



City of Los Banos

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AGENDA

PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS
520 J Street
Los Banos, California

AUGUST 24, 2016

If you require special assistance to attend or participate in this meeting, please call the Planning Secretary @ (209) 827-7000 extension 118 at least 48 hours prior to the meeting.

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Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria del Departamento de Planificación al (209) 827-7000 extensión 118 a lo menos de 48 horas previas de la junta.

La Ciudad de Los Banos cumple con la Acta de Americanos con Deshabilidad (ADA) de 1990.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the meeting and in the Planning Department's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at www.losbanos.org.

Cualquier escritura o los documentos proporcionaron a una mayoría del Departamento de Planificación con respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina del Secretaria del Departamento de Planificación del City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la Ciudad en www.losbanos.org.

1. CALL TO ORDER. **7:00 PM**
2. PLEDGE OF ALLEGIANCE.
3. ROLL CALL: (Planning Commission Members)
Cates __, Faktorovich __, Limon __, Llamas __, McCoy __, Spada __,
Toscano __

4. APPROVAL OF AGENDA.

Recommendation: Approve the agenda as submitted.

5. CONSIDERATION OF APPROVAL OF MINUTES CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF MAY 11, 2016.

Recommendation: Approve the minutes as submitted.

6. PUBLIC FORUM: Members of the public may address the Commission on any item of public interest that is within the jurisdiction of the Commission, including agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation.

7. PUBLIC HEARINGS: If you challenge the proposed action as described herein in court, you may be limited to raising only those issues you or someone else raised at the public hearing described herein or in written correspondence delivered to the City at, or prior to, the public hearing.

A. Public Hearing – to Consider Site Plan Review #2016-08 and Associated California Environmental Quality Act (CEQA) Categorical Exemption for the Construction of a 3,000 Square Foot Building to be Utilized for a Training Center for Walmart Located at 1575 West Pacheco Boulevard on the West Side of the Existing Walmart Supercenter, More Specifically Identified as Assessor's Parcel Number: 430-010-012.

- 1) Planning Commission Resolution No. 2016-42 – approving Site Plan #2016-08 for the construction of a 3,000 Square Foot Modular Building for a Wal-Mart Academy Located at 1575 West Pacheco Boulevard, More Specifically Identified as Assessor's Parcel Number: 430-010-012.

Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing, and adopt the resolution as submitted.

B. Public Hearing – to Consider Vesting Tentative Tract Map #2016-04, Final Development Plan #2016-03, and Development Agreement Consistent with the Stonecreek Environmental Impact Report (EIR) for the Subdivision of Approximately 18.6 Acres into 71 Single-Family Residential Lots Consisting of Site Design and Conceptual Architecture to Implement the Planned Development Zoning Located at the Northwest Corner of Ortigalita Road and Pioneer Road, More Specifically Identified as Assessor's Parcel Number: 430-060-020.

- 1) Planning Commission Resolution No. 2016-43 – Approving Villages at Stonecreek IX Vesting Tentative Tract Map No. 2016-04 for the Subdivision of Approximately 18.64 Acres into 71 Single-Family Residential Lots Located Generally at the Northwest Corner of

Ortigalita Road and Pioneer Road, More Specifically Identified as Assessor's Parcel Number: 430-060-020.

- 2) Planning Commission Resolution No. 2016-44 – Recommending Approval of Final Development Plan #2016-03 for Villages at Stonecreek IX.
- 3) Planning Commission Resolution No. 2016-45 – Recommending Approval to the Los Banos City Council a Development Agreement between the City of Los Banos and Anderson Homes, a California Corporation for Development of Approximately 18.64 Acres Located at the Northwest Corner of Ortigalita and Pioneer Roads, More Specifically Identified as Assessor's Parcel Number: 430-060-020 [Villages at Stonecreek IX].

Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing, and adopt the resolutions as submitted.

8. DESIGN REVIEW STUDY SESSION – REMODEL AND EXPANSION OF AN EXISTING 2,184 SQUARE FOOT BUILDING BY 1,680 SQUARE FEET FOR A TOTAL BUILDING SQUARE FOOTAGE OF 3,864 SQUARE FEET LOCATED AT 820 W. PACHECO BOULEVARD.

Recommendation: Receive staff analysis and provide initial feedback to the applicant.

9. COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT.

10. COMMISSIONER REPORTS.

- A. Cates
- B. Faktorovich
- C. Limon
- D. Llamas
- E. McCoy
- F. Spada
- G. Toscano

11. ADJOURNMENT.

APPEAL RIGHTS AND FILING PROCEDURES

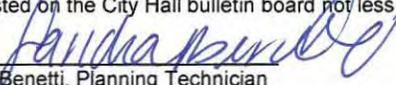
Any person dissatisfied with an act or determination of the Planning Commission may appeal such act or determination to the Planning Commission by filing written notice with the Planning Commission Secretary not later than five (5) business days (excluding holidays) after the day on

which the act or determination was made. An appeal must state the act or determination which is being appealed, the identity of the applicant and his/her interest in the matter, and set forth in concise statement(s) the reasons which render the Commission's decision unjustified or inappropriate. (Los Banos Municipal Code Section 9-3.2326)

Concerning an action taken by the Planning Commission related to Chapter 2 Articles 1 through 17 of the Los Banos Municipal Code "Subdivisions", if a subdivider or other affected property owner is dissatisfied with any action of the Commission with respect to a tentative map or the nature and extent of improvements recommended or required he/she may within fifteen (15) days after such action appeal to the Planning Commission Secretary for a public hearing on the matter. An appeal must state the action being appealed, identify the agenda item by agency number or project title, and set forth in concise statement(s) the reasons for the appeal. (Los Banos Municipal Code Sections 9-2.807)

Appeals must be in writing and include the appellant's name and address and original signature. A filing fee of \$150.00 must accompany the notice of appeal.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.


Sandra Benetti, Planning Technician

Dated this 19th day of August 2016

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
MAY 11, 2016**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER. Chairperson Spada called the Planning Commission Meeting to order at the hour of 7:01 p.m.

PLEDGE OF ALLEGIANCE. The pledge of allegiance was led by Commissioner Cates.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members John Cates, Arkady Faktorovich, Erik Limon, Palmer McCoy, Tom Spada, and Susan Toscano; Refugio Llamas absent.

STAFF MEMBERS PRESENT: Senior Planner Stacy Elms, Planning Technician Sandra Benetti, and City Attorney William Vaughn.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by McCoy, seconded by Cates to approve the agenda with changes in the order of public hearings to hear items in the following order: items 8A, 8C, 8D, 8B, and 8E. The motion carried by the affirmative action of all Planning Commission Members present; Llamas absent.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF MARCH 23, 2016. Motion by McCoy, seconded by Cates to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Llamas absent.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF APRIL 27, 2016. Motion by Limon, seconded by McCoy to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Llamas absent.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. Chairperson Spada opened the public forum.

KATHY BALLARD, Los Banos, spoke of the need to review the code in regards to signage and A-frames, recommended these signs are removed at close of business and lights are turned off, and how flashing lights and flags look bad when the business is closed; TOM NEEB, Los Banos, spoke of his concern of safety down State Route 165 by New Bethany where pedestrians walk and there are no sidewalks as well as the safety issue on Center Avenue where the canal is in which people are riding their bikes.

No one else came forward to speak and the public forum was closed.

PUBLIC HEARING – TO CONSIDER A CONDITIONAL USE PERMIT TO ALLOW THE OPERATION OF A SPRAY BOOTH FOR IDEAL ENVIRONMENTAL METAL STORAGE CONTAINERS LOCATED AT 1725 W. PACHECO BOULEVARD, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER: 430-010-004.

Senior Planner Elms presented the staff report, which included a PowerPoint presentation, and noted that the applicant was present to answer any questions.

Commissioner Faktorovich inquired about the process in which the container is moved through production.

Chairperson Spada opened the public hearing. PEPPER SNYDER, Sprig Haven Farm LLC, responded that containers will be manufactured inside and exit the rear of the building then be painted and thanked staff for their work. No one came forward to speak and the public hearing was closed.

Chairperson Spada stated that anytime we can bring in quality jobs to Los Banos it's a huge win and thanked Mr. Snyder for bringing this business to our community.

Motion by McCoy, seconded by Limon to adopt Planning Commission Resolution No. 2016-20 – Approving Conditional Use Permit #2016-10 to Allow the Operation of a Paint Spray Booth for Ideal Environments Located at 1725 W. Pacheco Boulevard. The motion carried by the affirmative action of all Planning Commission members present; Llamas absent.

City Attorney Vaughn stated that he has a disqualifying conflict for items 8C and 8D and would leave the Council Chambers while special counsel would take his place.

PUBLIC HEARING – TO CONSIDER VESTING TENTATIVE TRACT MAP #2016-01, FINAL DEVELOPMENT PLAN #2016-01, AND EAST CENTER AREA PLAN AMENDMENT FOR THE VILLAS CONSISTING OF THE SUBDIVISION OF APPROXIMATELY 58.8 ACRES INTO 378 SINGLE-FAMILY RESIDENTIAL LOTS RANGING FROM CUSTOM AND SEMI-CUSTOM HOMES TO PRODUCTION HOMES; APPROXIMATELY 51 ACRES OF THE PROJECT SITE WILL BE CONTAINED WITHIN A PRIVATE GATED-COMMUNITY WITH A FOUR ACRE PARK/DETENTION BASIN; THE FINAL DEVELOPMENT PLAN CONSISTS OF SITE DESIGN AND CONCEPTUAL ARCHITECTURE TO IMPLEMENT THE PLANNED DEVELOPMENT ZONING; THE PROJECT SITE IS LOCATED EAST OF CENTER

AVENUE, SOUTH OF THE CRESTHILLS #1 SUBDIVISION, WEST OF CRESTHILLS #2 SUBDIVISION, AND NORTH OF PIONEER ROAD AND THE CITY LIMIT LINE; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBERS: 431-270-010 AND 431-270-004. Senior Planner Elms presented the staff report, which included a PowerPoint presentation, and noted that the applicant was present to answer any questions.

Senior Planner Elms read two comment letters into the record from Chris White with Central California Irrigation District (CCID) and from Dean Bubar with Los Banos Unified School District.

Commissioner Faktorovich commented on how the project looks professionally done and his concern regarding how this project will be generating many trips per day and streets are wide enough but in case of emergency sees positional for bottle neck traffic on this site.

Senior Planner Elms responded that a traffic study was done based on 694 units built for the East Center Area Plan, how the project has shrunk in size since then, how a traffic engineer had reviewed the project at that time, how the City Engineer and other department heads have already reviewed this project, and how it meets all City standards and requirements.

Chairperson Spada opened the public hearing. JEFF ROBERTS, Granville Homes, spoke on behalf of the applicant regarding his excitement for this project, thanked staff for their diligent work, how he is in concurrence with staff recommendations on the map and Final Development Plan, how he wanted to make a couple of comments for the record, how the applicant has no issues with the Central California Irrigation District (CCID) letter nor with the Los Banos Unified School District (LBUSD) letter that were received by the City, how they are both consistent with what is in place, not proposing to change anything in regards to those two organizations, COA speaking to CCID certification but that should be handled thru Final Development Plans when they can verify that any of their facilities that might have been on site are eliminated, property is already annexed to the City, there are only private ditches on the property and no CCID facilities, how it's a pretty standard condition, regarding Community Facilities District (CFD) required there are no issues, no intention to do a Mello-Roos District but does intend to do a CFD, asked for clarification that the condition regarding the parking lot is in reference to the park extension, and how they are definitely in favor of the park extension; Senior Planner Elms confirmed that the parking lot is part of the park extension; Mr. Roberts spoke of the northern tier of the property south of Bluff Drive, Cardoza road was realigned with the direction of staff with agreement from applicant and Whitehurst Funeral Chapel, how the road will provide access to the funeral chapel, in favor of alignment of Cardoza Road and where the gate will be located, how the applicant is not in favor of having a single story restriction on the northern piece of the project and pointed out that the existing homes on Bluff Drive are comprised of 12 two story and 5 single story homes, how the applicant's piece has deeper rear setbacks and

there shouldn't be any more or less restrictions on these lots than those other homes that front Bluff Drive.

TOM NEEB, resident of Bluff Drive, inquired if there will be a street immediately on the northern edge of the project or if large custom lots back up to the northern boundary; Senior Planner Elms responded that the semi custom homes will be back up against the Bluff Drive homes; Chairperson Spada clarified that the back of existing homes will back up to new homes with backyard to backyard with additional setback of deeper lots.

JOHN JORDAN, 419 Bluff Court, spoke of a committee that approved a greenbelt walkway several years ago, how the map shows Cardoza Road jagged, how residents have had a view of foothills for 25 years, suggested putting the greenbelt in and having Cardoza Road go immediately behind the Bluff Drive homes, would like things to go back to how they were originally approved, how his other concern is that there will be traffic for Whitehurst Funeral Chapel parking in the residential area; Senior Planner Elms responded that the applicant does not control Whitehurst Funeral Chapel and any intensification of traffic would require a larger parking lot at the responsibility of the funeral chapel; Mr. Jordan responded that the funeral chapel should be here then wanting to do this, how California is still in a drought and we would be adding more people to this town, and suggested that more thinking needs to be done here.

TED MEZA, Los Banos, thanked everyone who spoke so far, spoke of how he lives right in the middle of this proposed development, how the building around him will look good and how he has a beautiful place there, how now they will be getting squeezed around them, how a Green Valley Charter School is also located on his property, how he would like cooperation with the surrounding property owner who has not communicated with the school, the need to put this project on hold until negotiations could come forward for the school, how the school needs to be expanded, and communication needs to take place first.

DARRYL LAWRENCE, resident of Bluff Drive, spoke of how it makes more sense abutting Cardoza Road straight, makes more sense to run Cardoza Road straight behind the houses on Bluff Drive and addresses the greenbelt issue, and inquired if the infrastructure was made to accommodate this development; Senior Planner Elms confirmed that it was sized for this project; Mr. Lawrence spoke of how originally other things were going to be done and now they changed their mind and more thought should be put on this.

