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

Tues day September 26 ,2006

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

ABSENT: None

RESOLUTION NO. 2006-329

RESOLUTION REVERSING THE DECISION OF THE PLANNING COMMISSION AND CONDITIONALLY APPROVING THE APPLICATION OF SECOND PRESS PARTNERS CONDITIONAL USE PERMIT SUB 2005-00054 AND VESTING TENTATIVE TRACT MAP FOR TRACT 2779.

The following resolution is now offered and read:

WHEREAS, on August 24, 2006, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and disapproved the application of Second Press Partners for Conditional Use Permit SUB2005-00054 and a vesting tentative tract map for Tract 2779; and

WHEREAS, Second Press Partners have appealed the Planning Commissions 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 21 and 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 September 26, 2006, and determination and decision was made on September 26, 2006; and

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 upheld and the decision of the Planning Commission should be reversed 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 Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A and Exhibit C attached hereto and incorporated by reference herein as though set forth in full.

3. That the negative declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.

4. That the Board of Supervisors has reviewed and considered the information contained in the negative declaration together with all comments received during the public review process prior to approving the project.

5. That the appeal filed by Second Press Partners is hereby upheld and the decision of the Planning Commission is reversed and that the application of Second Press Partners for Conditional Use Permit SUB2005-00054 is hereby approved subject to conditions of approval set forth in Exhibit D attached hereto and incorporated by reference herein as though set forth in full.

6. That the appeal filed by Second Press Partners is hereby upheld and the decision of the Planning Commission is reversed and that the application of Second Press Partners for a vesting tentative tract map for Tract 2779 and is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

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

AYES: Supervisors Ovitt, Lenthall, Bianchi, Chairperson Achadjian

NOES: Supervisor Patterson

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

K.H. ACHADJIAN
Chairperson of the Board of Supervisors

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors

By: C.M. CHRISTENSEN Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By:_____
Deputy County Counsel

Dated:_____

STATE OF CALIFORNIA,)
) ss
County of San Luis Obispo)

I, JULIE L. RODEWALD, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this 17th day of October, 2006.

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

(SEAL)

By: CMChristensen
Deputy Clerk

Second Press TRACT 2779
FINDINGS - EXHIBIT A

Environmental Determination

A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on July 11, 2006 for this project. Mitigation measures are proposed to address air quality, biology, cultural resources, geology and soils, transportation/circulation, and are included as conditions of approval.

Tentative Map

B. 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 Multi-Family land use category.

C. 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.

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

E. The site is physically suitable for the type of development proposed because the proposed parcels contain adequate area for development of 31 detached residences.

F. The site is physically suitable for the proposed density of the development proposed because the site can adequately support 31 detached residences.

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.

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

EXHIBIT B

CONDITIONS OF APPROVAL FOR TR 2779

Approved Project

1. A subdivision of an approximate 2.2-acre parcel into 31 parcels of approximately 2,040 to 4,584 square feet each for the purpose of development, and four common use parcels 2,820 and 2,130 square feet each, this project includes off-site road improvements to 12th Street, and a connection to La Bova Street.

2. At the time of application for tract improvements and final map check the applicant shall submit a condition compliance package that details each condition of approval. It shall verify how each condition of approval has been met.

Access and Improvements

3. Roads and/or streets to be constructed to the following standards:
   a. La Bova Street constructed to an A-2 (urban) section with a minimum of a 50-foot right of way.
   b. 12th Street widened to a 2/3 A-2 (urban) section with 50 foot minimum dedicated right-of-way.

4. Private easements shall be reserved on the map for vehicle and pedestrian access all to lots.

Improvement Plans

5. Improvement plans shall be prepared in accordance with San Luis Obispo County Improvement Standards and Specifications 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:
   a. Street plan and profile.
   b. Drainage ditches, culverts, and other structures (if drainage calculations require).
   c. Water plan (County Health).
   d. Sewer plan (County Health).
   e. Grading and erosion control plan for subdivision related improvement locations.
   f. Public utility plan, showing all existing utilities and installation of all utilities to serve every lot.

6. 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.

7. The Registered Civil Engineer, upon completion of the improvements, must 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 approved improvement plans. All public improvements shall be completed prior to occupancy of any new structure.

8. If environmental permits from the Army Corp of Engineers or the California Department of Fish and Game are required for any public improvements that are to be maintained by the County, the applicant or his engineer, prior to the approval of the plans to the Department of Public Works shall:
   a. Submit a copy of all such permits to the Department of Public Works OR
   b. Document that the regulatory agencies have determined that said permit is not required.

Drainage

9. Submit complete drainage calculations to the Department of Public Works for review and approval.

10. If calculations so indicate, drainage must be retained in a drainage basin on the property or disposed of off-site. The design of the basin is to be approved by the Department of Public Works, in accordance with county standards.

