basin and adjacent landscaping in a viable condition on a continuing basis in perpetuity.
 - e. The owner(s) of Lots 1 - 22 are responsible for maintenance of all common areas within the subdivision in perpetuity.
 - f. Notification to prospective buyers that an additional map sheet was recorded with the final parcel or tract map. The restrictions, conditions and standards set forth in the additional map sheet apply to future development. It is the responsibility of the prospective buyers to read the information contained on the additional map sheet
 - g. If a drainage basin is required, on-going maintenance of drainage basin and adjacent landscaping in a viable condition on a continuing basis into perpetuity.
 - h. Maintenance of common areas.
 - i. Secondary dwellings shall not be allowed.
 - j. Notification to prospective buyers that an additional map sheet was recorded with the final parcel or tract map. The restrictions, conditions and standards set forth in the additional map sheet apply to future development. It is the responsibility of the prospective buyers to read the information contained on the additional map sheet.

Miscellaneous

41. This subdivision is also subject to the standard conditions of approval for all subdivisions using community water and sewer, a copy of which is attached hereto and incorporated by reference herein as though set forth in full.
42. A stormwater pollution plan may be necessary from the Regional Water Quality Control Board. Provide evidence that it has been obtained or is unnecessary prior to filing the map.
43. The project is located in the North Mesa Assessment District. The applicant shall file with the Department of Public Works an application requesting apportionment of any unpaid assessments under the Improvement Bond Act of 1915, in compliance with Section 8740.1 of the Streets and Highways Code of the State of California. Said apportionment must be completed prior to filing the map.
44. All timeframes on approved tentative maps for filing of final parcel or tract maps are measured from the date the Review Authority approves the tentative map.

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45. At its sole expense, Applicant shall indemnify, defend and hold harmless the County of San Luis Obispo, its Board of Supervisors, and its present or former officers, agents or employees, from and against any action brought by a third party challenging either its decision to approve this Project or the manner in which the County interprets or enforces the conditions of approval for this Project, or any other action by a third party relating to approval or implementation of this Project. Upon initiation of any such litigation, the applicant immediately shall enter into an agreement acceptable to County Counsel providing for the deposit and/or reimbursement of any and all court costs and attorneys' fees (for counsel acceptable to the County as well as for County Counsel representation) that the County may be required to pay as a result of such action.

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**STANDARD CONDITIONS OF APPROVAL FOR SUBDIVISIONS USING
COMMUNITY WATER AND COMMUNITY SEWER**

1. Community water and fire protection shall be obtained from the community water system.
2. Operable water facilities from an approved Public water source shall be assured prior to the filing of the final map. A “final will serve” letter shall be obtained and submitted to the Environmental Health Services for review and approval stating there are operable water facilities immediately available for connection to the parcels created. Construction of required improvements (water main extensions, laterals to each parcel) may be delayed, through preparation of plans, posting of bonds, and subject to the approval of County Public Works, Environmental Health Services, and the public water utility. However, bonding may not occur for the water well(s) construction, quantity and quality.
3. No residential building permits are to be issued until the community (public) water system is operational with a domestic water supply permit issued by Environmental Health Services.
4. In order to protect the public safety and prevent possible groundwater pollution, any abandoned wells on the property shall be destroyed in accordance with the San Luis Obispo County Well Ordinance Chapter 8.40, and Environmental Health Services destruction standards. The applicant is required to obtain a permit from Environmental Health Services.
5. When a potentially operational or existing auxiliary water supply (in the form of an existing well(s)) is located on the parcels created by this subdivision and approved community water is proposed to serve the parcels, the community water supply shall be protected from real or potential cross-contamination by means of an **approved** cross-connection control device installed at the meter or property line service connection **prior to occupancy**. (Chapter 8.30, San Luis Obispo County Code).
6. Sewer service shall be obtained from the community sewage disposal system.
7. **Prior to the filing of the map** a “final will serve” letter be obtained and submitted to Environmental Health Services for review and approval stating that community sewer system service is immediately available for connection to the parcels created. Sewer main extensions may be bonded for, subject to the approval of the County Public Works and sewer district.
8. No residential building permits shall be issued until community sewers are operational and available for connection.
9. An encroachment permit shall be obtained from County Public Works for any work to be done within the county right-of-way.

