

RESOLUTION NO. 10046 (2008 Series)

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN LUIS OBISPO
APPROVING A MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL
IMPACT AND TENTATIVE TRACT MAP TO CREATE 23 COMMERCIAL LOTS
LOCATED AT 143, 151 & 163 SUBURBAN ROAD (TR/ER 74-07)**

WHEREAS, the Planning Commission of the City of San Luis Obispo conducted a public hearing in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on October 22, 2008, and recommended approval of Application TR/ER 74-07, a request to create 23 commercial lots with exceptions; and

WHEREAS, the City Council of the City of San Luis Obispo conducted a public hearing in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on December 2, 2008, for the purpose of considering Application TR/ER 74-07; and

WHEREAS, the City Council has reviewed and considered the Mitigated Negative Declaration of environmental impact for the project, as prepared by staff and reviewed by the Planning Commission; and

WHEREAS, the Council has duly considered all evidence, including the recommendation of the Planning Commission, testimony of interested parties, and the evaluation and recommendations by staff, presented at said hearing; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of San Luis Obispo as follows:

SECTION 1. Findings. Based upon all the evidence, the Council makes the following findings:

1. The design of the tentative tract map is consistent with the General Plan because the proposed parcel configuration is consistent with the building intensity anticipated by the Land Use Element, will not increase traffic in residential areas and does not change allowable land uses.
2. The site is physically suited for the proposed type and density of development because 143 & 151 Suburban are already developed with several large commercial buildings, parking and landscaping, and 163 Suburban is a vacant commercial site located adjacent to an existing street right-of-way with complete City services.
3. The design of the tentative tract map is not likely to cause serious health problems, substantial environmental damage or substantially and unavoidable injure fish or wildlife or their habitat because the site does not have any creeks or other potentially significant habitat areas for fish and wildlife, is surrounded by urban development and has already been developed with several large commercial buildings, parking and landscaping.

4. The design of the subdivision will not conflict with easements for access through (or use of property within) the proposed subdivision since all adjacent properties are accessed independently and the resulting parcels will have separate street frontage and access from Suburban Road and Earthwood Lane.
5. The property to be divided is of such size or shape, or is affected by such topographic conditions, that it is impossible, impractical or undesirable, in the particular case, to conform to the strict application of the regulations codified in the Subdivision Ordinance because the vacant portion of the site adjacent to Suburban Road has an irregular (narrow) shape that constrains the ability to provide for a standard street section and conforming lot depths.
6. The cost to the subdivider of strict or literal compliance with the regulations is not the sole reason for granting the modification because other findings are made to support approval and the exceptions are minor in nature and constitute only 2 out of 23 lots.
7. The modification will not be detrimental to the public health, safety and welfare, or be injurious to other properties in the vicinity since the exceptions will allow for a complete standard street section that will provide for adequate emergency vehicle access.
8. Granting the modification is in accord with the intent and purposes of these regulations, and is consistent with the general plan and with all applicable specific plans or other plans of the City, because the exceptions will facilitate the construction of a complete standard street section consistent with the AASP and does not grant special privileges or modify allowable land uses within the existing M-SP zoning district.
9. A Mitigated Negative Declaration was prepared by the Community Development Department on September 15, 2008. As recommended by the Planning Commission, the City Council finds and determines that the project's Mitigated Negative Declaration adequately addresses the potential significant environmental impacts of the proposed project.

SECTION 2. Environmental Determination. The City Council finds and determines that the project's Mitigated Negative Declaration adequately addresses the potential significant environmental impacts of the proposed project, and reflects the independent judgment of the City Council. The Council hereby adopts said Mitigated Negative Declaration and incorporates the following mitigation measures and monitoring programs into the project:

Air Quality

1. The project site is located in a candidate area for Naturally Occurring Asbestos (NOA), which has been identified as a toxic air contaminant by the California Air Resources Board (ARB). Under the ARB Air Toxic Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, prior to any grading activities at the site, the project proponent shall ensure that a geologic evaluation is conducted to determine if NOA is present within the area that will be disturbed. If NOA is not present, an exemption request

must be filed with APCD. If NOA is found at the site the applicant must comply with all requirements outlined in the Asbestos ATCM.

2. Construction activities can generate fugitive dust, which could be a nuisance to local residents and businesses in close proximity to the proposed construction site. The following mitigation measures will adequately control dust and minimize potential violations for the project. All of these fugitive dust (PM10) mitigation measures must be included on grading and building plans. In addition, the contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust off site. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone of such persons shall be provided to the APCD prior to land use clearance for map recordation and grading.