11. The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program. Provide the WDID# to County Public Works.

12. If a drainage basin is required, the drainage basin along with rights of ingress and egress be:
    a. offered for dedication to the public by certificate on the map with an additional easement reserved in favor of the owners and assigns.

13. Proposed storm drain improvements shall conform in general to those described in the San Miguel Drainage and Flood Control Study Final Report dated December 2003. (Appendix A, Plate 5; Subterranean Storm Drain System).

Soils Report

14. A final soils report by a Registered Civil Engineer shall be submitted for review prior to final inspection of the improvements.

15. 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 Public Works, Health and Planning and Building Departments prior to filing of the final tract map. The date and person who prepared the report are to be noted on the map.

Utilities

16. Electric and telephone lines shall be installed underground.

17. Cable T.V. conduits shall be installed in the street.

18. A 10 foot public utility easement on private property along 12th Street and La Bova Street, plus those additional easements required by the utility company shall be shown on the final tract map.

Design

19. The lots shall be numbers in sequence.

20. **Prior to approval of tract improvements plan,** the applicant shall submit plans to be approved by the county Planning Department for a shaded children's play area that includes children play equipment and appropriate ground cover.

21. **Prior to approval of tract improvements plan,** the applicant shall submit a site plan that specifies the elevations of the units proposed for each. All units shall have a different design style from the neighboring units.

Vector Control and Solid Waste

22. **Prior to approval of tract improvements plan,** 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.

Fire Protection

23. The applicant shall obtain a fire safety clearance letter from the San Miguel Fire Department establishing fire safety requirements prior to filing the final tract map.

Parks and Recreation (Quimby) Fees

24. 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.

Affordable Housing Fee

25. **Prior to filing the final parcel or tract map**, the applicant shall pay an affordable housing fee of 3.5 percent of the adopted public facility fee effective at the time of recording for each residential lot. This fee shall not be applicable to any official recognized affordable housing included within the residential project.

Easements

26. **Prior to recordation of the final map** an open space easement shall be recorded for the open space parcels common open space areas, vehicle and pedestrian access areas and guest parking areas. It is to be held in common by the Homeowner's Association and recreation, drainage improvements, landscaping, fencing, and parking shall be allowed. The open space parcels and easement areas are to be maintained as such in perpetuity.

Landscape Plans

27. If a drainage basin is required, then submit detailed landscaping plans in compliance with Chapter 22.16/Section 23.04.180 et seq. to the Department of Planning and Building for review and approval prior to approval of improvement plans or filing of the

final 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 to include:

a. Drainage basin perimeter landscape screening.
b. Landscaping for erosion control.

28. All approved landscaping shall be installed or bonded for prior to completion of the improvements or filing of the final tract map which ever occurs first, and thereafter maintained in a viable condition on a continuing basis. If bonded for, landscaping shall be installed within 15 days of completion of the improvements.

Services

29. **Prior to recordation of the final map,** the applicant shall submit a final "will-serve" letter from the San Miguel Community Services District to the Department of Environmental Health.

Biological Mitigation

30. **Prior to approval of tract improvement plans,** the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building Environmental Resource and Management Division (County) (see contact information below) that states that one or a combination of the following four San Joaquin kit fox mitigation measures has been implemented:

a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement, suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the County.

This mitigation alternative (a.), requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC), pursuant to the Voluntary Fee-based Compensatory Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy", would be based on the total area of disturbance from project activities multiplied by $2,500 per acre. 2.2 acres (project area) multiplied by four (four to one mitigations ratio) equals 8.8 acres. 8.8 acres multiplied by 2,500 (mitigation fee per acre) equals $22,000.00. This fee must be paid after the Department provides

written notification identifying your mitigation options but prior to County permit issuance and initiation of any ground disturbing activities.

c. Purchase credits in a Department-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

At this time, there is no approved conservation bank that is operational in San Luis Obispo County. A conservation bank is expected to be operational in the near future. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.

d. If none of the above measures (a, b, or c) are available, the applicant may enter into a Mitigation Agreement with the Department, including depositing of funds into an escrow account (or other means of securing funds acceptable to the Department) which would ensure the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring in perpetuity. The Department can provide a draft agreement to review; a signed Mitigation Agreement shall be submitted to the County prior to County permit issuance and initiation of any ground disturbing activities.

31. **Prior to approval of tract improvement plans,** or conducting any grading associated with map recordation, the applicant shall provide evidence to the County that they have retained a qualified biologist acceptable to the County Division of Environmental and Resource Management. The retained biologist shall perform the following monitoring activities:
    a. Prior to approval of tract improvement plans and within 30 days prior to initiation of site disturbance and/or construction, the biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.
    b. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-3 through BR11. Site-disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason (see BR-2-c3). When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.