TISHA BLACKWOOD-FREITAS, representative of Green Valley Charter School, spoke of the school community and questioning this plan, concerned this plan doesn't take into the operations of this school, how the school is working on an expansion and was not notified of this plan until recently through the property owner, how the traffic will increase and use of road is already at capacity, how she is not opposed to plans but concerned about current infrastructure in the area, services for this type of development would not be addressing their needs, and thanked the Planning Commission for their consideration.

CLAUDIA JORDAN, resident of Bluff Drive, spoke of the history of Cresthills I subdivision originally being for custom homes and how that changed over time and now they are not all custom homes, how she bought her home in that area because she felt she would keep the value of her home but its no longer a custom home subdivision, how there are predictions that in 2018 there will be another housing market downturn, how this project is not just today and next year its for the future, how she has lived there for 25 years with a beautiful view, how she would like the greenbelt walkway still, and asked Planning Commission for their consideration.

MEL BIGGS, 515 Bluff Drive, spoke in favor of a greenbelt walkway and not wanting neighbors or big houses right behind him.

ANDREW MEZA, 1858 Center Avenue, agreed with previously stated concerns and inquired about the expansion of Center Avenue and where it ends at the end of his yard; Senior Planner Elms responded that the right-of-way is from sidewalk to sidewalk, how on his property most likely additional frontage would have to be dedicated in order to develop Center Avenue, and how the project proponent will need to acquire that from him; Mr. Meza inquired if the City was going to take some of his front yard; Senior Planner Elms responded that the City would request dedication for the build out of Center Avenue; Mr. Meza spoke of how congestion is a current problem, it doesn't make sense to do this project right now, and spoke of how he does not support this project.

MATT BUFFUNO, 507 Bluff Drive, spoke of how this project will be taking agriculture away from the community, how he is a high school agriculture teacher, how agricultural education is harder to teach because less and less students have the opportunity to live on a farm or see farmland, how one of the problems facing agriculture is urban sprawl, how the agricultural land behind Bluff Drive is prime soil, how he is upset as an agricultural educator about taking more and more farmland, how Los Banos has changed a lot since 1992 for good and for bad, how he teaches agricultural education in Gustine, how they don't allow as many homes like this to be built, how Los Banos was built on agriculture, and asked the Commission to keep that in mind when making their decision tonight.

TODD BAKER, Los Banos, spoke of how these residents came out ten years ago on this topic, how it tells the community to not to bother showing up to these meetings if the Commission doesn't listen now, and asked the Commission to vote no.

Chairperson Spada stated that the Commission respects the residents' opinions and how the Commission does listen and will take this into consideration.

No one else came forward to speak and the public hearing was closed.

Chairperson Spada inquired about the history on this issue of the greenbelt and how the agreement was first reached.

Senior Planner Elms emphasized page 5 of the staff report in which it discusses the original condition, the proposed revision, and the residents' original request for a landscape buffer behind Bluff Drive, then the placement of Cardoza Road, then the new homes.

Commissioner Toscano inquired as to how many feet the setback would be on Mr. Meza's front yard for dedication on Center Avenue.

Senior Planner Elms responded that it depends where the public right-of-way starts, she was not sure off top of her head, how a condition of approval was incorporated to require curb and gutter on the cemetery side of Center Avenue and the developer would develop up the curb and gutter up to the masonry wall on the east side of Center Avenue.

Commissioner McCoy spoke of how it was previously stated that the original agreement expired and the applicant applied for a new one and inquired if that is why we can change Conditions of Approval #18.

Senior Planner Elms responded that the area plan never expires and runs with the land, how it was the old tentative map for the Villas and the original development agreement that expired, how the area plan stands and the conditions stand, and that's why the applicant is asking to revise the condition on the area plan.

Commissioner Faktorovich inquired if it is incorrect that this greenbelt walkway that was previously planned and is now changed to be different than the original plan.

Senior Planner Elms responded that staff didn't look at that during that time, spoke of how staff only looked at scope of property lines within the Whitehurst property, and how this was not considered because development wasn't considered at that time other than parceling off the chapel from the rest of the parcel.

Commissioner Faktorovich spoke of how the greenbelt is a concern among the residents and the need to clarify that issue and be consistent with what was proposed.

Senior Planner Elms stated that the proposal consists of removing the landscape area between Bluff Drive and Cardoza Road and replacing the landscaping with custom built homes.

Commissioner Cates thanked Granville Homes for taking interest in Los Banos, how he wished we had this turnout at every meeting, how input like this tonight is what is important, implored the community to come out, stated that with all due respect to the developer it sounds like some things came up in which there wasn't any communication with Bluff Drive residents or the charter school, how conversations need to take place with residents now, and the need for balance and to grow sensibly with consideration for everyone involved.

Commissioner McCoy inquired if the charter school got the notice.

Senior Planner Elms responded that the property owners within a 300 foot radius were notified and a notice was published in the newspaper, stated that the school does not own the property, how Mr. Meza had notified the school, and how the City met all government code requirements for noticing.

Commissioner McCoy responded that the residents of Bluff Drive want the greenbelt for privacy and value of homes, how something changed without enough input from the public, how this type of project should perhaps have a workshop beforehand like design review before it comes for approval, how he works in the agricultural industry, how the farmer sells the land for the development and it's a business, how there will be development and growth, and being unsure of what the Commission's actions will be today.

Senior Planner Elms stated that the majority vote on the motion will be the recommendation made to City Council.

Commissioner Limon spoke of how he thinks its awesome to see people here and speak on their concerns, how he is very mindful of agriculture and understands these concerns, how it will be tough either way, and how the Commission can only make recommendation on this, and this being a difficult decision.

Senior Planner Elms clarified to the Planning Commission that tonight their action is to approve or deny or conditionally approve the tentative map and recommend approval for area plan amendment and the final development plan and clarified that if their recommendation is to not approve the area plan revision then they cannot approve tentative map because it wouldn't be in conformance with their recommendation.

Commissioner Faktorovich spoke of how it appears to him that there is a lack of understanding on all sides because of vague wording of the condition and suggested moving the public hearing to a later date with clarity on what was changed.

Senior Planner Elms clarified that the original area plan did not show a landscape path, how it the only part that has changed is the actual wording of the condition which was included in the staff report, and based on public comment in 2006 a condition was formed to add the landscape path.

Chairperson Spada spoke of there being a few scenarios including an option to allow a the developer to build a 2 story home only where an existing 2 story home is located behind it, another option being to honor the original condition that the City Council approved which would extend the cul-de-sacs and put the greenbelt back in, and spoke of how he doesn't understand how we can go against a prior City Council vote.

Mr. Abbott spoke of how state law provides planning type actions come to Planning Commission for recommendation, how there is nothing unusual about requests to modify existing policy, suggested making recommendation to City Council on whether the area plan should be amended, once they decide that issue then it will open up their decisions on the following entitlements, how the first task is to take action on the environmental document then the second task would be to entertain a motion on the area plan, how if they decide against amending the area plan and preserving the landscape strip then they would take action on the tentative map and have to make a finding that it is consistent with the area plan, how if they deny the area plan amendment then they have to deny map, how this is what state law contemplates, suggested getting the environmental document done then making a motion on the area plan then making a motion on the map.

Commissioner Toscano spoke of her disappointment in this happening and asked where the condition went.

Senior Planner Elms stated that the applicant is fully aware of the condition and that is why they are asking for the amendment.

Commissioner Toscano spoke of how she doesn't understand why Cardoza Road doesn't go straight through, how this development is needed, how she doesn't like urban sprawl but there is a lack of southside homes available, likes this idea of custom lots that back up to Bluff Drive, and how she has a difficult time saying yes to this but wants the development to move forward.

Commissioner McCoy asked about the Project Review Board's thoughts on this project.

Senior Planner Elms explained that Cardoza Road would be within the gated community and would be private with larger setbacks and single story homes and would be a compromise with existing homes, how discussion was centered around that and analyzed based on the original area plan, how the area plan looks essentially the same with the jog in the road, how it is still relatively the same in regards to circulation, how the original area plan didn't show graphics for the landscape plan and was purely text, and how that was done after the area plan was created.

Commissioner McCoy spoke of how he has an issue with having to make a recommendation that goes against what residents originally fought for and won.

Chairperson Spada spoke of the gated community with walking path greenbelt area and inquired where it starts and ends and if it would be kept separate from their gated community.

Senior Planner Elms responded that Cardoza Road would have a gate entrance by Whitehurst Funeral Chapel and there would be good neighbor fences along Bluff Drive.

Chairperson Spada inquired what kind of fence on the development side.

Chairperson Spada reopened public hearing.

CLAUDIA JORDAN, resident of Bluff Drive, spoke of original plans from the developer, how residents previously came here and said they want a buffer, understands that they cannot stop development, how they got together as neighbors didn't want two story houses behind them, and how she is recommending one story houses behind Bluff Drive; Commissioner Faktorovich inquired Ms. Jordan would be satisfied if she was assured there wouldn't be 2 story houses and there would be a buffer; Ms. Jordan spoke of wanting the original plan that was approved to be honored.

Commissioner McCoy inquired what did residents envision as the greenbelt.

Ms. Jordan spoke of a greenbelt walkway being similar to what currently exists from Ortigalita Road down Cardoza Road through to Wal-Mart.

Commissioner McCoy spoke of how the developer didn't own that northern parcel back then and now they do and now the Planning Commission has to make decisions now based off what we have here.

JEFF ROBERTS, Granville Homes and Ranchwood Homes, spoke of how he doesn't have the benefit of having been here ten years ago, how didn't realize the dynamics of this issue, has heard comments today, feels they have put together a good proposal with lower density and with larger custom lots, feels this buffer behind the gate would be better than a public greenbelt running adjacent to the lots, the need for the Planning Commission to consider whether the environmental document is adequate and whether they want to make the change to the area plan, if they do want to change the plan then the map would fit that, asked if they don't want to modify the plan to then please give him a chance to modify the map to fit the current area plan, spoke of how he thinks City Council gave good direction, and asked for the Planning Commission to pause after the area plan discussion and then give him additional direction if necessary.

TISHA BLACKWOOD-FREITAS, Green Valley Charter School, spoke of representing 200 families, how she doesn't know if the school has been recognized in the environmental document, environmental benefits of this school to the community and the issues facing them, and would like to know how it will impact the students when construction begins.

ANDREW MEZA, 1858 Center Avenue, asked for clarification of setbacks and sidewalks.

Senior Planner Elms responded that the property owner would be given fair value of that land, City wants to see infrastructure and connectivity and safe travels to schools, prefers there not be a gap there, and how staff would work to get the property dedication at a fair value.

Mr. Meza inquired about there being a sidewalk in front of his house.

Senior Planner Elms responded that there would be full improvements to the masonry wall including a sidewalk and landscape buffer similar to what is on Ortigalita Road but that would be negotiated with the property owner.

Chairperson Spada closed the public hearing.

Commissioner Toscano inquired if it was a factor that there is knowledge of a school on the Meza property and if it would need to be mitigated.

Senior Planner Elms spoke of how population growth mitigates school facilities, how CEQA mitigates air quality, traffic, noise, hazardous and biological substances, how this project was deemed to have potentially significant impacts but could be mitigated and changed to less significant impacts, how school facilities would be adequate and based on the amount of increase of fees it would create new facilities and justify that part of CEQA, in terms of construction is identified in CEQA and mitigation requirements would apply.

Commissioner McCoy inquired that since the charter school didn't exist in 2006 if the developer has to communicate with them.

Senior Planner Elms spoke of how the environmental document does not take into account the individual charter school but it takes into account the Los Banos Unified School District and how it analyzes the facility's needs based on the district.

Mr. Abbott spoke of CEQA and how impact fee statues provide that the payment of impact fees of the developer mitigates all impacts associated with construction, statue doesn't draw distinction between public and privates schools, does not address existing school facilities which could be impacted by adjacent schools, statue is not completely comprehensive in character, only addresses need for new facilities, the Commission would be required to determine that environmental document is adequate for all purposes which would include the existing physical environment which the school is part of the existing environment and adequately addressed, built upon a prior environmental document, not in a position to tell you if the scope is sufficient for the existing charter school, and asked for a couple minutes with the Senior Planner for discussion.

Commissioner McCoy inquired when the northern parcel was purchased.

Mr. Roberts responded that it was purchased two years ago.

Senior Planner Elms stated that the school has only been physically located there about a year.

Mr. Abbott spoke of how he doesn't think CEQA's required issues include how a land development project like this might foreclose a potential expansion, the expansion is entirely speculative and not an issue of consideration of the environmental document.

Commissioner McCoy inquired should it have been considered in the impacts.

Chairperson Spada called a five minute recess at 9:19 p.m.

The Commission returned to the dais and resumed the meeting at 9:31 p.m.

Mr. Abbott spoke of this being an unusual situation, how the previously approved area plan has gone thru environmental review, previously granted entitlements for the development agreement which has expired, how the prior vesting map is still alive, how the existing entitlement is still in place, how the general CEQA practice is to assess the existing physical environmental, school facility does not appear to have long term lease, we don't know or have proof of any environmental review, under these circumstances the introduction of a school into a previously approved area for urban development isn't a substantial change in circumstances that dictates a significant examination on environmental issues, guidance is to accept negative declaration that has been prepared and take action on whether not to recommend approval of the area plan amendment and stop at that point, the action would be taken on Resolution #2016-17 for the area plan amendment and then we can decide what next action would be.

There was further discussion among the Commissioners, staff, the project applicant, and legal counsel regarding how the existing policy calls for a landscape area and pathway and the request before the Commission for an amendment to the area plan.