- (A) Reduce the amount of the disturbed area where possible.
- (B) Use water truck or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water shall 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) 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) Vehicle speed for all vehicles shall not exceed 15 mph on any unpaved surface at the site.
- (G) All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC section 23114.
- (H) Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast-germinating native grass seed and watered until vegetation is established.
- (I) Plant shade trees along southern exposures of buildings to reduce summer cooling needs as well as planting trees on both sides of the roads to reduce the reflective radiating heat of asphalt roads.
- (J) Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.
- (K) Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.

3. The standard construction equipment mitigation measures for reducing nitrogen oxide (NOx) emissions are listed below and in section 6.3.1 of the Air Quality Handbook. These measures are applicable to all projects where construction equipment will be used.

- (A) Maintain all construction equipment in proper tune according to manufacturer's specifications.
- (B) Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road).
- (C) Maximize to the extent feasible, the use of diesel construction equipment meeting ARB's 1996 and newer certification standard for off-road heavy-duty diesel engines.
- (D) Maximize to the extent feasible, the use of on-road heavy-duty equipment and trucks that meet the ARB's 1998 or newer certification standard for on-road heavy-duty diesel engines.
- (E) All on and off-road diesel equipment shall not be allowed to idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and/or job sites to remind drivers and operators of the 5 minute idling limit.

4. Develop a comprehensive Construction Activity Management Plan for the future development of the individual lots (not the roadway and other public improvements) designed to minimize the amount of large construction equipment operating during any given time period. The plan shall be submitted to the APCD for review and approval prior to the start of construction. The plan shall include, but not be limited to, the following elements:

- (A) Schedule construction truck trips during non-peak hours to reduce peak hour emissions.
- (B) Limit the length of the construction work-day period, if necessary.
- (C) Phase construction activities, if appropriate.

5. APCD has determined the operational impacts of the project through the use of URBEMIS2007 computer model, a tool for estimating vehicle travel, fuel use and the resulting emissions related to this project's land uses. The results of the model using conservative County average trip distances demonstrated that the operational impacts will likely exceed APCD's CEQA Tier I significant threshold value of 10 lbs/day for NOx, reactive organic gases (ROG) and PM10. As a result of this estimated threshold exceedence, this project must implement all applicable Standard Mitigation Measures and at least 10 Discretionary Mitigation Measures listed below.

Standard Mitigation Measures (All Required)

- (A) Provide on-site bicycle parking at a rate of one bicycle parking space for every 10 car parking spaces.
- (B) Provide on-site eating, refrigeration and food vending facilities to reduce employee lunchtime trips.
- (C) Provide preferential carpool and vanpool parking spaces.
- (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 the building energy efficiency rating by 10% above what is required by Title 24 requirements. This can be accomplished in a number of ways (increasing attic,

wall, or floor insulation, installing double pane windows, using efficient interior lighting, etc.).

Discretionary Mitigation Measures (At Least 10 Required)

- (A) Provide on-site bicycle parking at a rate of one bicycle parking space for every 10 car parking spaces.
- (B) Increase street shade tree planting.
- (C) Increase shade tree planting in parking lots to reduce evaporative emissions from parked vehicles.
- (D) Provide on-site banking (ATM) and postal services.
- (E) Provide on-site child care facilities for employees.
- (F) Provide on-site housing for employees.
- (G) Implement on-site circulation design elements in parking lots to reduce vehicle queuing and improve the pedestrian environment with designated walkways.
- (H) Provide pedestrian signalization and signage to improve pedestrian safety.
- (I) If the project is located on an established transit route, improve public transit accessibility by providing a transit turnout with direct pedestrian access to the project or improve existing transit stop amenities.
- (J) Provide incentives to employees to carpool/vanpool, take public transportation, telecommute, walk, bike, etc by implementing the Transportation Choices Program. The applicant should Contact SLO Regional Rideshare at 541-2277 to receive free consulting services on how to start and maintain a program.
- (K) Provide Transportation Choices Program information centers on alternative transportation modes at the site (i.e. a transportation kiosk). Contact SLO Regional Rideshare for appropriate materials at 541-2277.
- (L) Install an electric vehicle charging station with both conductive and inductive charging capabilities.
- (M) Employ or appoint an Employee Transportation Coordinator.
- (N) Implement an City approved Trip Reduction Program.
- (O) Provide for shuttle/mini bus service.
- (P) Increase the quality of existing bicycle routes/lanes or add bicycle routes/lanes which access the project.
- (Q) Implement compressed work schedules.
- (R) Implement a telecommuting program.
- (S) Implement a lunch-time shuttle to reduce single occupant vehicle trips.
- (T) Participate in an employee "flash pass" program, which provides free travel on transit buses.
- (U) 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.
- (V) If the development is a large grocery store or large retail facility, provide home delivery service for customers.

