

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

Thursday, November 9, 2006

PRESENT: Commissioners Sarah Christie, Bruce Gibson, Bob Roos, Penny Rappa and
Chairperson Gene Mehlschau

ABSENT: None

RESOLUTION NO. 2006-048
RESOLUTION RELATIVE TO THE GRANTING
OF A RECONSIDERATION OF VESTING TENTATIVE TRACT MAP
/CONDITIONAL USE PERMIT

WHEREAS, the County Planning Commission of the County of San Luis Obispo, State of California, did, on the 9th day of November 2006, grant a Reconsideration of Vesting Tentative Tract Map/Conditional Use Permit to **GEORGE NEWMAN, LAND DEVELOPMENT, LLC** to subdivide five parcels totaling 19.1 acres into 21 lots ranging from 0.16 to 5.13 acres each for the purpose of development and a Conditional Use Permit for a mixed use development including: a three-story, 128,162-square foot assisted living/memory support facility; a 19,850-square foot themed restaurant and conference facility; and, 120,728 square feet of retail, office, and professional buildings. The proposed project includes improvements to Mary Avenue, Magenta Avenue, and Juniper Street, the construction of 747 parking spaces, and the construction of multiple underground stormwater retention basins. The proposed project is located on the southeastern side of Juniper Street, approximately 90 feet west of the North Frontage Road, in the community of Nipomo, in the Commercial Retail land use category. The site is in the South County (Inland) planning area. County File No: SUB2006-00067/TRACT 2652. Assessor Parcel Number: 092-572-015, 016, 017, 025 & 045. Supervisorial District: 4.

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

ATTACHMENT 2

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

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 9th day of November 2006, does hereby grant the aforesaid Permit, Tract 2652/SUB2006-00067.

An approved or conditionally approved tentative tract map shall expire twenty-four months after its approval or conditional approval. The expiration of the approved or conditionally approved tentative tract map shall terminate all proceedings, and no tract map of all or any portion of the real property included within such tentative tract shall be filed without first processing a new tentative map. Upon application of the divider filed with the Department of Planning and Building prior to the expiration of the approved or conditionally approved tentative map, the Planning Commission may extend or conditionally extend the time at which such map expires for a period of periods not exceeding a total of five years pursuant to the provisions of Sections 66412.3, 66473 and 66474 of the Subdivision Map Act and Section 21.48.080 of the Real Property Division Ordinance (Section 21.06.010).

Timelines for the Conditional Use Permit/Development Plan run concurrent with the timeline for the Tentative Map.

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

AYES: Commissioners Roos, Rappa, Christie, Gibson and Chairperson Mehlschau

NOES: None

ABSENT: None

the foregoing resolution is hereby adopted.

s/s Gene Mehlschau
Chairman of the Planning Commission

ATTEST:

/s/ Eleanor Porter
Secretary, Planning Commission

FINDINGS - EXHIBIT A

Environmental Determination

- A. This project is found to be consistent with the previously approved Mitigated Negative Declaration for Tentative Tract Map and Conditional Use Permit SUB2003-00314 / TR 2652 (ED 04-309).

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 Commercial Retail and Office/Professional 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 commercial, office, and assisted living facility.
- F. The site is physically suitable for the proposed density proposed because the site can adequately support commercial, office, and assisted living facility.
- 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 no rare, endangered or sensitive species are present; and mitigation measures for aesthetics, air quality, biological resources, cultural resources, geology and soils, noise, public services/utilities, recreation, transportation/circulation, and water are required.
- 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 B

CONDITIONS OF APPROVAL FOR RECONSIDERATION OF TR 2652

Approved Project

1. Reconsideration of a Vesting Tentative Tract Map / Conditional Use Permit to subdivide five parcels totaling 19.1 acres into 21 lots ranging from 0.16 to 5.13 acres each for the purpose of development and a Conditional Use Permit for a mixed use development including: a three-story, 128,162-square foot assisted living/memory support facility; a 19,850-square foot themed restaurant and conference facility; and, 120,728 square feet of retail, office, and professional buildings. The proposed project includes improvements to Mary Avenue, Magenta Avenue, and Juniper Street, the construction of 747 parking spaces, and the construction of multiple underground stormwater retention basins.