Motion by Commissioner Cates, seconded by Commissioner Limon to deny Planning Commission Resolution No. 2016-17 – Recommending Approval to the Los Banos City Council of Revised Villas Area Plan Annexation (ANX #2001-05) Previously Adopted by City Council Resolution No. 4680 on January 18, 2006. The motion carried by the affirmative action of all Planning Commission members present; Llamas absent.

Mr. Roberts stated that considering this action, he would like an opportunity to amend the map to reflect this.

Senior Planner Elms stated that the item can be continued to May 25th.

Motion by Commissioner McCoy, seconded by Commissioner Cates to continue Public Hearing – to Consider Vesting Tentative Tract Map #2016-01, Final Development Plan #2016-01, and East Center Area Plan Amendment for The Villas Consisting of the Subdivision of Approximately 58.8 Acres into 378 Single-family Residential Lots Ranging from Custom and Semi-custom Homes to Production Homes; Approximately 51 Acres of the Project Site Will be Contained within a Private Gated-community with a Four Acre Park/Detention Basin; the Final Development Plan Consists of Site Design and Conceptual Architecture to Implement the Planned Development Zoning; the

Project Site is Located East of Center Avenue, South of the Cresthills #1 Subdivision, West of Cresthills #2 Subdivision, and North of Pioneer Road and the City Limit Line; More Specifically Identified as Assessor's Parcel Numbers: 431-270-010 and 431-270-004 to the Planning Commission meeting on May 25th at 7:00 p.m. The motion carried by the affirmative action of all Planning Commission members present; Llamas absent.

PUBLIC HEARING – TO CONSIDER VESTING TENTATIVE TRACT MAP #2016-02, FINAL DEVELOPMENT PLAN #2016-02, AND EAST CENTER AREA PLAN AMENDMENT FOR THE HILL PROPERTY CONSISTING OF THE SUBDIVISION OF APPROXIMATELY 24.4 ACRES INTO 138 SINGLE-FAMILY RESIDENTIAL LOTS; THE FINAL DEVELOPMENT PLAN CONSISTING OF SITE DESIGN AND CONCEPTUAL ARCHITECTURE TO IMPLEMENT THE PLANNED DEVELOPMENT ZONING; THE PROJECT SITE IS LOCATED EAST OF CENTER AVENUE, SOUTH OF THE PROPOSED VILLAS SUBDIVISION, WEST OF CRESTHILLS #2 SUBDIVISION, AND NORTH OF THE CITY LIMIT LINE; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 431-270-005.

Senior Planner Elms presented the staff report, which included a PowerPoint presentation, and noted that the applicant was present to answer any questions.

Senior Planner Elms stated that the two comment letters from Chris White with Central California Irrigation District (CCID) and from Dean Bubar with Los Banos Unified School District that were read into the record for the previous public hearing also applies to the this public hearing.

Chairperson Spada opened the public hearing. JEFF ROBERTS, Granville Homes, spoke on behalf of the applicant, spoke of how they have been working with staff on modifications for Street G, leaning towards connecting Court G with Street G, also those street names are placeholders and do not intend on keeping those names, willing to stub the cul-de-sac to the south, doesn't think that will please property owner though, and open to the Planning Commission's recommendation; FRANK L. VIEIRA JR., 19850 Pioneer Road, spoke of his concern with master drain that starts at stockmen's gravel pit and dumps into the CCID canal which has to remain open, how this was addressed in 2006 and was resolved, how it is all piped to CCID canal, how the exit on southside is not okay and should be removed, how his property butts up to their proposed subdivision and recommended a masonry wall to go down both sides of his property on the north and east sides to be done at the time construction starts, and doesn't want a stub out to his property.

Commissioner Toscano inquired if there was plans to put in retaining wall.

Mr. Roberts responded that typically you put a wooden fence between residential and residential.

Senior Planner Elms spoke of this being low-density residential and staff would recommend wooden fence, looking out for future plans and master planning of the area,

asking for connection there so there would be better connectivity and circulation between subdivisions.

Mr. Roberts spoke of how the fence would typically be done at end of construction but they can put it first.

Senior Planner Elms stated that they can stub out Court L and stubbed and possibly fence it so that Mr. Vieira wouldn't see a stub just so we can have future connection for a future subdivision.

Commissioner McCoy inquired if there is a set way to do this when it comes to R-2 zoning abutting up to agricultural zoning.

Senior Planner Elms responded that a wooden fence is what staff suggests unless there is a sound wall issue due to traffic but since there is no roadway proposed it would not be compatible with a masonry wall.

Mr. Vieira spoke of his concern on wooden fence and the need for sound barrier due to having tractors that run up and down and blowers that make dust, and how he wants that to be taken care of.

TED MEZA, Los Banos, spoke on the extension on school and how he didn't get a satisfying answer.

Chairperson Spada spoke of the environmental impact report consideration being for public schools, how private school brings more on, how Mr. Meza wants the ability to expand, and suggested talking to staff regarding concerns.

Senior Planner Elms suggested Mr. Meza talk to property owner, how this is a civil issue and City cant get involved, and how this is an issue between property owners to discuss.

Mr. Meza asked the Commission to hold up the project until negotiations happen.

Chairperson Spada responded that the Commission legally cannot do that, if applicant is following law then they can't hold them up, and how Mr. Meza needs to work it out privately.

Commissioner McCoy inquired if there was another option besides wooden fence and masonry fence.

Mr. Roberts spoke of being willing to sit with the neighbor and discuss options, willing to do this upfront to establish this line right away, not insensitive to almond issues, and how the applicant participates in growing almonds as well.

Commissioner Toscano thanked the developer, urged Mr. Meza and Ms. Freitas to talk to developers themselves, and knows the developer wouldn't want to upset them.

No one else came forward to speak and the public hearing was closed.

Commissioner McCoy asked for clarification in the street connection and stubbing.

Senior Planner Elms stated that the condition is already there for the connection and that the Commission can add extra language to add a fence to the stub to add a fence to the stub on Resolution No. 2016-19.

Motion by Commissioner Cates, seconded by Commissioner Faktorovich to adopt Planning Commission Resolution No. 2016-18 – Approving the Hill Property Approving The Hill Property Vesting Tentative Tract Map No. 2016-02 for the Subdivision of Approximately 24.4 Acres into 138 Single-family Residential Lots Located Generally East of Center Avenue, South and West of the Villas Subdivision, and North of the City Limit Line; More Specifically Identified as Assessor's Parcel Number: 431-270-005. The motion carried by the affirmative action of all Planning Commission members present; Llamas absent.

Motion by Commissioner McCoy, seconded by Commissioner Limon to adopt Planning Commission Resolution No. 2016-19 – Recommending Approval to the Los Banos City Council of Final Development Plan #2016-02 for the Hill Property with the addition of a fence along the stubbed Court L. The motion carried by the affirmative action of all Planning Commission members present; Llamas absent.

City Attorney Vaughn returned to his seat in the Council Chambers at 10:31 p.m.

PUBLIC HEARING – TO CONSIDER VESTING TENTATIVE TRACT MAP #2015-01 AND FINAL DEVELOPMENT PLAN #2015-01 FOR SOUTHPOINTE AT REGENCY PARK FOR THE SUBDIVISION OF 109 ACRES INTO 510 SINGLE-FAMILY RESIDENTIAL LOTS, SITE DESIGN AND CONCEPTUAL ARCHITECTURE TO IMPLEMENT THE PLANNED DEVELOPMENT ZONING, APPROXIMATELY 2.59 ACRES OF OPEN SPACE, AND A 10 ACRE DETENTION BASIN LOCATED EAST OF PLACE ROAD, NORTH OF THE VERONA ESTATES, AND WEST OF WARD ROAD, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBERS: 424-120-009 AND 073-220-015 (CONTINUED FROM APRIL 27, 2016). Senior Planner Elms presented the staff report, which included a PowerPoint presentation, and noted that the applicant was present to answer any questions.

Senior Planner Elms read two comment letters into the record from Al Anderson at 2079 Venetia Street and from Carlos Reynoso, a resident in the Verona subdivision.

Chairperson Spada opened the public hearing. JEFF ROBERTS, on behalf of Granville Homes and Ranchwood Homes, concurs with staff recommendation, on April 27th asked Planning Commission to let him work with staff, were successful in coming to a

conclusion on design aspects of Ward Road and traffic calming enhancements along canal, set a trend for this project and the upcoming Northpointe project, how the applicant has a couple issues to address including the parking area in the open space feature in which they haven't worked out the design yet and will need to do so, Condition of Approval #36 which discusses barricades prior to acceptance in which will need to be discussed with staff, an issue with Condition of Approval #48 for the timing of improvement for Ward Road, applicant isn't sure on timing for any of these phases and don't want to build a road that goes nowhere and ends in a dead end cul-de-sac, asked Planning Commission to eliminate Conditions of Approval #48 please so we can build Ward Road when the development occurs, and thanked the Commission for their indulgence and support of the project.

Senior Planner Elms spoke regarding barricading streets and how staff does work with the developer but it's a public safety concern, thinks we can come to an agreement on that, regarding Conditions of Approval #48 if Planning Commission doesn't feel its necessary then its their choice, makes more sense from developer's perspective to develop from Ward Road starting there on the onset and wouldn't have any benefit so staff wouldn't have an issue, and had asked Police Chief Brizzee if he had concerns.

City Attorney Vaughn inquired what phase they were looking at completing Ward Road because that would affect the drainage basin as well.

Mr. Roberts spoke of how they haven't worked out their phasing yet but would be happy to work with staff on that, to put in a facility that has no use becomes an attractive nuisance, how drainage has to be in phase 1 but goes north of that, doesn't have problem with providing access to basin, and they could provide Ward Road extension with turnaround at the basin until such time the roads are built.

City Attorney Vaughn asked if there would be an open ended condition or specific language for the condition.

Mr. Roberts spoke of how they will build Ward Road as agreed to but don't want to build a road and just have it sit there and they can work out phasing and show staff.

City Attorney Vaughn stated that's reasonable to do phasing and develop as necessary, thinks a condition can be created to agree with phasing plan and agreed on by staff with staff discretion, condition can say improvements will be built in conformance with the phasing plan to be agreed upon by the developer and staff as opposed to eliminating the condition, not uncommon that these developments are phased, and can get infrastructure built in a reasonable manner when it's time.

Commissioner McCoy inquired if staff was okay with eliminating Conditions of Approval #36.

Senior Planner Elms stated that it could be amended to say staff will work with developer.

City Attorney Vaughn suggested to incorporate that sheet that was passed around with different configuration for the north corner of the development and incorporate that into the approvals.

No one else came forward to speak and the public hearing was closed.

Chairperson Spada spoke of not being sure about metal roofs.

Commissioner Toscano stated there was one by her house on Monroe and its nice.

Commissioner Cates inquired what the smallest square footage of house in this development could be.

City Attorney Vaughn stated that its on back of elevations, as small as 1200 square feet.

Motion by Commissioner McCoy, seconded by Commissioner Cates to adopt Planning Commission Resolution No. 2016-13 – Approving Southpointe at Regency Park Vesting Tentative Tract Map #2015-01 for the Subdivision of Approximately 97 Acres into 510 Single-family Residential Lots Located Generally East of Place Road, South of the Villa Burano Area Plan, West of the San Luis Canal, and North of the Verona/Mission Estates, More Specifically Identified as Assessor’s Parcel Numbers: 424-120-009 and 073-220-015 with changes to Conditions of Approval #36 to staff to work with developer on the barricading on the street and changes to Conditions of Approval #48 that improvements will be built in conformance with the phasing plan to be agreed upon by the developer and staff and the addition of the Ward Road revised plan received by the Engineer as Exhibit E. The motion carried by the affirmative action of all Planning Commission members present; Llamas absent.

Motion by Commissioner Cates, seconded by Commissioner McCoy to adopt Planning Commission Resolution No. 2016-14 – Recommending Approval of Final Development Plan #2015-01 for Southpointe at Regency Park. The motion carried by the affirmative action of all Planning Commission members present; Llamas absent.

Senior Planner Elms spoke of staff’s desire to adjourn the meeting to Monday, May 16, 2016 at 5:00 p.m. at City Hall in the Council Chambers.

PUBLIC HEARING – TO CONSIDER SITE PLAN REVIEW #2016-04 FOR THE REMODEL OF AN EXISTING SINGLE TENANT RETAIL BUILDING OF APPROXIMATELY 85,000 SQUARE FEET ON APPROXIMATELY 6.77 ACRES TO A MULTI-TENANT RETAIL BUILDING IN WHICH SAVE MART WILL OCCUPY APPROXIMATELY 52,000 SQUARE FEET LOCATED WITHIN THE HIGHWAY COMMERCIAL ZONING DISTRICT AT 1400 S. MERCY SPRINGS ROAD, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER: 083-130-040.

Chairperson Spada adjourned the meeting at 11:13 p.m. to Monday, May 16, 2016 at 5:00 p.m. at City Hall in the Council Chambers.

DESIGN REVIEW STUDY SESSION – DEVELOPMENT OF NEW 2,790 SQUARE FOOT, SINGLE STORY OFFICE BUILDING LOCATED AT 1317 S. SIXTH STREET IN THE HIGHWAY-COMMERCIAL ZONING DISTRICT. Chairperson Spada adjourned the meeting at 11:13 p.m. to Monday, May 16, 2016 at 5:00 p.m. at City Hall in the Council Chambers.

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT. No report.

PLANNING COMMISSION MEMBER REPORTS.

CATES: No report.

FAKTOROVICH: No report.

LIMON: No report.

LLAMAS: Absent.

McCoy: No report.

SPADA: No report.

TOSCANO: No report.

ADJOURNMENT: The meeting was adjourned at the hour of 11:13 p.m. to 5:00 p.m., Monday, May 16, 2016 to Hold a Public Hearing to Consider Site Plan Review #2016-04 for the Remodel of an Existing Single Tenant Retail Building of Approximately 85,000 Square Feet on Approximately 6.77 Acres to a Multi-tenant Retail Building in which Save Mart will Occupy Approximately 52,000 Square Feet Located within the Highway Commercial Zoning District at 1400 S. Mercey Springs Road, More Specifically Identified as Assessor's Parcel Number: 083-130-040 and to hold a Design Review Study Session for the Development of a New 2,790 Square Foot, Single Story Office Building Located at 1317 S. Sixth Street in the Highway-Commercial Zoning District.

