

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

8th day November, 2005

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

ABSENT: None

RESOLUTION NO. 2005-346

**RESOLUTION REVERSING THE DECISION OF THE PLANNING COMMISSION
AND CONDITIONALLY APPROVING THE APPLICATION OF MID-STATE
PROPERTIES, LLC (GRAY TRUST) FOR CONDITIONAL USE PERMIT S010354U
AND FOR A VESTING TENTATIVE MAP FOR TRACT 2441**

The following resolution is now offered and read:

WHEREAS, on September 22, 2005, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and disapproved the application of Mid-State Properties, LLC (Gray Trust) for Conditional Use Permit S010354U and for a vesting tentative map for Tract 2441; and

WHEREAS, Mid-State Properties, LLC (Gray Trust) 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 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 November 8, 2005, and determination and decision was made on November 8, 2005; 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 based upon 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 B 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 Mid-State Properties, LLC (Gray Trust) is hereby upheld and the decision of the Planning Commission is reversed and that the application of Mid-State Properties, LLC (Gray Trust) for Conditional Use Permit S010354U is hereby approved subject to the conditions of approval set forth in Exhibit C attached hereto and incorporated by reference herein as though set forth in full.
6. That the appeal filed by Mid-State Properties, LLC (Gray Trust) is hereby upheld and the decision of the Planning Commission is reversed and that the application of Mid-State Properties, LLC (Gray Trust) for a vesting tentative map for Tract 2441 is hereby approved subject to the conditions of approval set forth in Exhibit D attached hereto and incorporated by reference herein as though set forth in full.

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

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

NOES: None

ABSENT: None

ABSTAINING: None

EXHIBIT A - FINDINGS
Conditional Use Permit S010354U – Mid-State Properties, LLC

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 Revised Mitigated 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 22, 2005 for this project. Mitigation measures are proposed to address agricultural resources, air quality, geology, public services, recreation, transportation/circulation and water 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 proposed use is allowed in the county Land Use Element 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 development of a single-family neighborhood 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 use of detached, single family dwellings will be similar to that of other residential development nearby, and the appearance of the neighborhood is a gradation of higher density that will be similar to other projects within the Residential Multi-Family category adjacent to the site.
- 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 traffic is within the planned capacities of Grande Avenue and Blume Street, and these streets are constructed to a level able to handle any additional traffic associated with the project.
- G. As conditioned, the proposed project qualifies as a planned development and complies with Land Use Ordinance Section 22.22.080D because the common ownership parcel will be owned and managed by an owners association with identified responsibilities in Conditions, Covenants and Restrictions (CC&Rs), and because the density of residential units is in compliance with the medium density criteria in Land Use Ordinance Section 22.10.130 for the Residential Multi-Family land use category.

FINDINGS - EXHIBIT B
Vesting Tentative Tract Map 2441 – Mid-State Properties, LLC

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 Revised Mitigated 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 22, 2005 for this project. Mitigation measures are proposed to address agricultural resources, air quality, geology, public services, recreation, transportation/circulation and water and are included as conditions of approval.

Tentative Map

- B. As conditioned, 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. As conditioned, the proposed map is consistent with the county zoning and subdivision ordinances because the parent parcel meets the minimum parcel size set by the Land Use Ordinance and is being subdivided using the planned development standards and the proposed parcels meet applicable 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 ordinances 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 single-family residences.
- F. The site is physically suitable for the proposed density of the development proposed because the site can adequately support a primary dwelling on each proposed parcel.
- G. 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 the project includes measures to reduce identified potentially significant impacts to insignificance.
- H. 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.
- I. The proposed map complies with Section 66474.6 of the State Subdivision Map Act, as to methods of handling and discharge of waste.

EXHIBIT C - CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT S010354U – Mid-State Properties, LLC

Approved Development

1. This approval authorizes the development of 38 detached single-family residential units on individual parcels to be created by Vesting Tentative Tract Map 2441, a common area Park on an individual lot, and street, lot and common area improvements including but not limited to landscaping, streetlighting, drainage basin, and private streets as approved on November 8, 2005.