Access and Improvements

2. Roads and/or streets to be constructed to the following standards:
 - a. Magenta Avenue constructed to a minimum 2/3 A-2 road section within a minimum 50 foot dedicated right-of-way fronting the property and construct an A-6b knuckle at the intersection with Primrose Lane.
 - b. Mary Avenue widened to a 46-foot minimum road section between Tefft Street and Juniper Street to provide two 5-foot bike lanes, two 12-foot travel lanes, and one 12-foot center left turn lane. Mary Avenue shall be widened to a 58-foot minimum road section at its intersections with Tefft Street and Juniper Street to provide an additional 12-foot right turn lane at each location. The length of the right turn lane shall be coordinated with the County Traffic Engineer.
 - c. Tefft Street widened to provide a westbound 12-foot right turn lane onto Mary Avenue. The length of the right turn lane shall be coordinated with the County Traffic Engineer.
 - d. Juniper Street widened to complete the project side of an A-3bII section (without parking), with additional widening to provide an eastbound 12-foot right turn lane onto Mary Avenue (the length of the right turn lane shall be coordinated with the County Traffic Engineer).
 - e. A minimum 4-foot wide asphalt pedestrian walkway meeting ADA requirements shall be constructed within the North Frontage Road right-of-way to connect the new sidewalk improvements on Juniper Street southerly to the existing asphalt pedestrian trail.
 - f. The applicant shall coordinate all design work at the intersection of Tefft Street and Mary Avenue with Resolution 2006-305 which describes the extension of Mary Avenue south of Tefft Street to Hill Street.
 - g. Right turn lanes south bound Mary Avenue at Tefft Street and west bound Tefft Street at Mary Avenue shall be eligible for credit against the road improvement fee if approved by the Board of Supervisors through future update of the Circulation Study.
3. The applicant offer for dedication to the public by certificate on the map or by separate document:
 - a. For road widening purposes additional right-of-way necessary along Magenta Avenue, Mary Avenue and Juniper Street to be described as width needed to contain the improvements.
 - b. A minimum 20 foot radius property line return at the intersection all streets.

4. A private easement be reserved on the map for access to lots not fronting a public road.
5. 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

6. 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 (NCSD).
 - d. Sewer plan (NCSD).
 - 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.
 - g. Street light installations at the intersection of Mary Avenue and Juniper Street.
7. 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.
8. 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

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. The design of the basin to be approved by the Department of Public Works, in accordance with county standards.
11. 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.
12. The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program.

Utilities

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

Design

16. The lots shall be numbered in sequence.

Vector Control and Solid Waste

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

Fire Protection

18. 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.

Affordable Housing Fee

19. 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.

Quimby Fee

20. 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.

Other

21. **Prior to final map recordation**, the applicant shall submit a revised landscape plan incorporating the use of native, drought-tolerant, fast-growing, evergreen shrubs and trees to be planted along the outside of the noise wall.
22. **Prior to recordation of the final map**, landscape plans shall show the location of replacement oak trees. The average distance between plantings shall be no closer than 20 feet and placed in locations that will ensure long-term success and avoid competition with other landscape elements/plantings. These plans shall be approved by the County Planning Department.

23. **Prior to recordation of the final map**, the applicant shall submit a monitoring plan prepared by a subsurface qualified archaeologist, for the review and approval of the Environmental Coordinator. The monitoring plan shall apply to both tract improvements and individual lot development. The monitoring plan shall include:
- 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.
24. **Prior to recordation of the final map**, the applicant shall submit a final "will-serve" letter from the Nipomo Community Services District to the Environmental Health Division.

Additional Map Sheet

25. 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. **Prior to issuance of construction permits**, the applicant shall submit a design plan for the noise wall demonstrating the use of visual articulation design elements, dark and muted-colored materials to minimize the visual obtrusiveness of the wall.
 - b. **Prior to issuance of construction permits**, the applicant shall submit a final color and materials board including the use of muted exterior and roof colors.
 - c. **Prior to final inspection**, the applicant shall implement the approved landscape plan and color and materials board.
 - d. **Prior to issuance of construction permits**, 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. 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.
 - v. 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.