32. **Prior to approval of tract improvement plans,** the applicant shall clearly delineate as a note on the project plans, that: "Speeds signs of 25 mph maximum (or lower) shall be posted for all construction traffic, to minimize the probability of road mortality of the San Joaquin kit fox." Speed limit signs shall be installed on the project site within 30 days prior to initiation of site disturbance and/or construction,

33. In addition, **prior to approval of tract improvement plans,** conditions BR-3 through BR-11 of the Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.

34. **During the site disturbance and/or construction phase,** grading and construction activities after dusk shall be prohibited unless coordinated through the County, during which additional kit fox mitigation measures may be required.

35. **Prior to approval of tract improvement plans** and within 30 days prior to initiation of site disturbance and/or construction, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.

36. **During the site-disturbance and/or construction phase, to** prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

37. **During the site-disturbance and/or construction phase,** any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.

38. **During the site-disturbance and/or construction phase,** all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.

39. **Prior to, during, and after the site-disturbance and/or construction phase,** use of pesticides or herbicides shall be in compliance with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.

40. **During the site-disturbance and/or construction phase,** any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.

41. **Prior to final inspection of tract improvements,** should any long internal or perimeter fencing be proposed or installed, the applicant shall do the following to provide for kit fox passage:
    a. If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12".
    b. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards.

    Upon fence installation, the applicant shall notify the County to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

42. **Prior to commencement of any tree removal associated with tract improvements,** a county-approved, qualified biologist shall survey the impact zone for evidence of roosting pallid bats. At such time, if any evidence of roosting activities are found, the biologist will determine if any construction activities can occur and to what extent. The results of the surveys will be passed immediately to the County Environmental Division, possibly with recommendations for variable buffer zones, as needed, around individual roosting areas. The applicant agrees to incorporate those recommendations approved by the county.

43. **Prior to commencement of any tree removal associated with tract improvements,** to avoid conflicts with nesting birds, construction activities shall not be allowed during the nesting season (March 1 to August 31), 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 Environmental Division, possibly with recommendations for variable buffer zones, as needed, around individual nests. The applicant agrees to incorporate those recommendations approved by the county.

Cultural Resources

44. **Prior to issuance of improvement plans,** applicant shall submit a monitoring plan, prepared by a subsurface-qualified archaeologist, for the review and approval by the Environmental Coordinator. The monitoring plan shall include at a minimum:
    a. List of personnel involved in the monitoring activities;
    b. Description of how the monitoring shall occur;
    c. Description of frequency of monitoring (e.g. full-time, part time, spot checking);
    d. Description of what resources are expected to be encountered;

e. Description of circumstances that would result in the halting of work at the project site (e.g. What is considered "significant" archaeological resources?);
f. Description of procedures for halting work on the site and notification procedures;
g. Description of monitoring reporting procedures.

45. **During initial ground disturbing construction activities associated with tract improvements,** the applicant shall retain a qualified archaeologist (approved by the Environmental Coordinator) and Native American to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the Environmental Coordinator.

46. **Upon completion of all monitoring/mitigation activities associated with tract improvements and before tract improvements final inspection,** 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.

47. **Prior to approval of tract improvements,** the applicant shall submit a minimum of one copy of the approved Stormwater Pollution Prevention Plan (SWPPP) to both the County Public Works Department and Planning and Building Department. The SWPPP shall be implemented prior to and during construction activities.

48. **Prior to approval of tract improvements,** the following notes shall be shown on grading and building plans for implementation during grading and construction activities. In addition, the contractor or builder shall designate a person or persons to monitor the dust control program and order increased watering, as necessary, to prevent transport of dust offsite. Their duties shall include holidays 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 issuance of grading and construction permits.
    i. Reduce the amount of disturbed area where possible.
    ii. Water trucks or sprinkler systems shall be used in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency shall be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible.
    iii. All dirt stock-pile areas shall be sprayed daily as needed.
    iv. All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible and building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

49. **Prior to approval of tract improvements,** the applicant shall submit the results of a geologic evaluation conducted to determine of naturally occurring asbestos is present within the area proposed for disturbance. If naturally occurring asbestos is not present, an exemption request shall be filed with the APCD. If naturally occurring asbestos is present, the Parks Division shall comply with all requirements outlined in the Asbestos Air Toxics Control Measure (ATCM). Compliance may include development of an

Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for APCD approval.

50. **Prior to issuance of demolition permits,** the applicant shall contact the APCD and comply with the requirements listed in the National Emission Standard for Hazardous Air Pollutants (NESHAP). These requirements include, but are not limited to: 1) notification requirements to the APCD, 2) asbestos survey conducted by a Certified Asbestos Inspector, and 3) applicable removal and disposal requirements of identified asbestos containing material (ASM).
In the event no technically feasible alternatives are available other than developmental burning, the applicant shall contact the APCD and California Department of Forestry to obtain a burn permit and comply with permit requirements.