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

Site Development

2. **At the time of application for construction permits**, submit a revised site development plan, and revised architectural elevations to detail exterior finish materials, colors, and height above finish grade on all sides of proposed buildings to the Department of Planning and Building for review and approval. The revised plans shall indicate the following and development shall be consistent with this revised and approved plan:
 - a. Development plan to show all common areas held in common by the owners association.
 - b. Development plan shall show an agricultural buffer of 40 feet within Lots 31 through 39, prohibiting residential structures. This buffer shall become null and void on individual parcels within this subdivision if the Agriculture land use category south of Grande Avenue is changed. At the time of construction permits, the applicant shall clearly delineate the agricultural buffer on the project plans.
 - c. Elevations shall show exterior finish materials, colors, and height above the existing natural ground surface. Architectural elevations shall show detailing to be consistent and same quality on all sides of the buildings, and heights from finish grade. Colors shall minimize the structure massing of new development by reducing the contrast between the proposed development and the surrounding environment. Colors shall be compatible with the natural colors of the surrounding environment, including vegetation, rock outcrops, etc. Non-reflective, earth tone colors shall be selected for walls, chimneys, etc. and darker green, grey, slate blue, or brown colors for the roofs. Colors and materials shall be identified with paint samples on boards.
3. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable, in addition to tract streetlighting. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

4. **At the time of application for construction permits, all PM₁₀ mitigation measures required shall be shown on grading and building plans.** 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 land use clearance for map recordation and land use clearance for finish grading of the structure.
- a. Reduce the amount of disturbed area where possible.
 - b. 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.
 - c. All dirt stock-pile areas should be sprayed daily as needed.
 - d. Permanent dust control measures identified in the approved project revegetation and landscape plans shall be implemented as soon as possible following completion of any soil disturbing activities.
 - e. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading shall be sown with a fast germinating native grass seed and watered until vegetation is established.
 - f. All disturbed soil areas not subject to revegetation shall be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD.
 - g. 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.
 - h. Vehicle speeds for all construction vehicles shall not exceed 15 miles per hour on any unpaved surface at the construction site.
 - i. All trucks hauling dirt, sand, soil, or other loose materials shall be covered or shall maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114.
 - j. Wheel washers shall be installed where vehicles enter and exit unpaved roads onto streets, or trucks and equipment leaving the site shall be washed off.
 - k. Streets shall be swept at the end of each day if visible soil material is carried onto adjacent paved roads, and water sweepers with reclaimed water shall be used where feasible.

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 CDF/County Fire Department for this proposed project and dated July 17, 2002.

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.**

Conditions to be completed prior to issuance of a construction permit

Fees

7. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
8. **Before issuance of construction permits**, plans submitted shall show all development consistent with the approved site plan, floor plans, architectural elevations and landscape, streetlighting and fencing plans.
9. **Prior to issuance of building permits for individual lot development**, in the instance where 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. Must comply with 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, or;
 - e. Dedicated gas-fired fireplaces.
10. **Prior to issuance of grading and construction permits or tract improvement plans**, the applicant shall ensure that portable engines and potable equipment are registered in the statewide portable equipment registration program, or a permit to operate shall be obtained from the APCD prior to the start of construction.
11. **If demolition of underground utilities or pipes is required**, 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).
12. **Prior to issuance of construction permit for each residence**, the following measures shall be incorporated into the project:
 - a. Increase walls and attic insulation beyond Title 24 requirements.
 - b. Orient buildings to maximize natural heating and cooling.
 - c. Plant shade trees along southern exposures of buildings to reduce summer cooling needs.
 - d. Use built-in energy efficient appliances.
 - e. Use double-paned windows.
 - f. Use energy efficient indoor and outdoor lights.
 - g. Provide outdoor electrical outlets to encourage the use of electric appliances and tools.
 - h. Use high efficiency or solar water heaters.

