

**RESOLUTION NO. 10140 (2010 Series)**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN LUIS OBISPO DENYING  
AN APPEAL OF THE PLANNING COMMISSION'S ACTION, UPHOLDING  
APPROVAL OF A SUBDIVISION CREATING THREE LOTS ON PROPERTY  
LOCATED AT 2410 JOHNSON, MS 78-09**

**WHEREAS**, the applicant, on August 5, 2009, submitted an application for a minor subdivision of a one-acre parcel into three conforming parcels in the R-1 zone; and

**WHEREAS**, the Hearing Officer, at an administrative hearing held in the Council Hearing Room of City Hall, 990 Palm Street, San Luis Obispo, California, on September 18, 2009, approved the tentative parcel map creating three lots from one lot; and

**WHEREAS**, Nancy Shokohi, Joseph & Barbara Boud, Maureen Eyermann, Kevin & Julie Elder, Steven & Paula Dooley, William & Barbara Herrerras, James & Marlene Killian, Chris & Alyssa Holland [appellants], filed a joint appeal of the Hearing Officer's action on September 28, 2009; and

**WHEREAS**, the Planning Commission of the City of San Luis Obispo at a public hearing held in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on October 28, 2009, denied the appeal and upheld the Hearing Officer's decision approving the tentative parcel map creating three lots from one lot; and

**WHEREAS**, Appellants filed a joint appeal of the Planning Commission's action on November 9, 2009; and

**WHEREAS**, the City Council conducted a public hearing on January 5, 2010, for the purpose of considering the appeal of the Planning Commission's action upholding the Hearing Officer's decision to allow a subdivision creating three lots on property located at 2410 Johnson (MS 78-09); and

**WHEREAS**, the City Council has duly considered all evidence, including the testimony of the appellant, interested parties, the records of the administrative hearing, the records of the Planning Commission hearing, and the evaluation and recommendations by staff, presented at said hearings.

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

**SECTION 1. Denial of Appeal.** The appeal of the Planning Commission's action denying an appeal and upholding the Hearing Officer's decision to allow a subdivision creating three lots on property located at 2410 Johnson is hereby denied based on the following findings:

1. The design of the tentative parcel map is consistent with the General Plan, which designates the area for low-density residential development and promotes infill development.

2. The sites are physically suited for the type and density of development allowed in the R-1 zone because the proposed parcels meet the minimum area, width and depth standards for lots with an average cross-slope of 16-20%.
3. The project is compatible with the neighborhood (LUE 2.2.10) because it intensifies development of a one-acre parcel in an area that has residential lots averaging 7,000 to 13,000 square feet, which were created by previous subdivisions. Furthermore, proposed Parcel One is bounded by houses on all sides that are built at the same or higher elevation contours.
4. The design of the tentative map and the proposed improvements are not likely to cause serious health problems, substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat because the sites do not have any creeks or other potentially significant habitat areas for fish and wildlife, are surrounded by urban development and have already been developed with one single-family dwelling and landscaping improvements.
5. As conditioned, the design of the subdivision will not conflict with easements for access through (or use of property within) the proposed subdivision since required easements will remain in place following the subdivision and will be applicable to the newly created parcels, and code requirements require the recordation of new easements and the relocation of utilities wherever necessary to the satisfaction of the Community Development Director and Public Works Department Director.
6. The tentative map is categorically exempt from environmental review (Class 15, Minor Land Divisions, Section 15315 of the CEQA Guidelines) because: no variances or exceptions are required; all services and access to the proposed parcels to local standards are available; the parcel was not involved in a division of a larger parcel within the previous two years; and the parcel does not have an average cross slope of greater than 20%.

**SECTION 2. Conditions and Code Requirements.** The denial of the appeal of the Planning Commission's decision, Application No. MS 78-09, is subject to the following conditions and code requirements applicable to the subdivision approval:

1. The Community Development Director has designated Parcels One, Two and Three as "sensitive sites". This status ensures that future infill development will respect existing site constraints, privacy for occupants and neighbors of the project, provide for adequate parking, and be compatible with the scale and character of the existing neighborhood. An application for architectural review will be required for all three parcels in accordance with Municipal Code Section 2.48.050. Development applications for Parcel One must be reviewed by the Architectural Review Commission.
2. Applications submitted for architectural review on Parcel One shall include housing designed not to exceed a 406-foot elevation at the highest point of the roof, to preserve

pleasant views from and towards the property (LUE 2.2.12), and remain consistent in character with the neighborhood.