APPROVED:

Tom Spada, Chairperson

ATTEST:

Sandra Benetti, Planning Technician



City of Los Banos

At the Crossroads of California

PLANNING COMMISSION STAFF REPORT

TO: CHAIRMAN SPADA AND PLANNING COMMISSIONERS

FROM: STACY SOUZA ELMS, SENIOR PLANNER *se*

FOR: AUGUST 24, 2016

SUBJECT: SITE PLAN REVIEW #16-08 – WAL-MART ACADEMY

RECOMMENDATIONS:

1. That the Planning Commission adopt Resolution No. 2016-42 approving Site Plan Review #2016-08 for the construction of a 3,000 square foot modular building for Wal-Mart located at 1575 W. Pacheco Blvd.

BACKGROUND/DESCRIPTION:

On March 24, 1993, the Los Banos Planning Commission approved Site Plan Review #93-2 for the construction of a Wal-Mart Store. The store was constructed as approved and has been operational since 1994 in the City of Los Banos.

On October 27, 2010, the Los Banos Planning Commission approved Site Plan Review #2008-05 for the expansion of Wal-Mart by 69,300 square feet. The expansion has been completed and the store has been operational as a super center since July 2014.

The current project proposal is for the construction of a 3,000 square foot modular building to be utilized for a training center for Wal-Mart management employees in the region. The project site is located west of the existing Wal-Mart Supercenter within the Los Banos Creek Shopping Center. The proposed location of the modular building will be located within the existing west parking lot of Wal-Mart near the truck loading dock. The modular building will be placed on permanent foundation and will be used only for Wal-Mart employees as a training facility.

LOCATION AND ACCESS:

The Project site is located at 1575 W. Pacheco Blvd. on the southwest section of the Los Banos Creek Shopping Center.



LAND USE:

Property	Land Use	Zone	General Plan
Project Site	Commercial	H-C	Commercial
North	Commercial	H-C	Commercial
East	Commercial	H-C	Commercial
South	Residential	R-1	LDR

West	Undeveloped/Commercial	H-C	Commercial
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H-C = Highway Commercial

R-1/LDR = Low Density Residential

ENVIRONMENTAL ASSESSMENT:

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is categorically exempt from the provisions of CEQA – Article 19, Section 15332 – In-Fill. The project qualifies for this exemption because the following criteria are met: a) the project is consistent with the General Plan and Zoning Code; b) the proposed development occurs within the City limits on a project site of no more than five acres substantially surrounded by urban uses; c) the project site has no value as habitat for endangered, rare, or threatened species; d) approval of the project would not result in any significant effects related to traffic, noise, air quality, or water quality; and e) the site can be adequately served by all required utilities and public services.

SITE PLAN ANALYSIS:

Code Requirements

Pursuant to Section 9-3.2316(a) of the Los Banos Municipal Code, the Planning Commission shall review and evaluate a site plan for conformance with the applicable sections of the Code. Upon completion of the review and evaluation of a site plan review application, the Planning Commission shall either deny the site plan or shall grant or modify the site plan subject to reasonable conditions as may be imposed.

Project Design

The Wal-Mart Academy Project proposes the construction of a 3,000 square foot modular building to be used as a regional training facility for Wal-Mart management. The academy training program will help Wal-Mart's frontline supervisors build the skills they need to grow, develop, and be successful by serving customers and leading associates. The academy will train new hourly supervisors, department managers, and assistant managers on functional training about how to be successful in their role. This will be a dedicated facility for hand-on training. The hands-on training will set assistant store managers, hourly supervisors and department managers up for success by helping ensure they have the skills to run great departments, meet the changing needs of customers, and provide their associates the training they need to advance. These types of training facilities operate in high-performing stores.

Wal-Mart academies service between 20 and 30 stores from the surrounding region. The proposed training facility will have five (5) classrooms and one (1) office. The training facility will have the capacity for up to 90 associates, but will likely see class volumes of no more than 30 associates (average 15). The academy will operate Monday through Friday from 7 a.m. to 4 p.m., and will be closed during the peak holiday season of Thanksgiving and Christmas.

The proposed project will remove approximately 40 parking spaces leaving the Wal-Mart parking lot with 936 parking spaces; however, the store and the academy combined together are only required to provide 577 parking spaces. Therefore, there is

more the sufficient parking.

Land Use

The project site is designated as Commercial according to the Los Banos General Plan and Highway Commercial (H-C) in accordance with the Zoning Map. The proposed project will provide training and office use for a regional retailer, which are appropriate uses in the Highway Commercial zoning district. The proposed use is consistent with the Los Banos General Plan and Municipal Code.

Traffic

The site plan indicates that access to the site will be provided from driveways off of Wal-Mart's existing parking lot.

Infrastructure

Existing City utilities will be utilized for the project site and will connect to infrastructure existing on-site for the Wal-Mart Supercenter.

DESIGN REVIEW

Pursuant to Section 9-3.2818(a) of the Los Banos Municipal Code, the Los Banos Planning Commission held a study session on August 10, 2016 to provide the applicant with feedback early on in the design process. The Commission evaluated architectural elements, landscape and site treatment, and lighting elements as described in Section 9-3.2818(c) of the Los Banos Municipal Code.

The following recommendations were made by the Planning Commission and the following responses were given by the applicant:

Architecture:

- The Planning Commission suggested incorporating varied roof height and façade variations to match the existing Wal-Mart Super Center

The applicant has added building height and façade variations; has incorporated the same lighting used on the existing store; added window treatments to mimic the existing store; and added a two tone color scheme to match the existing store.

- Would like to see the HVAC units screened.

The applicant has relocated trees that will be removed as a part of the construction to screen the HVAC units and has added additional landscaping to the landscape planter south of the modular building for additional screening.

PROJECT REVIEW BOARD

The Project Review Board (PRB) reviewed the project proposal on August 16, 2016 for

these aspects

- Building layout;
- Location;
- Orientation of all new and existing structures and the relationship to one another and surrounding properties
- Methods of landscape irrigation;
- Location and design of facilities for physically disabled persons;
- Location of fencing and other screening;
- Location and screening of refuse facilities;
- Traffic circulation on-site and off-site;
- Pedestrian and bicycle circulation and safety;
- Arrangement of off-street parking and loading facilities;
- Location and intensity of all onsite lighting; and
- Provision of municipal and public services.

The PRB has provided a positive recommendation for the development of the proposed project with conditions of approval incorporated into the project.

FINDINGS FOR APPROVAL:

The Planning Commission shall approve a Site Plan if it makes all of the following findings specified in the Municipal Code. The Planning Commission shall consider and evaluate those aspects of the project described in Section 9-3.2317(b) and 9-3.2318(c). In approving a site plan, the Planning Commission shall make the following findings before approving a site plan:

1. That the proposed development is consistent with the general plan, any specific plans, and any design standards adopted by the City Council.
 - a. *The General Plan land use designation for the project site is Commercial, which is intended for large-scale commercial developments that serve both residents, visitors, and the surrounding region. Examples of this land use include: shopping centers, large format retail, auto sales and travel-related services such as hotels, gas stations, and restaurants.*

The following specific General Plan Goals, Objectives, and Policies are applicable to the proposed project:

ECONOMIC DEVELOPMENT POLICY ED-G-1:

Help create jobs and improve job quality for existing and future Los Banos residents.

ECONOMIC DEVELOPMENT POLICY ED-G-2:

Facilitate the development of new businesses, and/or expansion of existing businesses through site availability, infrastructure investment, and labor force preparedness.

LAND USE POLICY LU-G-12:

Provide appropriately located areas for a broad range of employment generating uses to strengthen the City's economic base and provide employment opportunities for residents.

Evidence/Analysis: *The project is consistent with the General Plan Commercial land use designation. The proposed training facility would provide services for local residents as well as the surrounding region. The proposed project will build the skills needed to grow supervisors for Wal-Mart. The proposed development will be an attractive addition to the Los Banos Creek Shopping Center and will be compatible with and complementary to the existing Wal-Mart Supercenter.*

- b. *The zoning designation for the project site is Highway Commercial (H-C). The purpose of the Highway Commercial District is to provide a district for commercial uses which do not specialize in serving the pedestrian shopper, but rather, because of their character, are more appropriately located along a highway or major street and where drive-in operations are more feasible.*

Evidence/Analysis: *The proposed development is consistent with the Zoning Code as training facilities for commercial uses are permitted in the Highway Commercial zoning district. The proposed uses of the training facility will serve as a learning hub for Wal-Mart supervisors in the region.*

2. That the design and location of the proposed development and its relationship to existing or proposed developments and traffic in the vicinity thereof is such that it will not impair the desirability of investment or occupation in the neighborhood; and that it will not unreasonably interfere with the use and enjoyment of existing or proposed developments in the vicinity thereof, and that it will not create traffic hazards or congestion.

The Los Banos Creek Shopping Center has been designed and planned for future development to the west of the existing Wal-Mart Supercenter. The proposed development of the training center at the southwest section of the existing parking lot sits back from the existing store and does not impair the neighborhood, or interfere with the use of the existing Wal-Mart building, and it will not create a traffic hazard or congestion on the existing site.

3. That the design of the proposed development is in keeping with the character of the surrounding neighborhood and is not detrimental to the harmonious, orderly,

and attractive development contemplated by this ordinance and the general plan of the City.

The design of the proposed training center is in keeping with the existing Wal-Mart Supercenter. The proposed building uses similar façade treatments and enhancements to provide compatibility and continuity with the existing Wal-Mart building.

4. That the design of the proposed development would provide a desirable environment for its occupants, as well as for its neighbors, and that it is aesthetically of good composition, materials, textures, and colors.

The design of the proposed training center will be desirable for its occupants, as well as its neighbors as the proposal is incorporates design elements and materials from the existing Wal-Mart Supercenter building.

5. That the proposed use complies with all applicable requirements of the zoning district in which it is located and all other applicable requirements.

The proposed use is permitted in the Highway Commercial zoning district and is in conformance with all other applicable requirements.

6. That the overall development of the subject property is designed to ensure the protection of the public health, safety, and general welfare.

The design of the training center conforms to good planning in that the physical design elements are compatible with the Design Guideline characteristics of the Mission/Spanish style elements of the Design Guidelines. The site design allows for safe circulation of vehicles and safe pathway for handicap access as well as pedestrian access.

PUBLIC COMMENT:

A public hearing notice was published in the Los Banos Enterprise and notices were mailed out to property owners within a 300' radius of the project site on August 12, 2016. As of the date of this staff report, no written comments have been received.

RECOMMENDATION:

1. That the Planning Commission adopt Resolution No. 2016-42 approving Site Plan Review #2016-08 for the construction of a 3,000 square foot modular building for Wal-Mart located at 1575 W. Pacheco Blvd.

ATTACHMENTS:

1. Resolution 2016-42
Exhibit A: CEQA Findings

Exhibit B: Findings for Approval

Exhibit C: Conditions of Approval

2. Site Plan
3. Elevations
4. Public Hearing Notice – August 12, 2016

RESOLUTION #2016-42

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS APPROVING SITE PLAN #2016-08 FOR THE CONSTRUCTION OF A 3,000 SQUARE FOOT MODULAR BUILDING FOR A WAL-MART ACADEMY LOCATED AT 1575 WEST PACHECO BLVD., MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 430-010-012

WHEREAS, the Los Banos General Plan was adopted in July 2009, and is the guiding document for land use in the City of Los Banos; and

WHEREAS, the subject property has a land use designation of Commercial pursuant to the Los Banos General Plan and is zoned Highway Commercial by the Los Banos Zoning Map; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, Site Plan Review #2016-08 for Wal-Mart Stores, Inc., was determined to be categorically exempt from the provisions of CEQA per Article 19, Section 15332 – In-Fill; and

WHEREAS, a public hearing was duly noticed for August 24, 2016, in accordance with California Government Code Section 65091 by advertisement in the Los Banos Enterprise and by mail to property owners within 300 feet of the project boundaries on August 12, 2016 to consider and take testimony regarding the Site Plan Review #2016-01; and

WHEREAS, at the August 24, 2016 Planning Commission Meeting the Los Banos Planning Commission, heard and considered testimony, if any, of all persons desiring to be heard; reviewed the Project Site Plan and staff report; studied the compatibility of the applicant's request with adjacent land uses; has considered the applicant's request in accordance with the Site Plan criteria established in Section 9-3.2320 of the Los Banos Municipal Code; and

BASED UPON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, the Planning Commission of the City of Los Banos does hereby make the findings set forth in Exhibit A (CEQA Findings), and Exhibit B (Findings of Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby approve Site Plan #2016-08 for the construction of a 3,000 square foot modular building for a Wal-Mart Academy located at 1575 West Pacheco Boulevard, more specifically identified as Assessor's Parcel Number: 430-010-012, subject to the Conditions of Approval set forth in Exhibit C attached hereto and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 24th day of August 2016, by Commissioner _____, who moved its adoption, which motion was duly seconded by Commissioner _____, and the Resolution is hereby adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Tom Spada, Planning Commission Chair

ATTEST:

Sandra Benetti, Planning Commission Secretary

EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR SITE PLAN REVIEW #2016-08 – WAL-MART ACADEMY

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 15000 et seq. (the "CEQA Guidelines"), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos Planning Commission hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is categorically exempt from the provisions of CEQA – Article 19, Section 15332 – In-Fill. The project qualifies for this exemption because the following criteria are met: a) the project is consistent with the General Plan and Zoning Code; b) the proposed development occurs within the City limits on a project site of no more than five acres substantially surrounded by urban uses; c) the project site has no value as habitat for endangered, rare, or threatened species; d) approval of the project would not result in any significant effects related to traffic, noise, air quality, or water quality; and e) the site can be adequately served by all required utilities and public services.
2. Site Plan Review #2016-08 was adequately noticed on August 12, 2016 for consideration at a public meeting on August 24, 2016.
3. No further environmental documentation is required as the Site Plan Review was contemplated and adequately analyzed in the initial review.
4. Prior to considering the proposed Project, the Planning Commission considered the Categorical Exemption.