13. **Prior to issuance of grading permit or tract improvement plans**, the applicant shall submit a copy of the Storm Water Pollution Prevention Plan submitted to the State Water Resources Control Board. The plan shall be implemented prior to, during, and immediately following grading activities.
14. **Prior to issuance of building permits for each residence**, construction plans must 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.

Conditions to be completed during construction

15. **During construction/ground disturbing activities**, the applicant shall implement the particulate (dust) control measures identified on the grading and building plans.

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

16. **Prior to final building inspection and 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.
17. **Prior to occupancy or final inspection**, which ever occurs first, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.
18. **Before final building inspection of residential units**, landscaping within the interior of the site (inside the street fence/walls) including but not limited to the Park and individual lot landscaping, shall be installed or bonded for in accordance with the approved landscaping plan. If bonded for, landscaping shall be installed within 60 days after final building inspection.
19. **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.
20. **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.

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

- 21. 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.
- 22. All landscaping, tract improvements and common area equipment shall be maintained in a viable condition in perpetuity.
- 23. 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 66474.0, which are incorporated by reference herein as though set forth in full.

EXHIBIT D - CONDITIONS OF APPROVAL
VESTING TENTATIVE TRACT MAP 2441

Approved Project

1. This approval authorizes the division of a 3.8-acre parcel into 38 parcels ranging in size from approximately 2,600 to 4,600 square feet in order to construct a planned development consisting of 38 detached single-family residences. The project also includes an approximate 6,000 square foot park, underground drainage basin, and a 26-foot wide private street, as revised on November 8, 2005.

Access and Improvements

2. Roads and/or streets to be constructed to the following standards:
 - a. Grande Avenue and Blume Street to be widened to complete an A-2 (urban) section fronting the property. Blume Street to include Class II bike lanes. Grande Avenue to include three 11-foot lanes with parking on the north side (typical sections shown on Tentative Map are adequate).
 - b. "A" Street to be constructed to a 2/3 A-e (urban) section within a minimum 40-foot dedicated right-of-way. The street section is to include an 8-foot parkway and 5-foot sidewalk. Paving shall extend a minimum 24 feet from face of curb.
3. The applicant shall offer for dedication to the public by certificate on the map or by separate document:
 - a. A 20-foot radius property line return at the intersection of all streets.
4. Access be denied to lots 1 through 7 from Blume Street, and 31 through 39 from Grande Avenue and that this be by certificate and designation on the map.
5. A private easement be reserved on the map for access to all lots.
6. All grading shall be done in accordance with Appendix 33 of the Uniform Building Code. All lot lines shall be considered as Site Area Boundaries with slopes setback accordingly.

Improvement Plans

7. 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. Landscaped parkway plan in accordance with Planning Area Standards.
 - g. Bus stop plan as required by the Regional Transit Authority, which may waive the required bus stop in lieu of fees for the project's pro rata share of a bus stop within one half mile of roadway.
8. Public utility plan, showing all existing utilities and installation of all utilities to serve every lot.

9. 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.
10. 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.

Drainage

11. Submit complete drainage calculations to the Department of Public Works for review and approval.
12. If calculations so indicate, drainage must be retained in a drainage basin on the property. The design of the basin to be approved by the Department of Public Works, in accordance with county standards.
13. 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.
14. The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program.

Utilities

15. Electric and telephone lines shall be installed underground.
16. Cable T.V. conduits shall be installed in the street.
17. Gas lines shall be installed.

Design

18. The lots shall be numbered in sequence.
19. 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 and on the improvement plans.

Fire Protection

20. 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 per the CDF letter dated July 17, 2002

Parks and Recreation (Quimby) Fees

21. Unless exempted by Chapter 21.09 of the county Real Property Division Ordinance or California Government Code section 66477, or as reduced by the Parks Division of the General Services Department, 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

22. **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

23. Easements shall be recorded for the park, pedestrian accessway to Blume Street, parkways and common landscaping areas. They are to be held in common by the Homeowner's Association. The easements are to be maintained as open space in perpetuity.