- (W) Shade tree planting along southern exposures of buildings to reduce summer cooling needs.
 - (X) Use roof material with a solar reflectance value meeting the EPA/DOE Energy Star® rating to reduce summer cooling needs.
 - (Y) Use built-in energy efficient appliances, where applicable.
 - (Z) Use double-paned windows.
 - (AA) Use low energy parking lot and street lights (e.g. sodium).
 - (BB) Use energy efficient interior lighting.
 - (CC) Use low energy traffic signals (e.g. light emitting diode).
 - (DD) Install door sweeps or weather stripping if more energy efficient doors and windows are not available.
 - (EE) Install high efficiency or gas space heating.
 - (FF) Replace diesel fleet vehicles with cleaner fueled low emission vehicles (e.g. school buses, transit buses, on and off road heavy duty vehicles, lighter duty trucks and passenger vehicles).
 - (GG) Retrofit existing equipment to reduce emissions through methods such as catalyzed diesel particulate filters, diesel oxidation catalysts, or other approved technologies.
- **Monitoring Program:** Construction phase air quality mitigation measures are monitored by the Air Pollution Control District (APCD), through a complaint based enforcement system. Plans submitted for a building or grading permit must be accompanied with all required APCD approvals and show compliance with the requirements listed above. The City Building Inspector and Public Works Inspector for the project are instructed to contact APCD in the event of a probable violation. Members of the public can also call APCD if they are concerned about dust or other emissions from a construction site.

Geology and Soils

6. Building plans and specifications for common tract improvements shall incorporate all recommendations included in the Soils Engineering Report prepared by Earth Systems Pacific dated May 8, 2007, subject to the approval of the Chief Building Official.
 7. Soils engineering reports shall be submitted with each building permit application for individual lot development, subject to the approval of the Chief Building Official.
- **Monitoring Program:** Project plans submitted for building permits will be reviewed for compliance with these requirements by Community Development Department staff.

SECTION 3. Action. The Council does hereby approve Application TR/ER 74-07 with incorporation of the following conditions and code requirements into the project:

Conditions:

1. The use of well water for irrigation purposes from the existing well on Lot 1 to serve Lots 22 and 23 is not allowed per City policy. Policy 1.15.1 in the Water and Wastewater Element of the General Plan contains provisions that may allow a single well on either Lot 22 or Lot 23 to serve the irrigation needs of both lots, subject to approval by the Utilities Director.
2. Pursuant to Government Code Section 66474.9(b), the subdivider shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action or proceeding against the City and/or its agents, officers or employees to attack, set aside, void or annul, the approval by the City of this subdivision, and all actions relating thereto, including but not limited to environmental review.
3. The proposed project shall comply with post-development stormwater treatment in accordance with City Standard 1010B. Include complete details, detail references and plan notes for the proposed BMPs and improvements necessary to provide reasonable stormwater treatment. Revise the site plan, civil plans, utility plans, and landscape plans to recognize all proposed treatment measures. The plans may include but are not limited to infiltration, detention and settling, biofiltration, filtration, and flow-through separation.
4. The new draft Water Quality Board State Construction Permit requires dischargers to replicate the pre-project runoff water balance (for this permit, defined as the amount of rainfall that ends up as runoff) for the smallest storms up to the 85th percentile storm event (or the smallest storm event that generates runoff, whichever is larger). Depending upon the time of application to record the parcel map and/or timing to complete the construction of public improvements, the project may be subject to the new Board regulations.
5. A separate covenant agreement to install the ultimate street improvements upon the continuation of the street shall be recorded in conjunction with the recordation of the map. The public improvement plans shall include any additional detailing required to complete said future improvements.