EXHIBIT B

FINDINGS FOR APPROVAL OF SITE PLAN #2016-08 – WAL-MART ACADEMY

The City of Los Banos Planning Commission hereby finds as follows:

1. That the proposed development is consistent with the general plan, any specific plans, and any design standards adopted by the City Council.

- a. *The General Plan land use designation for the project site is Commercial, which is intended for large-scale commercial developments that serve both residents, visitors, and the surrounding region. Examples of this land use include: shopping centers, large format retail, auto sales and travel-related services such as hotels, gas stations, and restaurants.*

The following specific General Plan Goals, Objectives, and Policies are applicable to the proposed project:

ECONOMIC DEVELOPMENT POLICY ED-G-1:

Help create jobs and improve job quality for existing and future Los Banos residents.

ECONOMIC DEVELOPMENT POLICY ED-G-2:

Facilitate the development of new businesses, and/or expansion of existing businesses through site availability, infrastructure investment, and labor force preparedness.

LAND USE POLICY LU-G-12:

Provide appropriately located areas for a broad range of employment generating uses to strengthen the City's economic base and provide employment opportunities for residents.

Evidence/Analysis: *The project is consistent with the General Plan Commercial land use designation. The proposed training facility would provide services for local residents as well as the surrounding region. The proposed project will build the skills needed to grow supervisors for Wal-Mart. The proposed development will be an attractive addition to the Los Banos Creek Shopping Center and will be compatible with and complementary to the existing Wal-Mart Supercenter.*

- b. *The zoning designation for the project site is Highway Commercial (H-C). The purpose of the Highway Commercial District is to provide a district for commercial uses which do not specialize in serving the pedestrian shopper, but rather, because of their character, are more appropriately*

located along a highway or major street and where drive-in operations are more feasible.

Evidence/Analysis: The proposed development is consistent with the Zoning Code as training facilities for commercial uses are permitted in the Highway Commercial zoning district. The proposed uses of the training facility will serve as a learning hub for Wal-Mart supervisors in the region.

2. That the design and location of the proposed development and its relationship to existing or proposed developments and traffic in the vicinity thereof is such that it will not impair the desirability of investment or occupation in the neighborhood; and that it will not unreasonably interfere with the use and enjoyment of existing or proposed developments in the vicinity thereof, and that it will not create traffic hazards or congestion.

The Los Banos Creek Shopping Center has been designed and planned for future development to the west of the existing Wal-Mart Supercenter. The proposed development of the training center at the southwest section of the existing parking lot sits back from the existing store and does not impair the neighborhood, or interfere with the use of the existing Wal-Mart building, and it will not create a traffic hazard or congestion on the existing site.

3. That the design of the proposed development is in keeping with the character of the surrounding neighborhood and is not detrimental to the harmonious, orderly, and attractive development contemplated by this ordinance and the general plan of the City.

The design of the proposed training center is in keeping with the existing Wal-Mart Supercenter. The proposed building uses similar façade treatments and enhancements to provide compatibility and continuity with the existing Wal-Mart building.

4. That the design of the proposed development would provide a desirable environment for its occupants, as well as for its neighbors, and that it is aesthetically of good composition, materials, textures, and colors.

The design of the proposed training center will be desirable for its occupants, as well as its neighbors as the proposal is incorporates design elements and materials from the existing Wal-Mart Supercenter building.

5. That the proposed use complies with all applicable requirements of the zoning district in which it is located and all other applicable requirements.

The proposed use is permitted in the Highway Commercial zoning district and is in conformance with all other applicable requirements.

6. That the overall development of the subject property is designed to ensure the protection of the public health, safety, and general welfare.

The design of the training center conforms to good planning in that the physical design elements are compatible with the Design Guideline characteristics of the Mission/Spanish style elements of the Design Guidelines. The site design allows for safe circulation of vehicles and safe pathway for handicap access as well as pedestrian access.

EXHIBIT C

CONDITIONS OF APPROVAL FOR SITE PLAN #2016-08 – WAL-MART ACADEMY

Planning:

1. This Site Plan shall expire if an application for a building permit is not applied for within 24 months from date of approval. One six-month extension may be allowed through a written submittal approved by the Community and Economic Development Director.
2. Subject to and in addition to the conditions of approval set forth herein the development and construction of all improvements for the Project shall substantially conform to the conditionally approved Site Plan approved by the Planning Commission consisting of the site plan layout, exterior elevations, landscape plan, floor plan, and color renderings (herein after "site plan"). The applicant shall submit a revised Site Plan to the Community and Economic Development Department reflecting any modifications, additions, and conditions of approval approved by the Planning Commission within 30 days from Planning Commission approval. Said revised Site Plan shall be reviewed by the Community and Economic Development Department and stamped "conditionally approved" for purposes of providing a clear record of the approved Site Plan.
3. Full compliance with all conditions of approval shall be satisfied prior to issuance of any certificate of occupancy. Any proposed modifications to the approved Site Plan shall require approval by the Community and Economic Development Director or Planning Commission as appropriate.
4. Any application for a building permit shall be reviewed by the Community and Economic Development Department for a determination as to whether such application conforms to the prior design and site development review approval by the Planning Commission.
5. The applicant agrees to indemnify, hold harmless, and defend the City of Los Banos, its officers, agents and employees from any and all liability or claims that may be brought against the City of Los Banos arising out of its approval of this permit, or the environmental determination rendered in connection with the permit approval, or arising out of the operation of the use or uses allowed under the site plan, save and except that caused solely by the City's active negligence.
6. Construction shall be limited to those hours specified in Section 9-3.2706 of the Los Banos Municipal Code: Monday through Friday from 7:00 am to 9:00 pm; Saturday and Sunday from 8:00 am to 5:00 pm.
7. The applicant shall comply with all requirements of other appropriate governmental agencies.

8. The applicant shall comply with the Americans with Disabilities Act (ADA) requirements in the design, construction and maintenance of this project.
9. The applicant shall provide a copy of the conditions of approval to all contractors and subcontractors prior to commencement of construction.
10. During construction, and for safety purposes, the public right-of-way shall be kept clear of obstructions and shall be cleaned on a daily basis.
11. The applicant shall require all contractors and subcontractors to obtain a City of Los Banos Business License, prior to start of work on the project. All work performed on the project shall comply with the requirements of the California Business and Professions Code.
12. The applicant shall obtain any necessary encroachment permits from Caltrans or other jurisdictions prior to performing any work within that jurisdiction's right-of-way.
13. All structures, foundations, and footings for buildings on the project site shall be designed and constructed to conform to the current California Building Code, including amendments adopted by the City.
14. An engineering soils report shall be prepared in order to identify soil characteristics requiring special structural design. On-site and off-site structural design shall conform to the findings and recommendation of the engineering soils report. The report shall be prepared prior to issuance of a grading permit, subject to review and written approval by the City Engineer.
15. A minimum 200-foot separation shall be maintained between the public right-of-way and adjacent retail stores from material stockpiles, debris piles, or containers and equipment storage during the construction process. If such storage must be located within 50 feet of the public right-of-way or adjacent retailers, a six-foot high opaque fence shall shield the storage area from view when the storage area is inactive for more than eight hours. This requirement shall be incorporated into the specifications for all construction plans, subject to review and written approval by the Community and Economic Development Department.
16. During construction activities, all food-related trash items shall be enclosed in sealed containers and regularly removed from the project site to avoid attracting wildlife to the project site. Pets shall not be allowed on the construction site. The proper location of the trash containers shall be subject to the review and written approval of the Community and Economic Development Department.
17. Prior to placement of combustible materials on the site, two points of all-weather access, at least one paved, shall be provided, to the satisfaction and written approval of the Fire Chief.
18. Temporary construction trailers shall be permitted only in areas immediately adjacent to or within that portion of the Site Plan where active construction is

taking place. Placement of said construction trailer is subject to the written approval of the Community and Economic Development Director and shall be removed in accordance with Title 9, Chapter 3, Article 39 Temporary Use Ordinance of the Los Banos Municipal Code.

19. The development site shall be controlled of weeds and free of debris and litter. The applicant shall provide protection against wind and water soil erosion.
20. Due to the possibility that significant buried cultural resources might be found during construction, the following language shall be included in any permits issued for the project site, including, but not limited to building permits for future development, subject to the review and approval of the Los Banos Community Development Department:

“If archaeological resources or human remains are discovered during construction, work shall be halted from the find and the area shall be staked off. The project developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.”

21. In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

“If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the Los Banos Police Department contacts the coroner of Merced County to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.”

22. The site shall be kept in a dust-free condition during construction of the project in. Prior to issuance of a building permit, dust control requirements shall be included in all construction contract specifications to reduce significant levels of construction-related hazardous air emissions.

- a. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, or vegetative ground cover.
- b. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
- c. All land clearing, grubbing, scraping, excavation, land leveling, grading, and cut and fill activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
- d. When materials are transported off-site, all material shall be covered, effectively wetted to limit visible dust emissions, or at least six inches of freeboard space from the top of the container shall be maintained.
- e. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at least once every 24 hours when operations are occurring. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. The use of blower devices is expressly forbidden.)
- f. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

23. Prior to issuance of building permits, the developer/applicant shall include the following requirements in all construction bids and documents including contracts (and implemented during construction activities) for the purpose of reducing diesel particulate and acrolein emissions during construction of the project:

- a. All pre-1994 model year and older diesel equipment shall be retrofitted with EPA-certified diesel oxidation catalyst filters;
- b. Contractor shall maintain records of all purchases of diesel oxidation catalyst filters or biodiesel fuel until construction is complete; and
- c. The SJVAPCD shall have the right to inspect all construction and demolition equipment, as well as the contractor's records at any time during demolition and construction.

24. The project site shall include a bicycle rack. Size and location shall be approved by the Community and Economic Development Director.
25. All development impact fees shall be paid in full prior to occupancy and as a condition of issuance of an occupancy permit. The developer shall provide a receipt from the Los Banos Unified School District for all applicable school impact fees.

Utilities and Drainage:

26. Subject to the review and approval of the Los Banos Public Works Department, project improvement plans shall include Best Management Practices (BMPs) to reduce the introduction of oils and other contaminants to the Los Banos storm water drainage system and main canal. Water quality safeguards shall be installed prior to occupancy of the parking lots. A water quality Best Management Practices plan shall be implemented upon occupancy.
27. Approved backflow devices shall be installed as required per City standards.
28. Separate domestic service meters shall be installed for the new building.

Landscape and Lighting:

29. Prior to issuance of a building permit the applicant shall submit a lighting plan pursuant to standards in the Los Banos Standards and Specifications and Caltrans standards for Pacheco frontage. All exterior lighting including parking lot lighting, shall meet the provisions of the Los Banos Municipal Code.
30. All landscaping and irrigation shall be continuously maintained in a healthy and thriving manner and shall fulfill the City Shade Canopy Ordinance. Should any landscape material die, it shall be immediately replaced with landscaping of a similar type, size and quantity or an approved alternative should a different type of landscape material be determined to fare better than the deceased material in the project environment. The applicant shall provide the Public Works Department a Landscape Plan and a Landscape Maintenance Plan describing their strategy for maintaining all landscaped areas in a healthy, litter free and thriving manner. Said plan shall identify responsible parties and be submitted for Public Works Department approval prior to issuance of building permit(s). Failure to maintain and replace landscaping and shade canopy in a healthy manner may result in administrative citations and fines.
31. All ground and rooftop mounted electrical, plumbing and mechanical equipment shall be screened from view of the public right-of-way by continuous parapet wall or landscaping or combination thereof.
32. Landscape plans shall be designed in accordance with Title 10, Chapter 2, Water Efficient Landscape Ordinance of the Los Banos Municipal Code.

Signage:

33. All advertising signage shall be subject to Sign Review and permit approval from both the Community Development and Building Departments, prior to installation, consistent with the development criteria of the Los Banos Municipal Code Sign Ordinance.
34. The maximum height of freestanding and monument signs shall be twenty (20') feet unless a Conditional Use Permit is applied for and granted per the Municipal Code.

Design/Aesthetics:

35. The design of the improvements shall be conforming to the approved site plan. Any significant changes in color or architecture (i.e. paint, texture, material) shall require written approval by the Community and Economic Development Director or Planning Commission approval. The applicant shall maintain the color as presented in the site plan for the life of the project. Any changes to the site plan as to color or architecture shall require prior approval by the Community and Economic Development Director or Planning Commission. This condition shall be applicable beyond the issuance of an occupancy permit.
36. Downspouts shall be located within the building walls or architecturally integrated into the design and color of the structures, and there shall be no drainage across the public access ways or across the public right-of-way.

Police Department

37. Install easy to view surveillance cameras inside and outside of the building subject to the prior approval of the Police Chief as to the location and quantity.

Fire Department

38. Commercial grade Knox Boxes shall be required on the exterior of the building in the area of the front entrance. Applications can be obtained through the Fire Department.
39. A fire alarm control panel shall be located within the fire control room. A minimum of one (1) pull station and one (1) audio visual station shall be provided within 5' of the front entrance. The fire alarm system shall be plan checked and approved by the Los Banos Fire Department. These plans shall be through deferred submittal to the Fire Department.
40. There shall be a two (2) - ten (10") inch addresses of a contrasting color on the building facing Pacheco Blvd. (north elevation) and the other facing Prairie Springs (south elevation).

41. Driveways, parking lots, water lines, fire hydrants, and underground utilities shall be completed prior to occupancy.