3. The building footprint shown on Parcel One shall be reduced in size so that eventual housing development of the parcel will be setback at least 10 feet from the northeast property line. The driveway shall not be allowed within this required 10 foot setback.
4. Future development of Parcels One & Three shall provide one (1) additional on-site guest parking space per lot, subject to the approval of the Community Development Director.
5. Grading and site disturbance on all parcels shall be limited to that required for providing access, utilities, and drainage improvements to these parcels until complete development plans are submitted for review.
6. Grading associated with development of new structures shall be minimized to the smallest practical area of land for development on each parcel.
7. Existing overhead utility lines serving the house on Parcel 2 shall be undergrounded. Undergrounding of all wire utilities serving this subdivision shall be achieved without a net increase in the number of utility poles unless specifically approved by the city and serving utility companies.
8. The existing driveway approaches shall be abandoned. New curb, gutter, and sidewalk shall be installed per City Engineering Standards.
9. The proposed northerly approach shall be installed per City Engineering Standard #2111. The subdivision improvement plan submittal shall include a line-of-sight analysis of pedestrians located on the public sidewalk and/or ADA sidewalk for exiting vehicles.
10. The subdivision improvement plans and map shall show and honor the existing sump and berm area located at the northeast corner of proposed Parcel 2 that serves the upslope lots of Tract 1272. The final map shall include an additional drainage easement if the existing containment area and safe overflow for the storm drain system are not located within the existing easement area. Otherwise, the applicant shall demonstrate that the existing grading improvements are not necessary and shall propose a revised solution for the safe overflow.
11. It is highly recommended that a common driveway be provided to serve this development and the underdeveloped parcel to the north (2374 Johnson). The applicant shall exhaust all opportunity to provide and develop a common driveway with 2374 Johnson for the mutual benefit of both properties. Development costs shall not be considered as a reason to not pursue a common driveway unless it can be shown that the common improvements would be excessive in comparison to a driveway dedicated to serve the parcels within this subdivision.

12. Within the City right-of-way sewer laterals proposed to serve Parcels 1 and Parcel 2 must be no less than 16" on center.

13. A CCTV inspection of the existing sewer lateral proposed to serve Parcel 3 shall be submitted to the Building Division during the building permit process.

### **Code Requirements**

*The following code requirements are included for information purposes only. They serve to give the applicant a general idea of other City requirements that will apply to the project. This is not intended to be an exhaustive list as other requirements may be identified during the plan check process.*

1. Any required building permits for utility installations, relocations, or building alterations shall have all work completed and receive final inspection approvals to the satisfaction of the Building Official prior to recordation of the map.

2. The Shared driveway and the fire truck turn-around shall be conspicuously posted "NO PARKING – FIRE LANE CVC 22500".

3. A separate exhibit showing all existing public and private utilities shall be approved to the satisfaction of the Community Development Director and Public Works Director prior to recordation of the map. The utility plan shall include water, sewer, storm drains, site drainage, gas, electricity, telephone, cable TV, water wells/springs, , and any utility company meters for each parcel if applicable. The relocation of any utility shall be completed with proper permits prior to recordation of the map. Utilities shall not cross proposed property lines unless located within suitable easements. Easements, if proposed, shall be shown on the final map or shall be recorded concurrently to the satisfaction of the Community Development Director, Public Works Director and serving utility companies.

4. Final lot line locations and building setbacks shall consider building allowable area analysis, exterior wall protection, projections, and the location of building service equipment in accordance with the uniform codes and to the satisfaction of the Building Division and Planning Division. Any necessary analysis and/or exhibits shall be submitted for review and shall be approved prior to recordation of the map.

5. 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.

6. A separate building permit shall be obtained for the upgrade, alteration, and/or relocation of any on-site utilities or structures. Any required improvements shall have all work completed and final inspections approved to the satisfaction of the Building Official prior to recordation of the map.

7. Any easements including but not limited to provisions for all public and private utilities, access, drainage, common driveways, and maintenance of the same shall be shown on the final map or recorded separately prior to map recordation if applicable. A private waterline easement shall be provided for the water services crossing Parcel 3 to serve Parcels 1 and 2.

### **Public Right-of-Way**

8. Any sections of damaged or displaced curb, gutter & sidewalk or driveway approach shall be repaired or replaced to the satisfaction of the Public Works Director prior to recordation of the map.

9. Additional public right-of-way or public pedestrian easements may be necessary to accommodate improvements required for Americans with Disabilities Act (ADA) compliance, to the satisfaction of the Public Works Director.

### **Site, Water, Sewer & Utilities**

10. The proposed driveway shall be shown to comply with the Parking and Driveway Standards for sloping driveways.

11. The improvement plans shall show the location of the proposed parking spaces to serve the existing developed Parcel 2 in accordance with the zoning regulations and the Parking and Driveway Standards.

12. 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. A private sewer main may be proposed to the satisfaction of the Building Official, Utilities Engineer, and Public Works Director.

13. If proposed, an on-site sewer main will be privately owned and maintained by the Homeowner's/Property Owner's Association and shall be covered in the CC&R's or comparable maintenance agreement.

14. The existing water service shown to serve the proposed Parcel 3 shall be shown to comply with current city standards and be capable of providing adequate fire service to a new residence. Otherwise, the service shall be abandoned at the public main in favor of a new meter manifold designed to serve all three parcels.

### **Grading & Drainage**

15. The preliminary soils report prepared by Geosolutions, Inc with Report No SLO6905-1, dated May 19, 2009 shall be referenced on the final map in accordance with the city's Subdivision Regulations.