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10. An encroachment permit shall be obtained from the California Department of Transportation for any work to be done on the state highway.
11. Any existing reservoir or drainage swale on the property shall be delineated on the map.
12. Prior to submission of the map "check prints" to County Public Works, the project shall be reviewed by all applicable public utility companies and a letter be obtained indicating required easements.
13. Required public utility easements shall be shown on the map.
14. Approved street names shall be shown on the map.
15. The applicant shall comply with state, county and district laws/ordinances applicable to fire protection and consider increased fire risk to area by the subdivision of land proposed.
16. The developer shall submit a preliminary subdivision guarantee to County Public Works for review prior to the filing of the map.
17. Any private easements on the property shall be shown on the map with recording data.
18. All conditions of approval herein specified, unless otherwise noted, shall be completed prior to recordation of the map.
19. After approval by the Review Authority, compliance with the preceding conditions will bring the proposed subdivision in conformance with the Subdivision Map Act and county ordinances.
20. A map shall be filed in accordance with the Subdivision Map Act and county ordinance prior to sale, lease, or financing of the lots proposed by the subdivision.
21. A tentative map will expire 24 months from the effective date of the approval. Tentative maps may be extended. Written requests with appropriate fees must be submitted to the Planning Department prior to the expiration date. The expiration of tentative maps will terminate all proceedings on the matter.

**EXHIBIT C – FINDINGS
CYPRESS RIDGE L.P. CONDITIONAL USE PERMIT**

Environmental Determination

- A. The Environmental Coordinator, after completion of the initial study, found that there is no substantial evidence that the project as mitigated may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. The Board of Supervisors further finds that appellant has not presented substantial evidence which supports a fair argument that the proposed project may have a significant effect on the environment. Therefore, the Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) issued on November 7, 2013 is hereby adopted for this project.
- B. As part of that Mitigated Negative Declaration, mitigation measures are proposed and adopted to address aesthetics, agricultural resources, air quality, biological resources, cultural resources, noise, public services/utilities, recreation, water/hydrology along with a monitoring program for such measures to insure compliance during project implementation. Such mitigation measures are fully enforceable through permit conditions, agreements or other measures and are included as conditions of approval and incorporated into project design.

Conditional Use Permit

- C. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- D. As conditioned, the proposed project or use satisfies all applicable provisions of Title 22 of the County Code.
- E. The establishment and subsequent 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 be detrimental or injurious to property or improvements in the vicinity of the use because the 21-parcel residential cluster subdivision does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- F. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because 21-parcel residential cluster subdivision is similar to, and will not conflict with, the surrounding lands and uses.
- G. The proposed project or use 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 because the project is located on Cypress Ridge Parkway, a local road constructed to a level able to handle any additional traffic associated with the project

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Adjustments

- H. Modification of the landscape standards in Land Use Ordinance Chapter 22.16.020.B2 which requires landscaping in setbacks outside of Agriculture and Rural Lands land use categories is justified because the modification request is consistent with the water conservation intent of the Nipomo Mesa Water Conservation Area by not requiring all setbacks to be landscaped, thereby reducing water consumption.

**EXHIBIT D - CONDITIONS OF APPROVAL
CYPRESS RIDGE L.P. CONDITIONAL USE PERMIT**

Approved Development

1. This approval authorizes
 - a. A cluster subdivision of two existing 20.78 and 40.02 acre parcels resulting in twenty-one residential parcels ranging between 0.84 and 1.27 acres each for the purpose of sale and/or development and two non-buildable open space parcels of 21.2 and 14.6 acres.
 - b. A Transfer of Development Credit (TDC) to transfer nine (9) residential credits to the property from the Land Conservancy's Choine parcel on Zenon Way, which will become permanent open space.
 - c. No secondary dwellings are allowed on any parcel in the subdivision.
 - d. Maximum height is 35 feet from average natural grade.

Subdivision Related Approvals

2. This approval authorizes a cluster of two existing 20.78 and 40.02 acre parcels into twenty-one residential parcels of one acre each and two non-buildable open space parcels of 21.2 and 14.6 acres.
3. This approval is effective for a period of 24 months from the date of the approval of the tentative map by the Subdivision Review Board. Conditional Use 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.

Conditions required to be completed at the time of application for construction permits

Site Development

4. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

5. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan, prepared by the Cal Fire/County Fire Department for this proposed project and dated February 15, 2012.

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Services

6. **At the time of application for construction permits**, the applicant shall provide a letter from Nipomo Community Services District stating they are willing and able to service the property.

Aesthetics

7. AS-1 **At the time of application for construction permits**, the Applicant shall submit an Exterior Lighting Plan for both permanent and temporary facilities, for County review and approval. The Plan shall define the height, location, and intensity of all exterior lighting. All lighting fixtures shall be positioned "down and into" the development, and shielded so that neither the lamp nor the related reflector interior surface is visible from surrounding properties. All lighting poles, fixtures, and hoods shall be dark colored. When nighttime lighting is required for construction, temporary lighting shall be hooded to the extent consistent with safety. The Lighting Plan shall focus on keeping the lumen/light intensity level to the lowest possible while still meeting minimum safety and security requirements. These measures shall be shown on applicable construction drawings prior to issuance of construction permits and permanent lighting shall be installed prior to final inspection.