Landscape, Streetlighting and Fencing Plans

24. **Prior to recordation of the final map**, the applicant shall submit detailed landscape / irrigation plans for the tract consistent with Land Use Ordinance Chapter 22.16 to the Department of Planning and Building for review and approval. Parks Division shall review the plans for consistency with standards for playground safety and equipment. Said plans to include the location, species, size and method of maintenance of all proposed plant materials, as well as other required information. All proposed plant materials shall be of a native or drought-tolerant species and be sized to provide a mature appearance within three years of installation. Plans to include:

- a. Landscaping of street parkways and landscape strips on Grande Avenue, Blume Street and "A" Street, consistent with Lot 6 and Lot 34 detail sheets submitted January 14, 2005. Landscaping material on Grande Avenue shall provide adequate density (maturity and quantity) to form an evergreen vegetative screen at the time of building occupancy.
- b. Common area park landscaping, including but not limited to, the Park parcel which shall include at a minimum shade trees, one or more turf areas to comprise a total minimum 50 percent of the site area, perimeter shrub plantings, a playground with equipment, a shade structure and a minimum five tables and benches.
- d. Tract landscaping improvements including but not limited to one street tree per lot within 8 feet of the curb of "B" and "C" Streets, landscaping in front and street side yards, and where areas are not intended for private use, including a mailbox location(s). One tree shall also be planted within each back yard for shading and screening purposes.
- e. Pedestrian accessway between Blume Street and the interior street, to be landscaped with native or drought-tolerant perennial species.

25. **Before final inspection of tract grading and improvements**, landscaping within the exterior of the site (outside the street fence/walls) shall be installed or bonded for in accordance with the approved landscaping plan. If bonded for, landscaping shall be installed within 60 days after final inspection. All landscaping shall be maintained in a viable condition in perpetuity.

26. **Prior to recordation of the final map**, the applicant shall submit a Streetlighting plan consistent with Land Use Ordinance Section 22.10.060 to the Department of Planning and Building for review and approval. Said plan shall include the location, type, wattage and height of full-cutoff fixtures, which shall be pole-mounted at a maximum height of 15 feet. A photometric plan shall demonstrate compliance with ordinance requirements. Fixtures shall be architectural quality in a style consistent with the design of residences.

27. **Prior to recordation of the final map**, the applicant shall submit a Fencing plan consistent with Land Use Ordinance Section 22.10.060 to the Department of Planning and Building for review and approval. Said plan shall include the location, design and materials of fencing or walls at the proposed perimeter of the site and within typical interior and street corner lots. ~~Maximum height of fencing shall be five (5) feet except for Blume and Grande Streets, which shall be no higher than six (6) feet.~~ Fencing or wall materials and construction shall be adequate to support long-term vine plantings. Fences at the fronts of lots and street side yards of corner lots shall be located in back of the building edges.

Additional Map Sheet

28. 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. A Development Plan consistent with the ~~revised plan presented November 8, 2005~~, with all common areas shown and designated.
 - b. A note that secondary dwellings shall not be allowed on the property.
 - c. **Prior to sale of each lot**, the applicant shall provide future landowners and occupants a copy of the County Right-to-Farm Ordinance, and disclosure documents describing the existing agricultural operations in the vicinity, including hours of operation.
 - d. Notification of the consequences of existing and potential intensive agricultural operations on adjacent parcels including but not limited to noise, dust, odor and agricultural chemicals.
 - e. An agricultural buffer of ~~40~~ feet within Lots 31 through 39, prohibiting residential structures. This buffer shall become null and void on individual parcels within this subdivision, if the subject Agriculture land use category south of Grande Avenue is changed. At the time of construction permits, the applicant shall clearly delineate the agricultural buffer on the project plans.
 - f. If improvements are bonded for, all public improvements (roads, drainage, and utilities) shall be completed prior to occupancy of any new structure.
 - g. 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.
29. **Prior to approval of tract improvement plans** the applicant shall implement the following particulate (dust) control measures. All PM₁₀ mitigation measures required shall be shown on tract improvement plans. 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 land use clearance for map recordation and land use clearance for finish grading of the structure.
- a. Reduce the amount of disturbed area where possible.