Public Works

42. There shall be an ADA compliant "path of travel" extending to the training center from the Wal-Mart Supercenter.

43. The developer shall prepare improvement plans for the entire project site and plans shall be approved by the City Engineer prior to the start of any site work. Included in those improvement plans shall be, but not limited to, topography, site, grading and drainage, utilities, striping and signage, landscape, on and offsite lighting (street frontage), and offsite improvements. These improvements shall be installed per City of Los Banos Standards.

44. The developer shall prepare, prior to issuance of a building permit, a landscape and lighting plan. The landscape and lighting plan shall be approved by the Community and Economic Development Department and Public Works Department prior to issuance of a building permit, and shall be prepared by a Landscape Architect and shall include the size, type of fixtures to be used on site, and include a Lumen Dispersion Map and comply with the City of Los Banos shade tree canopy ordinance. The landscape plan shall be designed in accordance with the City's "Water Efficient Landscape Ordinance".

45. A Storm Water Pollution Prevention Plan (SWPPP) shall be generated if the property is greater than 1-acre. In any case Construction and Post-Construction Best Management Practices (BMP's) shall be implemented to the City's MS-4 Phase II designation.

46. The developer shall prepare a grading and drainage plan and improvement plan prior to the issuance of a building permit. The grading and drainage plan shall be prepared per City standards and shall be approved by the City Engineer prior to the commencement of grading and work of any kind.

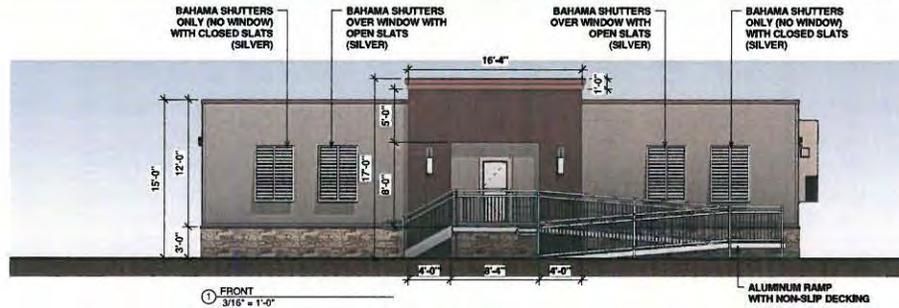
47. Storm drain, water main, and sanitary sewer main line improvements shall be installed by the developer per the City of Los Banos Utility Master Plans.

48. All new utility services are to be under-grounded.

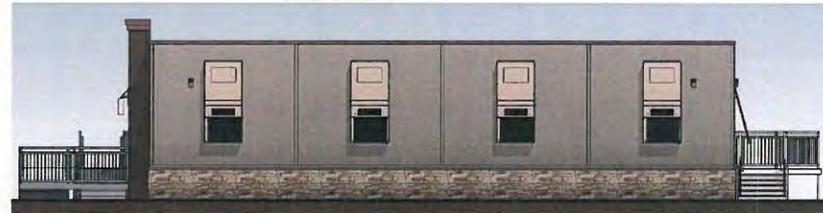
49. All development fees, including but not limited to all inspection fees, processing fees, landscape and light plan fees, and improvement plan fees shall be paid prior to issuance of the building permit.

50. All work performed within/adjacent to the State Right-of-Way will be subject to Caltrans Standards and Specifications, including an encroachment permit.

NOTE:
RENDERING COLORS ARE
AN APPROXIMATION USING
ARTIFICIAL LIGHTING. ACTUAL
FINISH COLORS TO MATCH
EXISTING BUILDING.



② LEFT SIDE
3/16" = 1'-0"



③ RIGHT SIDE
3/16" = 1'-0"



① REAR
3/16" = 1'-0"



Modular Space Corporation
1200 Swedesford Rd.
Berwyn, PA 19312

A/E SEAL

APPROVAL STAMP

PROJECT NAME / ADDRESS
Prototype 56x56 Training Building
CITY / STATE - TBD

COMPANY NAME / ADDRESS
WALMART ACADEMY BUILDING

DRAWING TITLE
Exterior Elevations

REVISIONS

Date	Description

DRAWN BY
J.VILLA

Date
08/16/16

APPROVED BY

Date

PROJECT NOS.
Prototype 56x56 Training Building
CITY / STATE - TBD

Ownership of Documents

This document and the ideas and designs incorporated herein, as an instrumental service, is the property of Modular Space Corporation (ModSpace) and is NOT to be used in whole or in part for any other project without written permission of Modular Space Corporation.

Sheet No. **A2.01**



1575

STOP



City of
Los Banos
At the Crossroads of California

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

Date: August 12, 2016

Regarding: Notice of Public Hearing

Proposal: Site Plan Review #2016-08 – Walmart Academy

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider Site Plan Review #2016-08 for Walmart. The project proposal is for the construction of a 3,000 square foot building to be utilized for a training center for Walmart. The project site is located at 1575 West Pacheco Blvd. on the west side of the existing Walmart Supercenter, more specifically identified as Assessor's Parcel Number: 430-010-012.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, August 24, 2016 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 J Street. Questions regarding the above referenced item may be directed to Stacy Souza Elms, Senior Planner at (209) 827-7000 ext. 133.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from the Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Senior Planner



City of
Los Banos
At the Crossroads of California

PLANNING COMMISSION STAFF REPORT

TO: CHAIRMAN SPADA AND PLANNING COMMISSIONERS

FROM: STACY SOUZA ELMS, SENIOR PLANNER *SE*

FOR: AUGUST 24, 2016

**SUBJECT: CONSIDERATION OF VESTING TENTATIVE TRACT MAP #2016-04,
FINAL DEVELOPMENT PLAN #2016-03, AND DEVELOPMENT
AGREEMENT FOR VILLAGES AT STONECREEK IX**

RECOMMENDATIONS:

Staff requests that the Planning Commission open the public hearing, receive public comment, and consider:

1. Adopting Resolution No. 2016-43 approving Villages at Stonecreek IX Vesting Tentative Tract Map #2016-04 for the subdivision of approximately 18.64 acres into 71 single family residential lots generally located at the northwest corner of Ortigalita Road and Pioneer Road; more specifically identified as Assessor's Parcel Number: 430-060-020; and
2. Adopting Resolution No. 2016-44 recommending approval to the Los Banos City Council of Final Development Plan #2016-03 for the Villages at Stonecreek IX; and
3. Adopting Resolution No. 2016-45 recommending approval to the Los Banos City Council of a Development Agreement by and between the City of Los Banos and Anderson Homes, Inc., relative to Villages at Stonecreek IX.

BACKGROUND SUMMARY:

On November 24, 2003, the Planning Commission recommended approval of the Stonecreek Area Plan (493.3 acres) to the Los Banos City Council and subsequently the City Council approved the Stonecreek Area Plan on April 21, 2004. The Stonecreek Area Plan project included the eventual annexation of 401.1 acres into the City of Los Banos, a General Plan land use amendment consistent with the proposed Area Plan, site pre-zoning, circulation, transportation diagrams, and a layout of proposed infrastructure. Land uses designated in the Stonecreek Area Plan included an office



LAND USE:

The project site is currently used for agricultural purposes.

Property	Land Use	Zone	General Plan
Project Site	Undeveloped/Agriculture	PD/R-1	Low Density Residential
North	Undeveloped/Agriculture	PD/R-1	Low Density Residential
East	Residential/Commercial	A-1	Low Density Residential
South	Agriculture	A-1	Civic/Institutional
West	Agriculture	A-1	Low Density Residential

R-1 = Low Density Residential PD = Planned Development

A-1 = General Agriculture (Merced County)

ENVIRONMENTAL ASSESSMENT:

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is within the scope of the Stonecreek Area Plan Program EIR (SCH #2002061015) certified by the Los Banos City Council on April 21, 2004. Staff has determined that the proposed project was adequately described, examined, and evaluated in the EIR, and that no significant new information or changes in the environmental setting have occurred that would result in new or greater significant effects not studied in the EIR. The City

determined that the Stonecreek Area Plan could have a significant effect on the environment; however, all potentially significant effects were analyzed adequately in the EIR, and mitigation measures presented in the EIR and proposed as conditions of approval, will reduce potentially significant impacts to a less than significant level. No additional review is necessary under CEQA.

The EIR contemplated a total residential build-out of 1,868 residential units within the Stonecreek Area Plan. The following projects have been approved for 649 units within this Area Plan:

- Villages at Stonecreek IIA & III 287
- Villages at Stonecreek IV 309
- Villages at Stonecreek V 53

The proposed project will bring cumulative residential development within the Stonecreek Area Plan to 720 units. Therefore, the proposed project is within the scope of the development anticipated in the Stonecreek Area Plan. No further environmental documentation is required because the proposed project was contemplated and adequately analyzed in the EIR.

FINAL DEVELOPMENT PLAN ANALYSIS:

Pursuant to Section 9.3-401 of the Los Banos Zoning Code, the purpose of the Planned Development District (P-D) is to provide an integrated neighborhood development which would otherwise not be possible under traditional "lot-by-lot" zoning. The Planned Development District encourages innovative and creative development by allowing flexibility in land use and design. The District allows the opportunity to provide amenities and conveniences while maintaining a suitable neighborhood environment and permits development based on a high standard of performance and design by creating greater efficiency in land use by providing for flexibility in strict application of the Zoning Code. This is achieved by maximizing open space, preserving natural amenities and creating additional amenities as approved by the City Council.

A Final Development Plan is required for the total project or an approved phase of the project in order for development to occur in the Planned Development district. The Planning Commission is tasked with making a recommendation to the City Council on the proposed Final Development Plan. The City Council by resolution may grant approval of the Final Development Plan subject to conditions, or may deny the request.

Project Design

The proposed project provides a range of lot sizes not otherwise available in a traditional residential zone. The Los Banos General Plan, the Stonecreek Area Plan, and the Residential Design Guidelines were used as guiding principles for the design of the Villages IX at Stonecreek Final Development Plan. The intent of the design was to present a range of production homes positioned on larger than standard (6,000 square foot) Low Density Residential lots.

Land Use

The project site is designated as Low Density Residential according to the Los Banos General Plan with a Planned Development overlay according to the Zoning Map. The Villages at Stonecreek IX proposes detached single family residential homes on lot sizes varying from 7,143 square feet to 14,394 square feet. The resulting density will be 3.8 dwelling units per acre (du/ac).

Architecture

The proposed architecture for the project reflects traditional American architectural styles. The Final Development Plan provides a variety in elevation, color scheme, house designs, and setbacks to provide compatibility and consistency with the existing Villages at Stonecreek IV neighborhood. The proposed elevation styles used within the proposed Final Development Plan will be compatible with, and complementary to, the existing residential neighborhood in terms of scale, height, and neighborhood feel. The proposed elevations utilize variations in building style, colors, and materials. Each architectural plan group consists of an elevation of stone or brick used on the base of the homes or for pillars. Each architectural plan group also consists of the use of mock shutters throughout various plans. The proposed designs utilize the front door as a prominent feature of each home while setting garages back from the front façade with minimum 2-car garages.

The Final Development Plan proposes 5 different architectural plan groups each consisting of three distinct elevation styles adding up to a total of 15 different design styles.

Circulation

Ortogonalita Road and Pioneer Road have been designed as arterial streets with Class 2 bike paths. Ortogonalita Road will have a 90 foot right-of-way and will consist of two travel lanes in both directions, a 6 foot bike lane, a 2.5 foot park strip, 5 foot sidewalk, 3 foot minimum planter area, and masonry wall. This street section will be designed consistently with the approved Villages at Stonecreek IV street section to the north. Pioneer Road will have a 96 foot right-of-way and will consist of two travel lanes in both directions, an 8 foot bike lane, 4.5 foot park strip, 5 foot sidewalk, 3 foot minimum planter area, and masonry wall.

Streets B and G will serve as the main entrances into the subdivision. The typical neighborhood streets within the project site have been designed utilizing 52 foot wide public right-of-way. The street section, which includes curb, gutter, and asphalt, will consist of a 32 foot wide street with a 5 foot park strip and 5 foot sidewalk.

Infrastructure/Services

Water: The City of Los Banos would provide domestic water services by extending an existing 8" line at Badger Flat Road and connecting to an 8" line in the proposed Villages IX at Stonecreek subdivision at Streets B and G. Routine 8-inch distribution lines are proposed to be installed throughout the project site. All existing groundwater wells within the boundary of the map will be required to be abandoned to Merced

County Standards. The project is subject to the provisions of the Los Banos Water Master Plan and will conform to its requirements including, but not limited to, payment of water impact fees.

Sewer: The City of Los Banos would provide wastewater service to the project site by connecting to an existing 12" line on Badger Flat Road. Routine 6 inch lines are proposed to be installed throughout the project site. Project build-out has been contemplated in the Wastewater Master Plans and will conform to its requirements including, but not limited to, payment of the wastewater impact fees.

Drainage: The City of Los Banos would provide storm water drain services by designing piping according to City standards and specifications. The existing storm drain basin north of the project site on Badger Flat Road has been sized to accommodate flow from the project area in accordance with the Storm Drain Master Plan.

It should be noted that all City infrastructure has been sized to accommodate this use and will be built in accordance with the City's Utility Master Plans.

TENTATIVE TRACT MAP ANALYSIS:

In General

Land cannot be divided in California without local government approval. Dividing land for sale, lease or financing is regulated by local ordinances based on the State Subdivision Map Act (commencing with Government Code Section 66410). The local General Plan, zoning, subdivision, and other ordinances govern the design of the subdivision, the size of lots, and the types of improvements (street construction, sewer lines, drainage facilities, etc.).

There are essentially two types of subdivisions: parcel maps (minor subdivisions), which are limited to divisions resulting in fewer than five lots (with certain exceptions), and subdivision maps (also referred to as tract maps), which apply to divisions resulting in five or more lots. Applications for both types of land divisions must be submitted to the local government for consideration in accordance with the local subdivision ordinance and the Subdivision Map Act.