- vi. 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.
 - vii. 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.
 - viii. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.
 - ix. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or 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.
 - x. Wheel washers shall be installed where vehicles enter and exit unpaved roads onto streets, or trucks and equipment shall be washed off before leaving the site.
 - xi. Streets shall be swept at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.
- e. **Prior to issuance of construction permits**, the following notes shall be shown on grading and building plans for implementation during grading and construction activities:
- i. All construction equipment shall be properly maintained and tuned according to manufacturer's specifications.
 - ii. All off-road and portable diesel powered equipment, including but not limited to, bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets, compressors, and auxiliary power units shall be fueled exclusively with California Air Resources Board (CARB) motor vehicle diesel fuel.
 - iii. The use of diesel construction equipment meeting the CARB's 1996 certification standard for off-road heavy-duty diesel engines shall be maximized to the extent feasible.
 - iv. Diesel oxidation catalysts (DOC), catalyst diesel particulate filters (CDPF) or other APCD approved emission reduction retrofit device shall be installed on the two pieces of equipment projected to generate the most emissions. Prior to the start of the project the project applicants shall submit an equipment list and retrofit proposal to the APCD for approval prior to the installation of the filters. The filter shall be installed prior to the start of the project.
- f. **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).
- g. **Prior to issuance of grading and construction permits**, the applicant shall submit the results of a geologic evaluation conducted to determine if 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 applicant 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.

- h. **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.
- i. **Prior to issuance of grading and construction permits**, 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. Portable generators
 - ii. IC engines
 - iii. Unconfirmed abrasive blasting operations
 - iv. Concrete batch plants
 - v. Rock and pavement crushing
 - vi. Tub grinders
 - vii. Trommel screens
- j. **Prior to issuance of grading and construction permits**, the following measures shall be shown on an additional map sheet and incorporated into applicable construction plans, where feasible:
- i. Provide on-site bicycle parking. One bicycle parking space for every ten car parking spaces is considered appropriate.
 - ii. Provide on-site eating, refrigeration and food vending facilities to reduce lunchtime trips.
 - iii. Provide preferential carpool and vanpool parking.
 - iv. Provide shower and locker facilities to encourage employees to bike and/or walk to work, typically one shower and three lockers for every 25 employees.
 - v. Increase building energy efficiency rating by 10 percent above what is required by Title 24 requirements. This can be accomplished in a number of ways, such as increasing attic, wall, or floor insulation.
 - vi. Increased street tree planting.
 - vii. Plant shade trees in parking lots to reduce evaporative emissions from parked vehicles.
 - viii. Install an electrical vehicle charging station with both conductive and inductive charging capabilities.
 - ix. Provide on-site banking (ATM) and postal services.
 - x. Provide an on-site child care facility.
 - xi. Increase number of bicycle routes/lanes.
 - xii. Provide on-site housing for employees.
 - xiii. If the project is located on an established transit route, improve public transit accessibility by providing transit turnouts with direct pedestrian access to project or improve transit stop amenities.
 - xiv. Implement on-site circulation design elements in parking lots to reduce vehicle queuing and improve the pedestrian environment.
 - xv. Provide pedestrian signalization and signage to improve pedestrian safety.
- k. **Prior to and issuance of grading and construction permits**, the following measures shall be shown on an additional map sheet, to be implemented during operation of the proposed project, where feasible:
- i. Employ or appoint an Employee Transportation Coordinator.
 - ii. Implement a Transportation Choices Program. The applicant should work with the Transportation Choices Coalition partners for free consulting services on how to start and maintain a program. Contact SLO Regional Rideshare at 541-

2277.