16. All elevations must be based on a City Bench Mark and noted per City datum elevations. The plans shall note the benchmark number, location and elevation. Include a clear

description of the benchmark referenced on the plans. Clarify whether the NGVD 29 or NAVD 88 datum is being used.

17. The subdivision improvements and/or building plans shall include provisions to minimize the amount of any collected groundwater seepage that would be directed to the gutter at the public street in accordance with City Engineering Standard 1010.B.

18. Development of the proposed parcels shall comply with the erosion control provisions of the Waterway Management Plan Drainage Design Manual.

19. All lots shall be graded to preclude cross-lot drainage, or, appropriate easements/blanket easements, and drainage facilities shall be provided, to the satisfaction of the Public Works Director and Building Official.

20. The subdivision improvement plans shall clarify where the existing drainage facilities are located and where they are discharged.

#### **Trees and Landscape Requirements**

21. Street trees are required as a condition of subdivision. Street trees shall generally be planted at the rate of one 15-gallon street tree for each 35 lineal feet of property frontage.

22. The subdivision improvement plans shall correctly show the size and location of all existing trees. Tree species, diameter, and accurate canopy depictions shall be shown and noted for reference.

23. Tree protection measures shall be implemented to the satisfaction of the City Arborist. The City Arborist shall review and approve the proposed tree protection measures prior to commencing with any demolition, grading, or construction. The City Arborist shall approve any safety pruning, the cutting of substantial roots, or grading within the dripline of trees. A city-approved arborist shall complete safety pruning. Any required tree protection measures shall be shown or noted on the building plans.

24. The subdivision improvement plans shall provide clarification on the existing and proposed landscape and landscape irrigation improvements on the proposed undeveloped Parcel 3. Landscape irrigation shall be provided to the existing landscape if deemed necessary by the Planning Division. The landscape irrigation shall be separate from the remaining parcels. A new landscape irrigation meter may be required for this purpose. Water Impact fees will be required for any additional water meters.

#### **Flag lot Subdivision**

25. The final map shall include any required easements required for the reasonable development of the affected properties. Easements may include but are not limited to grading, drainage, water, sewer, storm drainage, access, vehicle turn-around, and utilities.

Any maintenance agreements shall be completed and recorded before or concurrent with final map approval.

26. The proposed access easement for Parcel 1, 2, and 3 shall comply with the City's parking and driveway standards for slopes and maneuverability. These standards require adequate area to allow vehicles to exit from all legal parking spaces and garages in a forward direction in not more than two maneuvers.

#### **Miscellaneous Requirements**

27. The subdivision improvements shall be completed to the satisfaction of the Community Development Director and City Engineer prior to final inspection approvals and/or recordation of the map. A completion guarantee shall be provided per city standards if the map is approved for recordation prior to completion of all required subdivision improvements.

28. The required public and private subdivision improvements may be completed with a separate subdivision/public improvement plan submittal processed through the Public Works Department. As an alternate, the building plan submittal may be used to show all required improvements. Improvements located within the public right-of-way will require a separate encroachment permit and associated inspection fees.

29. A separate plan review fee payable to the Public Works Department may be required for the Public Works Department review of subdivision improvements associated with the building plan submittal. Said review fee shall be in accordance with the subdivision improvement plan review fee resolution in effect at the time of the building permit application submittal.

30. Subdivision improvement plans shall be submitted to the city for review and approval. The plans shall be approved prior to map recordation. Public improvements shall comply with the City Engineering Standards and Standard Specifications in effect at the time of submittal of the improvement plans. The current standards are dated January 2009.

#### **Mapping and Miscellaneous Requirements**

31. All boundary monuments, lot corners and centerline intersections, BC's, EC's, etc., shall be tied to the City's *Horizontal Control Network*. At least two control points shall be used and a tabulation of the coordinates shall be submitted with the final map or parcel map. All coordinates submitted shall be based on the City coordinate system. A computer disk, containing the appropriate data compatible with *Autocad* (Digital Interchange Format, DXF) for Geographic Information System (GIS) purposes, shall be submitted to the City Engineer.

32. The parcel map preparation and monumentation shall be in accordance with the city's Subdivision Regulations, Engineering Standards, and the Subdivision Map Act. The parcel map shall use English Units in accordance with the current City Engineering Standards. All

record data shall be entered on the map in the record units, metric translations should be in parenthesis if applicable.

Upon motion of Vice Mayor Carter, seconded by Council Member Ashbaugh, and on the following vote:

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

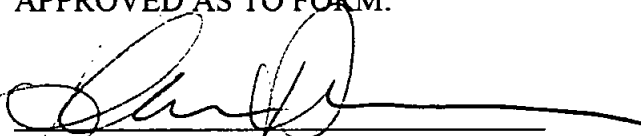
The foregoing Resolution was adopted this 5<sup>th</sup> day of January 2010.

  
Mayor David F. Romero

ATTEST:

  
Elaina Cano  
City Clerk

APPROVED AS TO FORM:

  
J. Christine Dietrick  
City Attorney