- b. 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.
- c. All dirt stock-pile areas should be sprayed daily as needed.
- d. Permanent dust control measures identified in the approved project revegetation and landscape plans shall be implemented as soon as possible following completion of any soil disturbing activities.
- e. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading shall be sown with a fast germinating native grass seed and watered until vegetation is established.
- f. All disturbed soil areas not subject to revegetation shall be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD.
- g. 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.
- h. Vehicle speeds for all construction vehicles shall not exceed 15 miles per hour on any unpaved surface at the construction site.
- i. All trucks hauling dirt, sand, soil, or other loose materials shall be covered or shall maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114.
- j. Wheel washers shall be installed where vehicles enter and exit unpaved roads onto streets, or trucks and equipment leaving the site shall be washed off.
- k. Streets shall be swept at the end of each day if visible soil material is carried onto adjacent paved roads, and water sweepers with reclaimed water shall be used where feasible.

30. **Prior to issuance of tract improvement plans**, the applicant shall ensure that portable engines and potable equipment are registered in the statewide portable equipment registration program, or a permit to operate shall be obtained from the APCD prior to the start of construction.

31. **If demolition of underground utilities or pipes is required**, 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).

32. **Prior to issuance tract improvement plans**, the applicant shall submit a copy of the Storm Water Pollution Prevention Plan submitted to the State Water Resources Control Board. The plan shall be implemented prior to, during, and immediately following grading activities.

33. **Prior to recordation of final map**, the applicant shall pay all applicable Quimby and Building Division Fees.

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

Covenants, Conditions and Restrictions

35. 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 provide at a minimum the following provisions:
- a. Provision of a homeowners association with by-laws and attendant responsibilities for the on-going maintenance of the common areas and facilities by the association, and responsibilities of lot owners **to be established before recordation of the final map.**
 - b. A Development Plan consistent with the ~~revised plan approved November 8, 2005~~, with all common areas shown and designated.
 - c. Secondary dwellings shall not be allowed on the property.
 - d. **Prior to sale of each lot**, the applicant shall provide future landowners and occupants a copy of the County Right-to-Farm Ordinance, and disclosure documents describing the existing agricultural operations in the vicinity, including hours of operation.
 - e. Notification of the consequences of existing and potential intensive agricultural operations on adjacent parcels including but not limited to noise, dust, odor and agricultural chemicals.
 - f. On-going maintenance of drainage basin, landscaping ~~that shall continue to be be native or drought-tolerant species~~, lighting fixtures, internal streets, curbs, gutters and sidewalks, Park, mailbox(s) and other areas and facilities within the site and the public street right-of-way that are the responsibility of the association, in a viable condition on a continuing basis into perpetuity.
 - g. An agricultural buffer prohibiting residential structures, consisting of 40 feet over lots 31 through 39, shall be shown on an exhibit attached to the CC&Rs. This buffer shall become null and void on individual parcels within this subdivision, if the adjacent Agriculture land use category is changed.
 - h. Maintenance of all streets within the subdivision.
 - i. Maintenance of the Grande Avenue, Blume Street and "A" Street side of the fence/wall and landscaping between the fence/wall and the curb.

Miscellaneous

36. 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.
37. 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 final map.
38. ~~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 66474.0, 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 approved cross-connection control device installed at the meter or property line service connection prior to occupancy. (Chapter 8.30, San Luis Obispo County Ordinance)
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 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.