Code Requirements:

1. Any building permits issued for work required to satisfy the conditions of the subdivision shall receive final inspection approvals or shall have substantially completed all work to the satisfaction of the Building Official prior to recordation of the map.
2. The area of the hammerhead fire apparatus turn-around on Earthwood shall be posted "No Parking Fire Lane".
3. A complete subdivision improvement plan, prepared by a registered civil engineer, shall be submitted to the Public Works Department for review and approval. All grades, layout, staking and cut-sheets necessary for the construction of street paving and frontage improvements shall be the responsibility of the developer. The subdivision improvement plan shall include all public and private subdivision improvements in accordance with the

tentative map, conditions of approval, the Subdivision Map Act, City Subdivision Regulations, Airport Area Specific Plan and all local codes and ordinances.

4. New wire utilities outside the subdivision boundaries, but necessary to provide service to the subdivision shall be completed with no net increase in the number of utility poles unless otherwise approved by the Public Works Department.
5. Separate utilities, including water, sewer, gas, electricity, telephone, and cable TV shall be served to each parcel to the satisfaction of the Public Works Director and serving utility companies. Utilities to new or existing structures shall be underground unless otherwise excepted by City ordinance.
6. Street lighting and all associated facilities including conduits, sidewalk vaults, fusing, wiring, and luminaries shall be provided on the westerly side of the proposed driveway approach per City Standards. The light shall be spaced to honor the existing street light locations and to provide reasonable separation between the existing lights. Off-site street lighting improvements, alterations, or upgrades may be required along roadways leading to and from the proposed development to complete the necessary public improvements.
7. The existing driveway approaches located along the frontage of proposed Parcel 23 and serving the existing development shall be upgraded or replaced to comply with current City and ADA standards. Current standards require a minimum 4' level sidewalk extension behind the driveway approach.
8. A public pedestrian easement shall be recorded with the map if adequate right-of-way does not exist for any proposed ADA sidewalk extension that will occur on private property and outside of the existing public right-of-way.
9. The subdivider shall dedicate a 15' wide public utility easement and a 10' wide street tree easement across the frontage of each parcel. These easements shall be adjacent to and contiguous with all public right-of-way lines bordering each parcel.
10. A private sewer mainline may be proposed in lieu of separate sewer laterals for each unit. If proposed or required by the Utilities Director, the on-site sewer main shall be privately owned and maintained by the Homeowner's Association.
11. A maintenance agreement for any private utilities, paving, landscape improvements, storm drain systems, detention basins, and any other common improvements must be recorded prior to or concurrent with the recordation of the map.
12. The public improvement plan submittal shall include an erosion control plan and erosion control notes in accordance with the Waterways Management Plan Drainage Design Manual and to the satisfaction of the Building Official and Public Works Director.

13. EPA Requirement: General Construction Activity Storm Water Permits are required for all stormwater discharges associated with a construction activity where clearing, grading and excavation results in land disturbance of one or more acres. Stormwater discharges of less than one acre, but which are part of a larger common plan of development or sale, also require a permit. Permits are required until the construction is complete. To be covered by a General Construction Activity Permit, the owners of land where construction activity occurs must submit a completed "Notice of Intent" (NOI) form, with the appropriate fee, to the State Water Resources Control Board (SWRCB).
14. A copy of the Stormwater Pollution Prevention Plan (SWPPP) required by the SWRCB shall be included as part of the building and/or grading permit plan submittal. The WDID Number issued by the Board shall be noted on all plans that involve regulated land disturbing activities.
15. The proposed street trees and any parkway landscaping shall be installed and maintained by the Property Owner Association or shall otherwise be covered by a maintenance agreement to be recorded prior to or concurrent with the recordation of the map. The maintenance agreement shall include watering of the trees and common area landscape, at least during the establishment period and/or until responsibility may be reasonably transferred to the adjoining property owner(s).
16. Tree protection measures must be implemented to the satisfaction of the City Arborist. The City Arborist shall review and approve the proposed tree protection measures prior to any demolition, grading, or construction. The City Arborist must approve any safety pruning, the cutting of substantial roots, or grading within the dripline of trees. A City-approved arborist must complete safety pruning. Any required tree protection measures shall be noted on the public improvement plans. Contact the City Arborist at 781-7023 to review and to establish preservation measures to be included with the public improvement plan submittal.


Upon motion of Vice Mayor Settle, seconded by Council Member Marx, and on the following roll vote:

AYES:	Council Members Ashbaugh, Carter and Marx, Vice Mayor Settle and Mayor Romero
NOES:	None
ABSENT:	None


The foregoing resolution was adopted this 2nd day of December 2008.


Mayor David F. Romero

ATTEST:


Audrey Hooper
City Clerk

APPROVED AS TO FORM:


Jonathan P. Lowell
City Attorney