51. **Prior to approval of tract improvements,** the applicant shall contact APCD District Engineer David Dixon at (805) 781-5912 to determine if California statewide portable equipment registration (issued by the California Air Resources Board) or APCD District permit is required for use of portable equipment during grading and construction activities. The following list is provided by the APCD as a guide to equipment and operations that may have permitting requirements, but should not be viewed as exclusive:
    i. Power screens, conveyors, diesel engines, and/or crushers
    ii. Portable generators and equipment with engines that are 50 horsepower or greater
    iii. Internal combustion engines
    iv. Tub grinders
    v. Trommel screens

Traffic and Circulation

52. **Prior to map recordation**, the applicant shall provide verification from Union Pacific Railroad that no additional improvements to the railroad crossing at 11th Street are necessary.

53. **Prior to map recordation,** the applicant shall construct road (12th Street and La Bova Street) and drainage improvements as required by the Department of Public Works.

54. **Prior to map recordation,** the developer shall enter into an agreement with the County of San Luis Obispo in a form acceptable to County Counsel, whereby the developer agrees on behalf of himself and successors in interest, to pay to the county of San Luis Obispo a fee of $3,870 per residential unit, plus an inflation adjustment based upon Caltrans Highway Construction Cost Index, to be paid for each residential unit at the time of issuance of building permits The fees collected are to be used for road improvements in the San Miguel area to mitigate traffic impacts resulting from this subdivision.

Additional Map Sheet

55. 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 tract map. The additional map sheet shall include the following:

a. **Prior to issuance of construction permits,** the following measures shall be incorporated into the construction phase of the project and shown on all applicable plans:
   i. All owners are responsible for on-going maintenance of drainage basin fencing in perpetuity.
   ii. If improvements are bonded for, all public improvements (roads, drainage and utilities) shall be completed prior to occupancy of any new structure.

b. Prior to issuance of building permits, in the instance wood burning stoves are proposed, the applicant shall submit building plans showing the use of APCD-approved wood burning devices limited to the following:
   i. All EPA-Certified Phase II wood burning devices
   ii. Catalytic wood burning devices that emit less than or equal to 4.1 grams per hour of particulate matter that are not EPA-Certified but have been verified by a nationally-recognized testing lab
   iii. Non-catalytic wood burning devices that limit less than or equal to 7.5 grams per hour of particulate matter that are not EPA-Certified but have been verified by a nationally-recognized testing lab
   iv. Pellet-fueled woodheaters
   v. Dedicated gas-fired fireplaces

c. Prior to issuance of grading and/or construction permits, the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building Environmental Resource and Management Division (County) (see contact information below) that states that one or a combination of the following four San Joaquin kit fox mitigation measures has been implemented:
   a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement, suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the County.

   This mitigation alternative (a.), requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

   b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC), pursuant to the Voluntary Fee-based Compensatory Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy", would be based on the total area of disturbance from project activities multiplied by $2,500 per acre. This fee must be paid after the Department provides written notification identifying your mitigation options but prior to County permit issuance and initiation of any ground disturbing activities.

c. Purchase credits in a Department-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

At this time, there is no approved conservation bank that is operational in San Luis Obispo County. A conservation bank is expected to be operational in the near future. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.

c. If none of the above measures (a, b, or c) are available, the applicant may enter into a Mitigation Agreement with the Department, including depositing of funds into an escrow account (or other means of securing funds acceptable to the Department) which would ensure the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring in perpetuity. The Department can provide a draft agreement to review; a signed Mitigation Agreement shall be submitted to the County prior to County permit issuance and initiation of any ground disturbing activities.

d. Prior to issuance of grading and/or construction permits, or conducting any grading associated with map recordation, the applicant shall provide evidence to the County that they have retained a qualified biologist acceptable to the County Division of Environmental and Resource Management. The retained biologist shall perform the following monitoring activities:

e. Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction,

i. The biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.

ii. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-3 through BR11. Site-disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason (see BR-2-c3). When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.

iii. Prior to or during project activities, if any observations are made of San Joaquin kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to kit fox. At the time the den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, all work shall stop until such time the U. S. Fish and Wildlife Service and Department determine that it is appropriate to resume work.