Agricultural Resources

8. AS-2 **At the time of application for construction permits or subdivision improvements**, the applicant shall submit a vegetative screening plan between the proposed pedestrian trail and the greenhouse nursery to the south. The screening plan shall show a layered canopy that results in effective screening within five years of installation. Vegetation shall be low-water use evergreen trees and/or shrubs with foliage extending from the base to the crown. Prior to final inspection of any construction permit or subdivision improvements, the applicant shall demonstrate that the screening has been planted.

Noise

9. NS-1 Noise - Standard Noise-Element Measures for Interior Noise. **At the time of application for a construction permit or subdivision improvement plans**, the applicant shall show the following on the project plans/ drawings:
 - i. The structure is provided with air conditioning or mechanical ventilation.
 - ii. All exterior doors are solid core with perimeter weather stripping and threshold seals.
 - iii. All fresh air inlets or exhaust vents located on the south side of the structure incorporate sound attenuation and noise baffling.
 - iv. Glass in both windows and doors in all rooms on the south side of the structure does not exceed 20% of the floor area of the room.
 - v. Exterior walls consist of stucco or brick veneer, or wood siding with a ½" minimum thickness fiberboard (i.e. soundboard) underlayer is used.

Prior to acceptance of subdivision improvements or final inspection/ occupancy of individual lot construction permits, the applicant shall provide verification to the satisfaction of the County that the above measures have been adhered to.

Conditions to be completed prior to issuance of a construction permit

Fees

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10. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.

Cultural Resources

11. CR-1 Cultural Resources - Monitoring Plan. **Prior to issuance of construction permits or subdivision public improvement plans**, the Applicant shall submit a Monitoring Plan, prepared by a County-approved archaeologist, for review and approval by the County Department of Planning and Building. The intent of this Plan is to monitor all earth-disturbing activities in areas identified as potentially sensitive for cultural resources, per the approved Plan. The Monitoring Plan shall include at a minimum:
 - i. List of personnel involved in the monitoring activities;
 - ii. Inclusion of involvement of the Native American community, as appropriate;
 - iii. Description of how the monitoring shall occur;
 - iv. Description of frequency of monitoring (e.g., full-time, part time, spot checking);
 - v. Description of what resources are expected to be encountered;
 - vi. Description of circumstances that would result in the halting of work at the project site (e.g., What is considered "significant" archaeological resources?);
 - vii. Description of procedures for halting work on the site and notification procedures; and
 - viii. Description of monitoring reporting procedures.

Crew Education. The monitoring plan shall also include provisions defining education of the construction crew and establishing protocol for treating unanticipated finds. In consultation with a County-approved archaeologist, the Applicant shall provide cultural resources awareness training to all field crews and field supervisors. This training will include a description of the types of resources that may be found in the project area, the protocols to be used in the event of an unanticipated discovery, the importance of cultural resources to the Native American community, and the laws protecting significant archaeological and historical sites. In addition, the Applicant shall provide all field supervisors with maps showing those areas sensitive for potential buried resources.

Cultural Resource Monitoring – Completion Report. **Upon completion of all monitoring/ mitigation activities, and prior to final inspection or occupancy**, the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met.

Water

12. WC-1 Water Conservation – **Prior to construction permit issuance or approval of subdivision improvement plans**, the following measures shall be shown on applicable drawings and applied to the proposed turf areas for the life of the project:
 - i. To maximize drought-tolerance and minimize water usage, warm season grasses (excludes bermuda grass) such as buffalo grass, shall be used;
 - ii. To minimize establishment of shallow roots, the following shall be avoided on turf areas, and provided in all applicable documents (e.g., educational brochure, CC&Rs, landscape plans): close mowing, overwatering, excessive fertilization, soil compaction and accumulation of thatch;

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- iii. Watering times shall be programmed for longer and less frequently rather than for short periods and more frequently;

Prior to acceptance of subdivision improvements or final inspection/ occupancy of individual lot construction permits, the County shall verify installation of the above items. These items shall be kept in good working order and shall not exceed the approved parameters for the life of the project.

- 13. WC-2 Turf Removal – **Prior to construction permit issuance or approval of subdivision improvement plans**, the applicant shall submit a turf removal plan consistent with the approved plans that identifies the location of 1.5 acres of turf removal within the Nipomo Mesa Water Conservation Area. Prior to acceptance of subdivision improvements or final inspection/ occupancy of individual lot construction permits, the County shall verify removal of the turf. These requirements shall be adhered to for the life of the project, and the applicant shall submit plans for future turf plantings at the Cypress Ridge Golf Course to ensure they are consistent with the turf removal plan.