- iii. Provide for shuttle/mini bus service.
 - iv. Provide incentives to employees to carpool/vanpool, take public transportation, telecommute, walk, bike, etc.
 - v. Implement compressed work schedules.
 - vi. Implement telecommuting program.
 - vii. Implement a lunchtime shuttle to reduce single occupant vehicle trips.
 - viii. Participate in an employee "flash-pass" program, which provides free travel on transit buses.
 - ix. Include teleconferencing capabilities, such as web cams or satellite linkage, which will allow employees to attend meetings remotely without requiring them to travel out of the area.
 - x. Replace diesel fleet vehicles with cleaner fueled low emission vehicles (i.e. school buses, transit buses, on- and off- road heavy duty vehicles, lighter duty trucks and passenger vehicles).
 - xi. Retrofit existing equipment to reduce emissions using methods such as particulate filters, oxidation catalysts, or other approved technologies.
- i. Prior to issuance of grading and construction permits**, the following measures shall be shown on an additional map sheet and incorporated into applicable construction plans, where feasible:
- i. Plant shade trees along the southern exposures of buildings to reduce summer cooling needs.
 - ii. Use roof material with a solar reflectance value meeting the EPA/DOE Energy Star® rating to reduce summer cooling needs.
 - iii. Use built-in energy efficient appliances, where applicable.
 - iv. Use double-paned windows.
 - v. Use low energy parking lot and street lights (i.e. sodium).
 - vi. Use energy efficient interior lighting.
 - vii. Use low energy traffic signals (i.e. light emitting diode).
 - viii. Install door sweeps and weather stripping if more efficient doors and windows are not available.
 - ix. Install high efficiency or gas space heating
- m. Prior to final inspection**, the applicant shall replace, in kind at a 4:1 ratio three coast live oak trees removed as a result of the development of the project, for a total of 12 replacement trees. No more than three coast live oak trees shall be removed as a result of the development of the project. Replanting shall be completed as soon as it is feasible (e.g. irrigation water is available, grading done in replant area). Replant areas shall be either in native topsoil or areas where native topsoil has been reapplied. If the latter, top soil shall be carefully removed and stockpiled for spreading over graded areas to be replanted (set aside enough for 6-12" layer).
- n. Location of newly planted trees** should adhere to the following, whenever possible: on the north side of and at the canopy/dripline edge of existing mature native trees; on north-facing slopes; within drainage swales (except when riparian habitat present); where topsoil is present; and away from continuously wet areas (e.g. lawns, leach lines). These newly planted trees shall be maintained until successfully established. This shall include protection (e.g. tree shelters, caging) from animals (e.g., deer, rodents), regular weeding (minimum of once early Fall and once early Spring) of at least a three-foot radius out from plant and adequate watering (e.g., drip-irrigation system). Watering should be controlled so only enough is used to initially establish the tree, and reducing to zero over a three-year period. If possible, planting during the warmest, driest months (June through September) shall be

- avoided. In addition, standard planting procedures (e.g., planting tablets, initial deep watering) shall be used.
- o. Prior application for construction permits**, a cost estimate for a oak tree planting plan, installation of new trees, and maintenance of new trees for a period of seven years shall be prepared by a qualified individual (e.g., landscape contractor) and shall be reviewed and approved by the County Department of Planning and Building. Prior to issuance of construction permits, a performance bond, equal to the cost estimate, shall be posted by the applicant.
 - p. Prior to commencement of any tree removal**, to avoid conflicts with nesting raptors, construction activities shall not be allowed during to the nesting season (March to July), unless a county-approved, qualified biologist has surveyed the impact zone and determined that no nesting activities will be adversely impacted. At such time, if any evidence of nesting activities are found, the biologist will determine if any construction activities can occur during the nesting period and to what extent. The results of the surveys will be passed immediately to (optional - the CDFG and) 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.
 - q. During all ground disturbing construction activities**, the applicant shall retain a qualified archaeologist, approved by the Environmental Coordinator, 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 mitigations as required by the Environmental Coordinator.
 - r. Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection**, as applicable, 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.
 - s. Prior to issuance of grading permits for tract improvements**, the applicant shall submit a copy of the approved Stormwater Pollution Prevention Plan (SWPPP).
 - t. Prior to issuance of building permits**, 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.
 - u. 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.

- v. The following uses shall not be permitted in the same building as residential quarters: nail salons; dry-cleaners; coffee roasters; furniture refurbishing/refinishing; or, any type of spray paint operations.
- w. The following uses shall be reviewed and approved by the APCD prior to issuance of use permit: food and beverage preparation; dry cleaners; generators; boilers; sterilization unit(s) using ethylene oxide and incinerator(s); and, IC engines.

Covenants, Conditions and Restrictions

- 26. 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. Maintenance of drainage basin landscaping.
 - b. Maintenance of common areas.
 - c. Maintenance of all local streets within the project.
 - d. Notification to prospective buyers that an additional map sheet was recorded with the final parcel or tract map. The restrictions, conditions and standards set forth in the additional map sheet apply to future development. It is the responsibility of the prospective buyers to read the information contained on the additional map sheet.

Miscellaneous

- 28. 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.
- 29. A stormwater pollution plan may be necessary from the Regional Water Quality Control Board. Provide evidence that it has been obtained or is unnecessary prior to filing the map.
- 30. All timeframes on approved tentative maps for filing of final parcel or tract maps are measured from the date the Review Authority approves the tentative map, not from any date of possible reconsideration action.
- 31. Prior to recordation of final map, work with the Regional Transit Authority (RTA) to provide a bus stop or in-lieu fee as determined by the RTA and the Director of Planning and Building.
- 32. All required Traffic Impact Fees shall be paid prior to Map recordation.