Upon receiving an application for a subdivision map, staff examines the design of the subdivision to ensure that it meets the requirements of the General Plan, the Zoning Ordinance, the local Subdivision Ordinance, and the California Subdivision Map Act. A public hearing must be held prior to approval of a Vesting Tentative Tract Map.

Approval of a Vesting Tentative Tract Map generally means that the subdivider will be responsible for installing improvements such as streets, drainage facilities or sewer lines to serve the subdivision. These improvements must be installed or secured by bond before the City will grant final approval of the map (final map) and allow the subdivision to be recorded in the County Recorder's office. Lots within the subdivision cannot be sold until the final map has been officially recorded. The subdivider, under a

Development Agreement, has ten years to comply with the improvement requirements, gain final administrative approval, and record the final map. If the tentative map expires, it cannot be revived. Instead, a new tentative map must be applied for, processed, and approved.

Code Requirements

Title 9, Chapter 2 of the Los Banos Municipal Code regulates the processing and approval of all subdivisions within the City of Los Banos. In accordance with the subdivision code, the Vesting Tentative Tract Map has been reviewed by the Project Review Board prior to its submission to the Planning Commission. Among other things the Project Review Board has reviewed the Vesting Tentative Tract Map for: suitability of the land for subdivision; overall design of the subdivision; provisions for public improvements such as street improvements, utilities, storm drains, sidewalks, water supply, and sewage disposal; provisions for public areas such as parks and schools. The Project Review Board reviewed the Vesting Tentative Tract Map August 16, 2016 and their recommendations are incorporated into the Conditions of Approval for Planning Commission consideration.

Pursuant to Section 9-2.806(b) of the Los Banos Municipal Code, the Planning Commission shall determine whether the Vesting Tentative Tract Map is in conformity with the provisions of law and of the Municipal Code, and shall approve, conditionally approve, or disapprove such map.

DEVELOPMENT AGREEMENT:

A Development Agreement is a legally binding contract between the City and a project developer that delineates the terms and conditions of a proposed development project. A Development Agreement allows a project developer to secure vested rights, and it allows the City to secure certain benefits. Development Agreements are enabled by California Government Code Sections 6584-65869.5.

Development Agreements are commonly used for land use developments which are implemented in phases over a long period of time. Development Agreements provide assurances to both the applicant and the City that the terms of the agreement (conditions of approval) will not change and be in force until the completion of the project, and they are legally binding on each party. This protects the developer from expending energy and money on a project only to have the terms of conditions and standards change before the development can be completed.

Development Agreements in theory have three defining characteristics: 1) they allow greater latitude than other methods of approval to advance local land use policies in sometimes new and creative ways; 2) they allow public agencies greater flexibility in imposing conditions and requirements on proposed projects; and 3) they afford project proponents greater assurance that once approved, their projects can be built.

Development Agreements in Los Banos have been employed as a growth management

tool and as a tool to negotiate individual project conditions and requirements that might not otherwise be achievable through regular processing.

City staff is in the preliminary stages of revising our growth management policy for residential development. A provision has been incorporated into the proposed Development Agreement that requires the subject property to follow any future adopted revised growth management policy, but would not apply to the project for one (1) year from the date the new policy is adopted by the City Council.

While it may take years to process and secure the approval of a tentative map, once approved, the tentative map itself is only good for 24 months (or 36 months in those communities that provide an additional 12 months by local ordinance). Thus, unless a final map is filed with the city within this two-year time frame or the tentative map is extended, the tentative map will expire. If the tentative map expires, the process starts all over again; a new tentative map application will have to be prepared, processed and approved.

Once a tentative map expires, it cannot be revived. Instead, a new tentative map must be applied for, processed, and approved. Such re-approval can prove costly from a time and resource perspective. Therefore, because sub-dividers are in the business of creating legal lots in as resource-efficient a manner as possible, they are uniquely interested in keeping their tentative maps alive until such time as they are able to record their final maps and realize the product of their efforts that being saleable lots.

One of the tools for extending the life of a tentative map is through a Development Agreement. A tentative map on property subject to a Development Agreement may be extended for the period of time specified in the Development Agreement. Development Agreements negotiated in Los Banos typically provide that any tentative map within the project area will expire one year after the expiration of the Development Agreement. Since the development is a negotiated agreement, the city also has the ability to negotiate conditions that might not otherwise be enforceable otherwise.

The benefits of the proposed Development Agreement to the City are:

- a) Continuation of the Planned Development known as Stonecreek South.
- b) Formation or annexation of the property to a Community Facilities District created for the purpose of funding public safety.
- c) Formation or annexation of the property to a Landscape and Lighting District created for the purpose of maintaining public landscape areas, signage, and public lighting and traffic signal maintenance.

PUBLIC COMMENT:

A public hearing notice was published in the Los Banos Enterprise and notices were mailed out to property owners within a 300' radius of the project site on August 12, 2016. As of the date of this staff report, no written comments have been received.

RECOMMENDATION:

1. Adopting Resolution No. 2016-43 approving Villages at Stonecreek IX Vesting Tentative Tract Map #2016-04 for the subdivision of approximately 18.64 acres into 71 single family residential lots generally located at the northwest corner of Ortigalita Road and Pioneer Road; more specifically identified as Assessor's Parcel Number: 430-060-020; and
2. Adopting Resolution No. 2016-44 recommending approval to the Los Banos City Council of Final Development Plan #2016-03 for the Villages at Stonecreek IX; and
3. Adopting Resolution No. 2016-45 recommending approval to the Los Banos City Council of a Development Agreement by and between the City of Los Banos and Anderson Homes, Inc., relative to Villages at Stonecreek IX.

ATTACHMENTS:

1. Resolution 2016-43 – Vesting Tentative Tract Map #2016-04
 - Exhibit A: CEQA Findings
 - Exhibit B: Findings for Approval
 - Exhibit C: Conditions of Approval
 - Exhibit D: Mitigation Monitoring Plan
2. Resolution 2016-44 – Final Development Plan #2016-03
 - Exhibit A: CEQA Findings
 - Exhibit B: Findings for Approval
 - Exhibit C: Conditions of Approval
 - Exhibit D: Mitigation Monitoring Plan
3. Resolution 2016-45 – Development Agreement
 - Exhibit A: Draft Development Agreement
4. Villages at Stonecreek IX Vesting Tentative Tract Map
5. Villages at Stonecreek IX Final Development Plan
6. Public Hearing Notice – August 12, 2016

RESOLUTION NO. 2016-43

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS APPROVING VILLAGES AT STONECREEK IX VESTING TENTATIVE TRACT MAP NO. 2016-04 FOR THE SUBDIVISION OF APPROXIMATELY 18.64 ACRES INTO 71 SINGLE-FAMILY RESIDENTIAL LOTS LOCATED GENERALLY AT THE NORTHWEST CORNER OF ORTIGALITA ROAD AND PIONEER ROAD; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 430-060-020

WHEREAS, the Los Banos General Plan was adopted by the City of Los Banos City Council on July 15, 2009; and

WHEREAS, the subject property has a land use designation of Low Density Residential pursuant to the Los Banos General Plan and is zoned Low Density Residential (R-1) with a Planned Development (PD) overlay by the Los Banos Zoning Map; and

WHEREAS, the Stonecreek Area Plan was adopted by the City of Los Banos City Council on April 21, 2004; and

WHEREAS, Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, the project was evaluated within the context of the Stonecreek Area Plan Program Environmental Impact Report (EIR), certified by the City of Los Banos on April 21, 2004. Staff has determined that the proposed project was adequately described, examined, and evaluated in the EIR, and that no significant new information or changes in the environmental setting have occurred that would result in new or greater significant effects not studied in the EIR ; and

WHEREAS, Vesting Tentative Tract Map #2016-04 was reviewed by the Project Review Board on August 16, 2016 and was determined to be in compliance with State laws and the Los Banos Subdivision Code; and

WHEREAS, a public hearing was duly noticed for August 24, 2016, in accordance with California Government Code Section 65091 by advertisement in the Los Banos Enterprise and by mail to property owners within 300 feet of the project boundaries on August 12, 2016 to consider and take testimony regarding Vesting Tentative Tract Map #2016-04; and

WHEREAS, at the August 24, 2016, Planning Commission meeting the Los Banos Planning Commission, heard and considered testimony, if any, of all persons desiring to be heard; reviewed the Vesting Tentative Tract Map and staff report; studied the compatibility of the applicant's request with adjacent land uses; has considered the applicant's request in accordance with the Tentative Tract Map criteria established in Title 9, Chapter 2, Article 15 of the Los Banos Municipal Code; and

BASED UPON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, the Planning Commission of the City of Los Banos does hereby make the findings set forth in Exhibit A (CEQA Findings), and Exhibit B (Findings of Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby approve Vesting Tentative Tract Map #2016-04 subject to the conditions of approval attached hereto in Exhibit C for the subdivision of approximately 18.64 acres into 71 single-family residential lots located generally at the northwest corner of Ortigalita Road and Pioneer Road; more specifically identified as Assessor's Parcel Number: 430-060-020, and specifically conditioned upon approval by the City Council of Final Development Plan #2016-03.

The foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 24th day of August 2016, by Commissioner _____ who moved its adoption, which motion was duly seconded by Commissioner _____ and the Resolution recommended for approval by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Tom Spada, Chairman

ATTEST:

Sandra Benetti, Planning Commission Secretary

EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR VESTING TENTATIVE TRACT MAP #2016-04 – VILLAGES AT STONECREEK IX

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 15000 et seq. (the "CEQA Guidelines"), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos Planning Commission hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, the project was evaluated within the context of the Stonecreek Area Plan Program Environmental Impact Report (EIR) (SCH #2002061015), certified by the City of Los Banos on April 21, 2004;
2. The EIR was adequately noticed, circulated for public review, considered at public hearings, and duly certified by the Los Banos City Council;
3. The Project will have significant and unavoidable impacts on prime agricultural lands for which no feasible mitigation measures are available, but specific overriding economic, legal, and social benefits of the project outweigh the adverse environmental effects, and a Statement of Overriding Considerations was adopted when the Stonecreek Area Plan EIR was certified;
4. The Project will have significant and unavoidable impacts on air quality and although all feasible mitigation measures that are available have been applied, a significant impact remains; but specific overriding economic, legal, and social benefits of the project outweigh the adverse environmental effects, and a Statement of Overriding Considerations was adopted when the Stonecreek Area Plan EIR was certified;
5. The City determined that the Stonecreek Area Plan could have a significant effect on the environment, however, all potentially significant effects were analyzed adequately in the EIR, and mitigation measures presented in the Stonecreek Area Plan EIR have been included as conditions of project approval, and will reduce potentially significant impacts, other than those on prime farmland and air quality, to a less than significant level;
6. The proposed project was adequately described, examined, and evaluated in the Stonecreek Area Plan EIR.

7. The Stonecreek Area Plan EIR contemplated a build-out of 1,868 residential units within the Stonecreek Area Plan, the proposed project and will bring cumulative residential development within the area plan thus far to 720 units, and therefore, the proposed project is within the development density anticipated in the Stonecreek Area Plan and EIR;
8. No significant new information or changes in the environmental setting have occurred that would result in new or greater significant effects not studied in the EIR;
9. Because there are fewer units the project will have reduced traffic and wastewater generation, and reduced water consumption than was considered in the EIR, and will not result in any new or increased environmental effects not adequately described in the EIR;
10. No further environmental documentation is required because the proposed project was contemplated and adequately analyzed in the EIR;
11. The project was adequately noticed on August 12, 2016, and considered at a public hearing on August 24, 2016;
13. The project will be subject to the applicable mitigation measures presented in the EIR;
14. The City will monitor the implementation of mitigation measures in accordance with the Stonecreek Area Plan Mitigation Monitoring Program; and
15. The EIR and the CEQA findings for the EIR are incorporated herein by reference.

EXHIBIT B

FINDINGS FOR APPROVAL OF VESTING TENTATIVE TRACT MAP #2016-04 – VILLAGES AT STONECREEK IX

The City of Los Banos Planning Commission hereby finds as follows:

1. The Los Banos General Plan was adopted by the City in July 2009 and the Stonecreek Area Plan was prepared pursuant to the Los Banos General Plan and adopted by the City on April 21, 2004.
2. The proposed project is consistent with the City of Los Banos General Plan “Residential” land use designation for the site, and with the Stonecreek Area Plan “Planned Development” designation for the site.
3. The proposal will not be detrimental to the health, safety, comfort, or general welfare of the persons residing or working in the City of Los Banos, or injurious to property or improvements in the surrounding neighborhoods or within the City. The project will enhance the surrounding area and offer the surrounding community choices for housing.
4. The proposed Vesting Tentative Tract Map is compatible with the adjacent uses, properties, and neighborhoods, and will not be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the City, and the specific types, densities, and configuration of residential uses are compatible with the surrounding residential and educational uses and will not result in detrimental effects to neighboring properties or to City services.
5. The project will provide adequate pedestrian and bicycle routes within the project, and, as conditioned, to nearby destinations including schools.

EXHIBIT C

CONDITIONS OF APPROVAL FOR VESTING TENTATIVE TRACT MAP #2016-04 – VILLAGES AT STONECREEK IX

General

1. The applicant shall submit a revised Vesting Tentative Tract Map to the Community and Economic Development Department reflecting any modifications, additions, and/or conditions of approval, within 30 days from Planning Commission approval. If necessary, the revised Vesting Tentative Tract Map shall be reviewed by the City Engineer and the Community and Economic Development Director and signed by the Community and Economic Development Director for purposes of providing a clear record of the approved Vesting Tentative Tract Map.
2. The Vesting Tentative Tract Maps, Final Maps, and Improvement Plans shall be consistent with the Final Development Plan, as conditioned.
3. Approval and life of the Vesting Tentative Tract Maps shall be as set forth in the Los Banos Municipal Code.
4. All development shall be consistent with the Vesting Tentative Tract Map #2016-04 and approved Final Development Plan #2016-03, reflecting any amendments added during approval.
5. The Final Map(s) shall be in substantial compliance with the approved Vesting Tentative Tract Map, including any changes set forth in the conditions of approval.
6. A Final Map shall be prepared by a professional land surveyor licensed in California or a professional engineer licensed in California and qualified to practice land surveying, according to the Subdivision Map Act, and local ordinances.
7. At least two points on the Final Map shall be tied to the California State Plane Coordinate System (NAD 83) with ties shown and closure calculations depicting the tie bearings and distances.
8. A letter from the Tax Collector shall be submitted prior to the recording of the Final Map which indicates that taxes have been paid or a bond has been posted.
9. A Final Map Guarantee shall be prepared and provided to the County Recorder.