f. If incidental take of kit fox during project activities is possible, before project activities commence, the applicant must consult with the U.S. Fish and Wildlife Service and the Department (see contact information below). The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.
g. In addition, the qualified biologist shall implement the following measures:
h. Within 30 days prior to initiation of site disturbance and/or construction, fenced exclusion zones shall be established around all known and potential kit fox dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:
    a) Potential kit fox den: 50 feet
    b) Known kit fox den: 100 feet
    c) Kit fox pupping den: 150 feet
i. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.
j. If kit foxes or known or potential kit fox dens are found on site, daily monitoring during ground disturbing activities shall be required by a qualified biologist.
k. Prior to issuance of grading and/or construction permits, or approval of any improvement plans related to map recordation, the applicant shall clearly delineate as a note on the project plans, that: "Speeds signs of 25 mph maximum (or lower) shall be posted for all construction traffic, to minimize the probability of road mortality of the San Joaquin kit fox." Speed limit signs shall be installed on the project site within 30 days prior to initiation of site disturbance and/or construction,
l. In addition, prior to permit issuance and initiation of any ground disturbing activities, or any grading associated with map recordation, conditions BR-3 through BR-11 of the Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.
m. During the site disturbance and/or construction phase, grading and construction activities after dusk shall be prohibited unless coordinated through the County, during which additional kit fox mitigation measures may be required.
n. Prior to issuance of grading and/or construction permit, and within 30 days prior to initiation of site disturbance and/or construction, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.
o. During the site-disturbance and/or construction phase, to prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or

wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

p. During the site-disturbance and/or construction phase, any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.

q. During the site-disturbance and/or construction phase, all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.

r. Prior to, during, and after the site-disturbance and/or construction phase, use of pesticides or herbicides shall be in compliance with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.

s. During the site-disturbance and/or construction phase, any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.

t. Prior to final inspection, or occupancy, whichever comes first, should any long internal or perimeter fencing be proposed or installed, the applicant shall do the following to provide for kit fox passage:

    i. If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12".
    ii. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards.

u. Upon fence installation, the applicant shall notify the County to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

v. Prior to issuance of building permits, construction plans shall include indoor water conservation measures including: low water-use toilets, showerheads, and faucets; automatic shut-off devices for bathroom and kitchen faucets; and point-of–use supplemental water heater systems or circulating hot water systems in bathrooms and kitchen. Landscape plans for the proposed parcels must include outdoor conservation

measures including: limited landscape area, low water-use plant materials, limited turf area, soil moisture sensors, and drip irrigation systems.

w. Prior to final inspection, for structures where the pipe from the hot water heater to any faucet is greater than 20 feet in length, apply one or more of the following: 1) install a hot water pipe circulating system for entire structure; 2) install "point-of-use" water heater "boosters" near all hot water faucets (that are greater than 20 linear pipe feet from water heater), or 3) use the narrowest pipe possible (e.g., from 1" to ½" diameter). Prior to permit issuance, the measure(s) to be used shall be shown on all applicable plumbing plans.

x. .Prior to commencement of any tree removal, a county-approved, qualified biologist shall survey the impact zone for evidence of roosting pallid bats. At such time, if any evidence of roosting activities are found, the biologist will determine if any construction activities can occur and to what extent. The results of the surveys will be passed immediately to the County Environmental Division, possibly with recommendations for variable buffer zones, as needed, around individual roosting areas. The applicant agrees to incorporate those recommendations approved by the county.

y. Prior to commencement of any tree removal, to avoid conflicts with nesting birds, construction activities shall not be allowed during the nesting season (March 1 to August 31), 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 Environmental Division, possibly with recommendations for variable buffer zones, as needed, around individual nests. The applicant agrees to incorporate those recommendations approved by the county.

z. **Prior to issuance of grading and construction permits**, the applicant shall submit a monitoring plan, prepared by a subsurface-qualified archaeologist, for the review and approval by the Environmental Coordinator. The monitoring plan shall include at a minimum:
   i. List of personnel involved in the monitoring activities;
   ii. Description of how the monitoring shall occur;
   iii. Description of frequency of monitoring (e.g. full-time, part time, spot checking);
   iv. Description of what resources are expected to be encountered;
   v. Description of circumstances that would result in the halting of work at the project site (e.g. What is considered "significant" archaeological resources?);
   vi. Description of procedures for halting work on the site and notification procedures;
   vii. Description of monitoring reporting procedures.

aa. **During initial ground disturbing construction activities**, the applicant shall retain a qualified archaeologist (approved by the Environmental Coordinator) and Native American to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as an archaeologist and any other appropriate individuals can evaluate the resource. The applicant shall implement the mitigation as required by the Environmental Coordinator.

bb. **Upon completion of all monitoring/mitigation activities**, and prior to occupancy or final inspection (whichever occurs first), 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.

cc. Prior to issuance of construction permits, the applicant shall submit a minimum of one copy of the approved Stormwater Pollution Prevention Plan (SWPPP) to both the County Public Works Department and Planning and Building Department. The SWPPP shall be implemented prior to and during construction activities.