FINDINGS - EXHIBIT C

Environmental Determination

- A. This project is found to be consistent with the previously approved Mitigated Negative Declaration for Tentative Tract Map and Conditional Use Permit SUB2003-00314 / TR 2652 (ED 04-309).

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 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 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 on Juniper Street and Mary Avenue, collector roads constructed to a level able to handle any additional traffic associated with the project

Residential in Commercial Retail or Office and Professional land use categories

- G. The proposed use will not significantly reduce the community inventory of office / commercial property available to satisfy the commercial needs of the population envisioned by the Land Use Element of the General Plan, because the residential development is subordinate to the primary commercial and office use.
- H. The proposed use will not impede the continuing orderly development of community shopping areas with commercial and office uses, because the proposed mixed use project will contribute to and enhance the community shopping and office opportunities of the community.

Adjustments

- I. The modified height of 55 feet will not exceed the lifesaving equipment capabilities of the California Department of Forestry, because 1) the proposed tower is appropriately incorporated into the project and will enhance the architectural design of the structures; 2) the design of the buildings includes multiple building levels that allow for roof and tower access and all portions of structures can be reached with 16-feet of vertical reach.

EXHIBIT D - CONDITIONS OF APPROVAL

Conditional Use Permit SUB2006-00067 (Landev LLC)

Approved Development

1. This approval authorizes
 - a. A mixed use development including: a three-story, 128,162-square foot assisted living/memory support facility; a 19,850-square foot themed restaurant and conference facility; and, 120,728 square feet of retail, office, and professional buildings.
 - b. maximum height is 55 from average natural grade.
2. Proposed specific uses of the structures shall be subject to review and approval of the change in building occupancy by the Building Division of the Department of Planning and Building prior to issuance of a business license. Proposed uses shall also be subject to the review and approval of the Department of Planning and Building to determine conformity with applicable planning area standard, Land Use Ordinance requirements, and conditions of this approval.

Site Development

3. **At the time of application for construction permits**, submit a revised site plan to the Department of Planning and Building for review and approval. The revised plan shall indicate the following and development shall be consistent with this revised and approved plan:
 - a. Magenta Avenue constructed to a minimum 2/3 A-2 road section within a minimum 50 foot dedicated right-of-way fronting the property and construct an A-6b knuckle at the intersection with Primrose Lane.
 - b. Mary Avenue widened to a 46-foot minimum road section between Tefft Street and Juniper Street to provide two 5-foot bike lanes, two 12-foot travel lanes, and one 12-foot center left turn lane. Mary Avenue shall be widened to a 58-foot minimum road section at its intersections with Tefft Street and Juniper Street to provide an additional 12-foot right turn lane at each location. The length of the right turn lane shall be coordinated with the County Traffic Engineer.
 - c. Tefft Street widened to provide a westbound 12-foot right turn lane onto Mary Avenue. The length of the right turn lane shall be coordinated with the County Traffic Engineer.
 - d. Juniper Street widened to complete the project side of an A-3b11 section (without parking), with additional widening to provide an eastbound 12-foot right turn lane onto Mary Avenue (the length of the right turn lane shall be coordinated with the County Traffic Engineer), and provide an A-6b knuckle at its' intersection with North Frontage Road.
 - e. A minimum 4-foot wide asphalt pedestrian walkway meeting ADA requirements shall be constructed within the North Frontage Road right-of-way to connect the new sidewalk improvements on Juniper Street southerly to the existing asphalt pedestrian trail.
4. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that

neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

5. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan, prepared by the CDF/County Fire Department for this proposed project and dated June 27, 2004.

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.

Grading, Drainage, Sedimentation and Erosion Control

7. **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 of drainage in an on-site basin designed in accordance with county standards and approved by the county Public Works.
 - 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.

Conditions to be completed prior to issuance of a construction permit

8. **Prior to issuance of construction permits**, the applicant shall submit a design plan for the noise wall demonstrating the use of visual articulation design elements, dark and muted-colored materials to minimize the visual obtrusiveness of the wall.
9. **Prior to issuance of construction permits**, the applicant shall submit a final color and materials board including the use of muted exterior and roof colors.
10. **Prior to issuance of construction permits**, 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.
- a. Reduce the amount of disturbed area where possible.