Conditions to be completed during project construction

Air Quality

- 14. AQ-1 Only the following types of wood burning devices shall be allowed (based on District Rule 504): a) EPA-Certified Phase II wood burning devices; b) catalytic wood burning devices emitting less than or equal to 4.1 grams per hour of particulate matter, as verified by a nationally-recognized testing lab; c) non catalytic wood burning devices which emit less than or equal to 7.5 grams per hour of particulate matter, as verified by a nationally-recognized testing lab; d) pellet-fueled wood heaters; or e) dedicated gas-fired fireplaces. Prior to construction permit issuance, such devices shall be shown on all applicable plans, and installed as approved by the County.
- 15. AQ-2 As of February 25, 2000, the APCD prohibits developmental burning of vegetative material within San Luis Obispo County. However, under certain circumstances where no technically feasible alternatives are available, limited developmental burning under restrictions may be allowed. Any such exception must complete the following prior to any burning: APCD approval; payment of fee to APCD based on the size of the project; and issuance of a burn permit by the APCD and the local fire department authority. As a part of APCD approval, the applicant shall furnish them with the study of technical feasibility (which includes costs and other constraints) at the time of application. For any questions regarding these requirements, Karen Brooks of APCD's Enforcement Division may be contacted (805/781-5912).
- 16. AQ-3 Fugitive PM10 Mitigation Measures (All required PM10 measures shall be shown on applicable grading or construction plans. In addition, the developer shall designate personnel to insure compliance and monitor the effectiveness of the required dust control measures (as conditions dictate, monitor duties may be necessary on weekends and holidays to insure compliance); the name and telephone number of the designated monitor(s) shall be provided to the APCD prior to construction/ grading permit issuance)
 - i. Reduce the amount of the disturbed area where possible;
 - ii. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be

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- required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible;
- iii. All dirt stock-pile areas should be sprayed daily as needed;
 - iv. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities;
 - v. 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;
 - vi. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
 - vii. 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;
 - viii. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
 - ix. 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 CVC Section 23114.
 - x. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.
 - xi. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.

Prior to commencement of construction activities, the applicant shall notify the APCD, by letter, that the above air quality mitigation measures have been applied.

Biological Resources

17. BR-1 Nesting Birds. **Prior to commencement of any tree removal during construction/ improvements**, to avoid conflicts with nesting raptors, construction activities shall not be allowed during to the nesting season (March to July), unless a County-approved, qualified biologist has surveyed the impact zone and determined that no nesting activities will be adversely impacted. At such time, if any evidence of nesting activities are found, the biologist will determine if any construction activities can occur during the nesting period and to what extent. The results of the surveys will be passed immediately to the County (Planning Department). If birds are found recommendations may include delaying of construction, variable buffer zones, as needed, around individual nests, or other appropriate measures. The applicant agrees to incorporate those recommendations approved by the County.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use

18. Landscaping in accordance with the approved landscaping plan shall be installed or bonded for before establishment of the use. If bonded for, landscaping shall be installed within 120 days after final building inspection. If installed or bonded for, the landscaping

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shall thereafter be maintained in a viable condition in perpetuity. If landscaping is for screening, such landscape must be maintained to provide the required or better screening in perpetuity.

19. **Prior to occupancy or final inspection**, whichever occurs first, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.
20. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

On-going conditions of approval (valid for the life of the project)

21. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or in accordance with Conditions 3 herein or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
22. All conditions of this approval run with the land and shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.

Agricultural Resources

23. AS-1 Right-to-Farm Disclosure. **Prior to transfer of the parcel(s)**, the applicant shall disclose to prospective buyers, of all parcels included in the proposed project, 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 ordinance (County Agriculture Element, Appendix D) currently in effect at the time said deed(s) are recorded.
24. At its sole expense, Applicant shall indemnify, defend and hold harmless the County of San Luis Obispo, its Board of Supervisors, and its present or former officers, agents or employees, from and against any action brought by a third party challenging either its decision to approve this Project or the manner in which the County interprets or enforces the conditions of approval for this Project, or any other action by a third party relating to approval or implementation of this Project. Upon initiation of any such litigation, the applicant immediately shall enter into an agreement acceptable to County Counsel providing for the deposit and/or reimbursement of any and all court costs and attorneys' fees (including for counsel acceptable to the County as well as for County Counsel representation) that the County may be required to pay as a result of such action.

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Staff report prepared by Brian Pedrotti
and reviewed by Bill Robeson