Covenants, Conditions and Restrictions

56. 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 CC&R's shall establish a Homeowner's Association which shall provide at a minimum the following provisions:

    a. Notification to prospective buyers that an additional map sheet was recorded with the final 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.
    b. On-going maintenance of drainage basin / adjacent landscaping in a viable condition on a continuing basis into perpetuity.
    c. Maintenance of common areas and access areas including fencing, guest parking, landscaping, benches, lighting, children's play equipment and ground cover.
    d. All internal fencing shall be setback a minimum of five feet from the front exterior wall of each unit and be a maximum of five feet in height.

Miscellaneous

57. 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.

58. A storm water pollution plan (SWPPP) shall be prepared according to the requirements of the Regional Water Quality Control Board. Provide evidence that it has been obtained or is unnecessary prior to filing the map.

59. All timeframes on approved tentative maps for filing of tract maps are measured from the date the Review Authority approves the tentative map, not from any date of possible reconsideration action.

60. The applicant shall as a condition of approval of this conditional use permit and tentative or final map application defend, indemnify and hold harmless the County of San Luis Obispo or its agents, officers and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul any approval of the County concerning this conditional use permit and subdivision, which action is brought within the time period provided for by law. This condition is subject to the provisions of Government Code Section 66474.9, which are incorporated by reference herein as though set forth in full.

FINDINGS - EXHIBIT C

Conditional Use Permit SUB2005-00054 Second Press Partners

Environmental Determination

A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on July 11, 2006 for this project. Mitigation measures are proposed to address air quality, biology, cultural resources, geology and soils, and transportation/circulation and are included as conditions of approval.

Conditional Use Permit

B. 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.

C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 22 of the County Code.

D. 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 multi-family residential project 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.

E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the multi-family residential project is similar to, and will not conflict with, the surrounding lands and uses.

F. 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 on12th Street, a local road constructed to a level able to handle any additional traffic associated with the project.

EXHIBIT D - CONDITIONS OF APPROVAL

Conditional Use Permit SUB2004-00315

Approved Development

1. This approval authorizes
   a. A multi-family residential development on a 2.2 acre parcel to construct 31 residences.
   b. Maximum height is 35 from average natural grade.

Subdivision Related Approvals

2. This approval authorizes a planned development/subdivision of a 2.2 acre parcel into 35 parcels for the construction of 31 residences and four common area parcel, consistent with the Tentative Tract Map 2779.

3. This approval is effective for a period of 24 months from the date of the approval of the tentative map by the Planning Commission. 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.

4. Any significant revisions in the Tentative Map not authorized by this approval shall require reconsideration by the Planning Commission.

5. All project related grading must be completed with the tract improvements. Including streets, curb, gutter and sidewalk and building pads.

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

6. At the time of application for construction permits, the applicant shall submit a condition compliance package that details each condition of approval and verifies how each condition of approval has been met.

Site Development

7. **At the time of application for construction permits** plans submitted shall show all development consistent with the approved revised site plan (Exhibit A dated September 26, 2006), floor plan, architectural elevations and landscape plan. Garages shall include built in storage shelves and include roll up garage doors.

8. **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.

9. **At the time of application for construction permits,** the applicant shall submit plans to be approved by the county Planning Department for a shaded children's play area that includes children play equipment and appropriate play area ground cover.

10. **At the time of application for construction permits,** the applicant shall submit a site plan that specifies the elevations of the units proposed for each. All units shall have a different design style from the neighboring units.

Fencing

11. **At the time of application for construction permits,** the applicant shall submit a fencing plan for approval by the county Planning Department that provide a 6-foot high solid wood or masonry fence along the south, east and west property lines of the site. Design of the fence is to be reviewed and approved by the Department of Planning and Building. If the proposed fence is wood, the design shall include a top cap, 6 x 6 treated posts, and other architectural features.

12. **At the time of application for construction permits,** the applicant shall submit an internal fencing plan for approval by the county Planning Department. All internal fencing shall be setback a minimum of five feet from the front exterior wall of each unit and shall be a maximum of five feet in height. The tot lot shall be fenced with low, open fencing (wrought iron, split rail).

Fire Safety

13. **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 San Miguel Fire Department for this proposed project.

Services

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

Grading, Drainage, Sedimentation and Erosion Control

15. **At the time of application for construction permits**, the applicant shall submit a drainage plan for review and approval by the County Public Works Department. The plan shall contain, at a minimum:
    a. Complete drainage calculations for county Public Works review and approval.
    b. Retention / Detention of drainage in an on-site basin designed in accordance with county standards and approved by the county Public Works, if applicable.
    c. All runoff from impervious surfaces such as roofs, driveways, walks, patios, decks, shall be collected and detained on-site, or passed on through an effective erosion control devise or drainage system approved by the County Engineer.
    d. Permanent erosion control devises shall be installed prior to or concurrently with on-site grading activities.
    e. Grading, filling or site disturbance of existing soil and vegetation shall be limited to the minimum areas necessary:
    f. Stockpiles and other disturbed soils shall be protected from rain and erosion by plastic sheets or other covering.