- b. 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.
 - b. All dirt stock-pile areas shall be sprayed daily as needed.
 - c. 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.
 - d. 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.
 - e. 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.
 - f. 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.
 - g. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.
 - h. All trucks hauling dirt, sand, soil, or other loose materials are to 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.
 - i. Wheel washers shall be installed where vehicles enter and exit unpaved roads onto streets, or trucks and equipment shall be washed off before leaving the site.
 - j. Streets shall be swept at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.
11. **Prior to issuance of construction permits**, the following notes shall be shown on grading and building plans for implementation during grading and construction activities:
 - a. All construction equipment shall be properly maintained and tuned according to manufacturer's specifications.
 - b. All off-road and portable diesel powered equipment, including but not limited to, bulldozers, graders, cranes, loaders, scrapers, backhoes, generator sets, compressors, and auxiliary power units shall be fueled exclusively with California Air Resources Board (CARB) motor vehicle diesel fuel.
 - c. The use of diesel construction equipment meeting the CARB's 1996 certification standard for off-road heavy-duty diesel engines shall be maximized to the extent feasible.
 - d. Diesel oxidation catalysts (DOC), catalyst diesel particulate filters (CDPF) or other APCD approved emission reduction retrofit device shall be installed on the two pieces of equipment projected to generate the most emissions. Prior to the start of the project the project applicants shall submit an equipment list and retrofit proposal to the APCD for approval prior to the installation of the filters. The filter shall be installed prior to the start of the project.
12. **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).
13. **Prior to issuance of grading and construction permits**, 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 applicant 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.

14. **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.
15. **Prior to issuance of grading and construction permits**, 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:
 - a. Portable generators
 - b. IC engines
 - c. Unconfirmed abrasive blasting operations
 - d. Concrete batch plants
 - e. Rock and pavement crushing
 - f. Tub grinders
 - g. Trommel screens
16. **Prior to issuance of grading and construction permits**, the following measures shall be shown on an additional map sheet and incorporated into applicable construction plans where feasible:
 - a. Provide on-site bicycle parking. One bicycle parking space for every ten car parking spaces is considered appropriate.
 - b. Provide on-site eating, refrigeration and food vending facilities to reduce lunchtime trips.
 - c. Provide preferential carpool and vanpool parking.
 - d. Provide shower and locker facilities to encourage employees to bike and/or walk to work, typically one shower and three lockers for every 25 employees.
 - e. Increase building energy efficiency rating by 10 percent above what is required by Title 24 requirements. This can be accomplished in a number of ways, such as increasing attic, wall, or floor insulation.
 - f. Increased street tree planting.
 - g. Plant shade trees in parking lots to reduce evaporative emissions from parked vehicles.
 - h. Install an electrical vehicle charging station with both conductive and inductive charging capabilities.
 - i. Provide on-site banking (ATM) and postal services.
 - j. Provide an on-site child care facility.
 - k. Increase number of bicycle routes/lanes.
 - l. Provide on-site housing for employees.
 - m. If the project is located on an established transit route, improve public transit accessibility by providing transit turnouts with direct pedestrian access to project or improve transit stop amenities.
 - n. Implement on-site circulation design elements in parking lots to reduce vehicle queuing and improve the pedestrian environment.
 - o. Provide pedestrian signalization and signage to improve pedestrian safety.

17. **Prior to issuance of grading and construction permits**, the following measures shall be shown on an additional map sheet, to be implemented during operation of the proposed project, where feasible:
 - a. Employ or appoint an Employee Transportation Coordinator.
 - b. Implement a Transportation Choices Program. The applicant should work with the Transportation Choices Coalition partners for free consulting services on how to start and maintain a program. Contact SLO Regional Rideshare at 541-2277.
 - c. Provide for shuttle/mini bus service.
 - d. Provide incentives to employees to carpool/vanpool, take public transportation, telecommute, walk, bike, etc.
 - e. Implement compressed work schedules.
 - f. Implement telecommuting program.
 - g. Implement a lunchtime shuttle to reduce single occupant vehicle trips.
 - h. Participate in an employee "flash-pass" program, which provides free travel on transit buses.
 - i. Include teleconferencing capabilities, such as web cams or satellite linkage, which will allow employees to attend meetings remotely without requiring them to travel out of the area.
 - j. Replace diesel fleet vehicles with cleaner fueled low emission vehicles (i.e school buses, transit buses, on- and off- road heavy duty vehicles, lighter duty trucks and passenger vehicles).
 - k. Retrofit existing equipment to reduce emissions using methods such as particulate filters, oxidation catalysts, or other approved technologies.