<u>Conditions to be completed prior to issuance of a construction permit</u>

Fees

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

17. **Prior to issuance of construction permits,** the applicant shall pay the San Miguel road fee.

Mitigations

18. **At the time of application for construction permits**, the following measures shall be incorporated into the construction phase of the project and shown on all applicable plans:
    a. Reduce the amount of the disturbed area where possible.
    b. Use 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 (non-potable) water should be used whenever possible.
    c. All dirt stock-pile areas should be sprayed daily as needed.
    d. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible.
    e. Building pads should be laid as soon as possible after grading unless seeding or soil binders are used.

19. **At the time of application for construction permits**, in the instance wood burning stoves are proposed, the applicant shall submit building plans showing the use of APCD-approved wood burning devices limited to the following:
    a. All EPA-Certified Phase II wood burning devices;
    b. Catalytic wood burning devices that emit less than or equal to 4.1 grams per hour of particulate matter that are not EPA-Certified but have been verified by a nationally-recognized testing lab;
    c. Non-catalytic wood burning devices that limit less than or equal to 7.5 grams per hour of particulate matter that are not EPA-Certified but have been verified by a nationally-recognized testing lab;
    d. Pellet-fueled woodheaters, and;
    e. Dedicated gas-fired fireplaces.

20. **At the time of application for construction permits**, construction plans shall include indoor water conservation measures including: low water-use toilets, showerheads, and faucets; automatic shut-off devices for bathroom and kitchen faucets; and point-of–use supplemental water heater systems or circulating hot water systems in bathrooms and kitchen. Landscape plans for the proposed parcels must include outdoor conservation measures including: limited landscape area, low water-use plant materials, limited turf area, soil moisture sensors, and drip irrigation systems.

21. **Prior to issuance of grading and/or construction permits** and within 30 days prior to initiation of site disturbance and/or construction,
    a. The biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.

b. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-3 through BR11. Site-disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason. When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.

22. **Prior to or during project activities,** if any observations are made of San Joaquin kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to kit fox. At the time the den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, all work shall stop until such time the U. S. Fish and Wildlife Service and Department determine that it is appropriate to resume work.

23. If incidental take of kit fox during project activities is possible, before project activities commence, the applicant must consult with the U.S. Fish and Wildlife Service and the Department (see contact information below). The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities. In addition, the qualified biologist shall implement the following measures:

a Within 30 days prior to initiation of site disturbance and/or construction, fenced exclusion zones shall be established around all known and potential kit fox dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:

a) Potential kit fox den: 50 feet
b) Known kit fox den: 100 feet
c) Kit fox pupping den: 150 feet

b. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.

c. If kit foxes or known or potential kit fox dens are found on site, daily monitoring during ground disturbing activities shall be required by a qualified biologist.

24. **Prior to issuance of grading and/or construction permits,** or approval of any improvement plans related to map recordation, the applicant shall clearly delineate as a note on the project plans, that: "Speeds signs of 25 mph maximum (or lower) shall be posted for all construction traffic, to minimize the probability of road mortality of the San Joaquin kit fox." Speed limit signs shall be installed on the project site within 30 days prior to initiation of site disturbance and/or construction,

a. In addition, prior to permit issuance and initiation of any ground disturbing activities, or any grading associated with map recordation, conditions BR-3 through BR-11 of the

Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.

b. During the site disturbance and/or construction phase, grading and construction activities after dusk shall be prohibited unless coordinated through the County, during which additional kit fox mitigation measures may be required.

25. **Prior to issuance of a construction permit,** and within 30 days prior to initiation of site disturbance and/or construction, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.

26. **During the site-disturbance and/or construction phase,** to prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

27. **During the site-disturbance and/or construction phase,** any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.

28. **During the site-disturbance and/or construction phase,** all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.

29. **Prior to, during, and after the site-disturbance and/or construction phase,** use of pesticides or herbicides shall be in compliance with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.

30. **During the site-disturbance and/or construction phase,** any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.

31. **Prior to issuance of building permits,** construction plans shall include indoor water conservation measures including: low water-use toilets, showerheads, and faucets; automatic shut-off devices for bathroom and kitchen faucets; and point-of–use supplemental water heater systems or circulating hot water systems in bathrooms and kitchen. Landscape plans for the proposed parcels must include outdoor conservation measures including: limited landscape area, low water-use plant materials, limited turf area, soil moisture sensors, and drip irrigation systems.