18. **Prior to issuance of grading and construction permits**, the following measures shall be shown on an additional map sheet and incorporated into applicable construction plans where feasible:
 - a. Plant shade trees along the southern exposures of buildings to reduce summer cooling needs.
 - b. Use roof material with a solar reflectance value meeting the EPA/DOE Energy Star® rating to reduce summer cooling needs.
 - c. Use built-in energy efficient appliances, where applicable.
 - d. Use double-paned windows.
 - e. Use low energy parking lot and street lights (i.e. sodium).
 - f. Use energy efficient interior lighting.
 - g. Use low energy traffic signals (i.e. light emitting diode).
 - h. Install door sweeps and weather stripping if more efficient doors and windows are not available.
 - i. Install high efficiency or gas space heating

19. **Prior application for construction permits**, a cost estimate for a oak tree planting plan, installation of new trees, and maintenance of new trees for a period of seven years shall be prepared by a qualified individual (e.g., landscape contractor) and shall be reviewed and approved by the County Department of Planning and Building. Prior to issuance of construction permits, a performance bond, equal to the cost estimate, shall be posted by the applicant.

20. **Prior to commencement of any tree removal**, to avoid conflicts with nesting raptors, construction activities shall not be allowed during to the nesting season (March to July), unless a county-approved, qualified biologist has surveyed the impact zone and determined that no nesting activities will be adversely impacted. At such time, if any evidence of nesting activities are found, the biologist will determine if any construction activities can occur during the nesting period and to what extent. The results of the surveys will be passed immediately to (optional - the CDFG and) 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.

21. **During all ground disturbing construction activities**, the applicant shall retain a qualified archaeologist, approved by the Environmental Coordinator, 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 mitigations as required by the Environmental Coordinator.
22. **Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection**, as applicable, 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.
23. **Prior to issuance of grading permits for tract improvements**, the applicant shall submit a copy of the approved Stormwater Pollution Prevention Plan (SWPPP).
24. **Prior to issuance of building permits**, 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.
25. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
26. **Prior to issuance of construction permits**, if grading is to occur between October 15 to April 15, a sedimentation and erosion control plan shall be submitted pursuant to Coastal Zone Land Use Ordinance Section 23.05.036.
27. **Prior to issuance of construction permits for the restaurants**, the applicant shall submit the construction plans to the County Environmental Health Department for review and approval.

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

28. **Prior to final inspection**, the applicant shall implement the approved landscape plan and color and materials board.
29. **Prior to final inspection**, the applicant shall replace, in kind at a 4:1 ratio three coast live oak trees removed as a result of the development of the project, for a total of 12 replacement trees. No more than three coast live oak trees shall be removed as a result of the development of the project. Replanting shall be completed as soon as it is feasible (e.g. irrigation water is available, grading done in replant area). Replant areas shall be either in native topsoil or areas where native topsoil has been reapplied. If the latter, top soil shall be carefully removed and stockpiled for spreading over graded areas to be replanted (set aside enough for 6-12" layer).

30. Location of newly planted trees should adhere to the following, whenever possible: on the north side of and at the canopy/dripline edge of existing mature native trees; on north-facing slopes; within drainage swales (except when riparian habitat present); where topsoil is present; and away from continuously wet areas (e.g. lawns, leach lines). These newly planted trees shall be maintained until successfully established. This shall include protection (e.g. tree shelters, caging) from animals (e.g., deer, rodents), regular weeding (minimum of once early Fall and once early Spring) of at least a three-foot radius out from plant and adequate watering (e.g., drip-irrigation system). Watering should be controlled so only enough is used to initially establish the tree, and reducing to zero over a three-year period. If possible, planting during the warmest, driest months (June through September) shall be avoided. In addition, standard planting procedures (e.g., planting tablets, initial deep watering) shall be used.
31. 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.
32. **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.
33. **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.
34. **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.

Grading, Drainage, Sedimentation and Erosion Control

35. All areas disturbed by grading activities shall be revegetated with temporary or permanent erosion control devices.

Fencing

36. **Prior to occupancy or final inspection**, provide a final fencing plan for the site.
37. **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.