32. **Prior to commencement of any tree removal,** a county-approved, qualified biologist shall survey the impact zone for evidence of roosting pallid bats. At such time, if any evidence of roosting activities are found, the biologist will determine if any construction activities can occur and to what extent. The results of the surveys will be passed immediately to the County Environmental Division, possibly with recommendations for variable buffer zones, as needed, around individual roosting areas. The applicant agrees to incorporate those recommendations approved by the county.

33. **Prior to commencement of any tree removal,** to avoid conflicts with nesting birds, construction activities shall not be allowed during the nesting season (March 1 to August 31), 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 Environmental Division, possibly with recommendations for variable buffer zones, as needed, around individual nests. The applicant agrees to incorporate those recommendations approved by the county.

34. **Prior to issuance of grading and construction permits,** the applicant shall submit a monitoring plan, prepared by a subsurface-qualified archaeologist, for the review and approval by the Environmental Coordinator. The monitoring plan shall include at a minimum:
    i. List of personnel involved in the monitoring activities;
    ii. Description of how the monitoring shall occur;
    iii. Description of frequency of monitoring (e.g. full-time, part time, spot checking);
    iv. Description of what resources are expected to be encountered;
    v. Description of circumstances that would result in the halting of work at the project site (e.g. What is considered "significant" archaeological resources?);
    vi. Description of procedures for halting work on the site and notification procedures;
    vii. Description of monitoring reporting procedures.

35. **During initial ground disturbing construction activities**, the applicant shall retain a qualified archaeologist (approved by the Environmental Coordinator) and Native American to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as an archaeologist and any other appropriate individuals can evaluate the resource. The applicant shall implement the mitigation as required by the Environmental Coordinator.

36. **Prior to issuance of construction permits,** the applicant shall submit a minimum of one copy of the approved Stormwater Pollution Prevention Plan (SWPPP) to both the County Public Works Department and Planning and Building Department. The SWPPP shall be implemented prior to and during construction activities.

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

37 Landscaping in accordance with the approved landscaping plan shall be installed or bonded for before final building inspection. If bonded for, landscaping shall be installed within 60 days after final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.

38. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from San Miguel Fire Department of all required fire/life safety measures.

39. **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.

40. **Upon completion of all monitoring/mitigation activities and prior to final inspection** (whichever occurs first), 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.

Fencing

41. **Prior to final inspection**, provide a 6-foot high solid wood or masonry fence along the south, east and west property lines of the site. Design of the fence to be reviewed and approved by the Department of Planning and Building. If the proposed fence is wood, the design shall include a top cap, 6 x 6 treated posts, and other architectural features.

42. **Prior to final inspection,** the applicant shall submit an internal fencing plan for approval by the county Planning Department. All internal fencing shall be setback a minimum of five feet from the front exterior wall of each unit and be a maximum of five feet in height.

43 **Prior to final inspection,** or occupancy, whichever comes first, should any long internal or perimeter fencing be proposed or installed, the applicant shall do the following to provide for kit fox passage:

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

44. All conditions of this approval 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.

45. Any fencing constructed after issuance of a final permit shall follow these
    a. if a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12".
    b. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards.

46. On-going maintenance of drainage basin / adjacent landscaping in a viable condition on a continuing basis into perpetuity.

47. Maintenance of common areas and access areas including fencing, guest parking, landscaping, benches, lighting, children's play equipment and ground cover.

48. All internal fencing shall be setback a minimum of five feet from the front exterior wall of each unit and be a maximum of five feet in height.

49. The applicant shall as a condition of approval of this conditional use permit and tentative or final map application defend, indemnify and hold harmless the County of San Luis Obispo or its agents, officers and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul any approval of the County concerning this conditional use permit and subdivision, which action is brought within the time period provided for by law. This condition is subject to the provisions of Government Code Section 66474.9, which are incorporated by reference herein as though set forth in full.

STANDARD CONDITIONS OF APPROVAL FOR SUBDIVISIONS USING COMMUNITY WATER AND SEWER

1. Community water and fire protection shall be obtained from the community water system.

2. Operable water facilities from an approved community 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 county Health Department for review and approval stating there are operable water facilities immediately available for connection to the parcels created. Water main extensions, laterals to each parcel and related facilities (except well(s)) may be bonded for subject to the approval of county Public Works, the county Health Department and the public water utility.

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 the county Health Officer.

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 county Health Department destruction standards. The applicant is required to obtain a permit from the county Health Department.

5. When a potentially operational or operational auxiliary water supply in the form of an existing well(s) is located on the parcels created 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 <u>approved</u> cross-connection control device installed at the meter or property line service connection <u>prior to occupancy</u>. (Chapter 8.30, San Luis Obispo County Ordinance)

6. Sewer service shall be obtained from the community sewage disposal system.

7. <u>Prior to the filing of the map</u> a "final will serve" letter be obtained and submitted to the county Health 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 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.

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 "checkprints" 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 complied with prior to the filing 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 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.