10. When the submittal has been technically approved, the original mylars and a conforming mylar will be signed and notarized (notary shall not be stamped on the map) and delivered to the Public Works Department.
11. Developer shall include a Public Utility Easement of ten (10) feet along all road frontages.
12. For all properties within 1,000 feet of agricultural operations, deed notices shall be recorded with the final map. The deed notice shall require property purchasers to acknowledge the existing and ongoing commercial and/or agricultural uses on adjacent and nearby properties, and the Merced County Right-to-farm Ordinance.
13. Building Master Plans shall be approved by the Community and Economic Development Department and Building Department prior to issuance of the first building permit and shall be consistent with Final Development Plan #2016-03.
14. Improvement Plans shall be submitted to the City for approval prior to/or concurrent with the application for each final map and the following note shall be required: "The Contractor is responsible for protecting and preserving survey monuments and other survey markers. Any survey monuments damaged as a direct or indirect result of construction activities shall be re-established by a duly licensed land surveyor at the Contractor's sole expense. A corner record shall be filed in accordance with State law for any reset monuments at the Contractor's sole expense."
15. Improvement Plans shall include a street signage and striping plan to be approved by the Public Works Director.
16. On-site improvements may be constructed prior to the recording of the final map subject to City approval of Improvement Plans and payment of applicable plan check and inspection fees, and satisfaction of all construction conditions of approval.
17. Off-site public improvement plan(s) shall be submitted to the Public Works Department for approval prior to/or concurrent with the application for the Final Map. The developer shall not commence off-site improvements until approval is received by the Public Works Department. The developer shall enter into a subdivision improvement agreement with the City and provide labor and maintenance bonds in an amount of 100% of the Engineer's Estimate for public improvements to be completed following recordation of the Final Map.
18. The project is subject to the appropriate Development Impact Fees as established by the City.

19. Private property owners shall be responsible for the maintenance of sound walls and decorative masonry walls located on private property.
20. The applicant shall obtain City approval in advance for permanent and temporary on-site and off-site signs through separate sign reviews and bonding consistent with the development criteria of the Los Banos Municipal Code – Sign Ordinance.
21. It is the applicant's responsibility to ensure that the development complies with the Americans with Disabilities Act requirements.
22. It shall be the responsibility of the applicant to convey copies of the conditions of approval to all contractors and sub-contractors.
23. Building permits will be issued in accordance with City Subdivision Policy that identifies the improvements required in order for a building permit to be issued.
24. All structures, foundations, and footings for future buildings on the project site shall be designed and constructed to conform with the current Uniform Building Code for Seismic Zone 4 to minimize structural damage resulting from potential seismic activity.
25. An engineering soils report shall be prepared for all projects in order to identify soil characteristics requiring special structural design. On-site and off-site structural design shall conform to the findings and recommendation of the engineering soils report. The report shall be prepared prior to issuance of a grading permit, subject to review and approval of the Los Banos City Engineer.
26. Prior to issuance of building permits for development of sensitive residential land uses (e.g. houses, schools, parks, day care), or other uses in which persons may contact soils), a Phase 1 environmental assessment shall be prepared to determine if soils contain hazardous materials. If necessary, a remediation plan shall be created and implemented. The assessment and any necessary remediation plans shall be subject to the approval of the Community Development Department.
27. Improvement Plans and Grading Plans shall delineate the location and design of all required walls and fences including retaining walls.
28. Improvement Plans shall include mailbox locations, which must be approved by the US Postmaster and the City of Los Banos.
29. Undeveloped portions of the subdivision shall be controlled of weeds and free of debris and litter.

30. Due to the possibility that significant buried cultural resources might be found during construction, the following language shall be included in any permits issued for the project site, including, but not limited to building permits for future development, subject to the review and approval of the Los Banos Planning Division:

If archaeological resources or human remains are discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

31. In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the Los Banos Police Department contacts the coroner of Merced County to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Pre-Construction and Construction

32. A minimum 200-foot separation shall be maintained between residences and material stockpiles, debris piles or containers and equipment storage during the construction process. If such storage must be located within

200 feet of a residence, a six-foot high opaque fence shall shield the storage area from view when the storage area is inactive for more than eight hours. This requirement shall be incorporated into the specifications for all construction plans, subject to review and approval by the City of Los Banos Community and Economic Development Department.

33. Two points of all-weather access shall be provided to all areas of the development during all phases of construction to the satisfaction of the Fire Department in areas where residential units are under construction.
34. Temporary construction trailers shall be permitted only in areas immediately adjacent to or within that portion of the subdivision where active subdivision construction is taking place. Placement of said construction trailer is subject to the Community and Economic Development Director approval in accordance with Title 9, Chapter 3, Article 38, Temporary Use Ordinance of the Los Banos Municipal Code.
35. During construction, and for safety purposes, the developer and assigned contractors shall keep the public right-of-way clear of obstructions, and provide for clean up on a daily basis.
36. Prior to acceptance of public improvements, all entries to the subdivision shall be barricaded to prevent the public from entering the construction site.
37. Undeveloped portions of development sites shall be controlled of weeds and free of debris and litter. The applicant shall provide protection against wind and water soil erosion on undeveloped portions of the project site. Temporary vegetation on undeveloped portions of the project site shall not be allowed to grow taller than eighteen inches.
38. All contractors and subcontractors performing work relative to this project shall obtain City of Los Banos Business Licenses, prior to start of work on the project. All work performed on the project shall comply with the requirements of the State Business and Professions Code.
39. Construction shall be limited to those times allowed by City Ordinance: Monday through Friday from 7:00 am to 7:00 pm; Saturday from 8:00 am to 7:00 pm; and Sunday from 9:00 am to 7:00 pm. Properly muffled equipment shall be used.
40. The developer shall incorporate soil erosion control measures into grading and drainage plans that comply with NPDES storm water regulations. These measures shall be monitored for effectiveness by the City of Los Banos. Such measures may include, but not be limited to, the following:
 - a. Limit disturbance of soils and vegetation disturbance removal to the minimum area necessary for access and construction;

- b. Confine all vehicular traffic associated with construction to the right-of-way of designated access roads;
 - c. Silt fencing installed in accordance with the American Society for Testing and Materials standard D6462.
 - d. Adhere to construction schedules designed to avoid periods of heavy precipitation or high winds;
 - e. Ensure that all exposed soil is provided with temporary drainage and soil protection when construction activity is shut down during the winter periods;
 - f. Inform construction personnel prior to construction and periodically during construction activities of environmental concerns, pertinent laws and regulations, and elements of the proposed erosion control measures;
 - g. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board; and
 - h. Development of a plan to employ best management practices that reduce the level of pollutants discharged into natural waterways and wetlands.
41. Where standard corner lot side yards abut a street, a minimum three-foot landscaping area shall be provided between the back of sidewalk and the fence.
42. Restricted access rights shall be irrevocably offered for dedication to the City along the rear edge of private property where properties back onto streets, and shall be shown on final maps.
43. Masonry walls shall be decorative and in conformance with the Final Development Plan. A minimum 3 foot landscape area shall be provided between the back of the sidewalk and any masonry walls.

Air Quality:

- 44. Housing units shall be oriented to maximize passive solar cooling and heating when practicable.
- 45. Gas fired appliances shall be low NOx emitting appliances complying with California NOx Emission Rule #1121.
- 46. The developer shall comply with all applicable Indirect Source Rule requirements of the San Joaquin Valley Air Pollution Control District.

Developer shall prepare an air emissions reduction if required.

Access and Circulation:

47. All street traffic impact fee reimbursements shall be per the Transportation Impact Fee program (TIF).
48. Full width street improvements for Badger Flat Road (street to the Westside of the Villages IX), shall be constructed with this project as approved by the Public Works Director.
49. Half-street sections will not be permitted in the construction of VTTM #2016-04.
50. Pavement along Pioneer Road will need to be rebuilt in accordance with the City of Los Banos Standards and Specifications.
51. The Class II bicycle paths shall be designed in conformance with Caltrans design standards, and shall specifically be designed to reduce intersection conflicts between cyclists and automobiles, using signage, lighting, and/or special street pavement treatments at and near points of intersection.
52. The developer shall be responsible for constructing public streets per the Vesting Tentative Tract Maps including, but not limited to curb, gutter and sidewalk, decorative masonry wall, and landscaping where noted. Improvements to arterials and collector streets shall be completed prior to occupancy of any use within the project boundaries, and improvements to neighborhood streets shall be complete prior to occupancy of any house that requires the street for access.
53. All street signage and striping within the project area shall be approved by the Public Works Department and shall meet all line-of-sight requirements.
54. Prior to acceptance of subdivision improvements, the developer shall install all street and traffic control signs, pavement striping, and street name signs in accordance with the public improvement plans and City and/or Caltrans standards.
55. Final Map(s) shall show a non-access strip 12 inches in width on private property along the frontage of arterial and collector streets, except at driveways, for the purpose of constructing sound walls and decorative masonry walls.
56. The developer shall be responsible for obtaining encroachment permits from the City of Los Banos prior to performing any work within the City's right-of-way.

57. The developer shall design and install traffic calming measures throughout the project area as approved by the City Engineer.
58. Traffic calming measures may include, but are not limited to, raised intersections, speed cushions, stop signs, varied cross sections, and roundabouts.

Landscape and Lighting District:

59. Prior to approval of any final or parcel map, the developer shall form or annex the subject property to a Lighting and Landscaping District created for purposes of maintaining public landscape areas, signage and public lighting including a share of traffic signal maintenance costs as authorized pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, and Article XIII D of the California Constitution. The form, terms and conditions and the tax rate for the formation of the Lighting and Landscaping District, or in the alternative the annexation of the subject property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. It is the intent of the parties that the assessment of the subject property will be apportioned to each parcel in proportion to the special benefit it receives. District formation or annexation shall be at the sole cost of the developer.

Community Facilities District:

60. Prior to the recordation of a Final Map the Developer shall form or annex the Subject Property to a community facilities district created for the purposes of funding public safety, as authorized by Government Code Section 53313(a) and (b). The form, terms and conditions and the tax rate for the formation of the Mello-Roos district, or in the alternative the annexation of the subject property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. District formation or annexation shall be at the sole cost of the Developer.

Utilities:

61. The applicant shall construct water, sewer, and storm drainage facilities as noted on the Vesting Tentative Tract Map, in accordance with City standards. The project shall comply with the current City Plans, Standards, and Specifications, all Master Plan requirements, and the applicant shall work with the Public Works Department in regards to needed infrastructure and development during the Improvement Plan Review stage.

62. In conformance with the Subdivision Map Act, the developer shall permit installation of underground cable television delivery systems within public utility easements. All dwellings shall be made cable ready.
63. Prior to approval of Improvement Plans or Final Maps, the developer shall obtain any necessary easements for utilities across adjoining properties.
64. All existing overhead utilities shall be placed underground with the exception of high voltage power lines. No new overhead utility lines and equipment shall be shown on Improvement Plans and Grading Plans.
65. Where the invert is six feet or greater below finish grade, a minimum clearance of five feet from lip of gutter to the edge of pipe shall be provided for underground utility lines.

Water:

66. The proposed project shall conform to the requirements of the Los Banos Water Master Plan, including payment of the water connection impact fee.
67. Approved backflow devices shall be installed as required.
68. Domestic water services shall not be placed in driveways.

Sewer:

69. The developer shall construct all on-site and off-site sewer facilities necessary to serve the project, subject to reimbursement for over-sizing, as determined by the City.
70. Prior to submission of improvement plans for the first phase of development, a Master Sewer Plan for the development shall be submitted, reviewed, and approved by the City Engineer.

Storm Drainage:

71. Final Improvement Plans for the storm drainage system shall utilize the TR-55 analysis method.
72. Prior to acceptance of Final Improvement Plans, the applicant shall submit verification from the manufacturer that the pump station capacity is adequate for full basin to shut-off operational conditions.
73. All development shall comply with the Phase II storm water regulations.
74. Final Improvement Plans for the storm drainage system shall be submitted to the City and reviewed and approved by the City Engineer prior to issuance of a grading permit.

75. The Developer shall generate a Storm Water Pollution Prevention Plan (SWPPP) for pre and post construction best management practices (BMPs). A Notice of Intent (NOI) shall be submitted and approved prior to construction by the State Department of Water Resources.

Public Safety:

76. Fire department requirements for the placement of fire hydrants shall be complete prior to approval of development permits.
77. Fire hydrants shall be installed at locations approved during the Improvement Plan stage and shall be installed based upon City standards.
78. The developer, as specified by City development standards, shall install "Blue Dot" fire hydrant locators.
79. Each residence shall have a 6-inch lighted address numbers of contrasting color installed on the front elevations or alternative size as agreed to by developer and Fire Chief.
80. The developer shall comply with the City Fire Codes and regulations subject to Fire Department approval in regards to building requirements, fire hydrant placement, and sprinkler requirements.
81. Fire hydrants (or other methods approved by the Fire Chief) shall be in place and functioning prior to approval of the first residential building permit. Fire hydrants (or other methods approved by the Fire Chief) shall be operational to the satisfaction of the Fire Chief prior to combustible material being located on the site.
82. Street names shall be approved by the Fire Department.
83. Driveways, parking lots, water lines, fire hydrants, and underground utilities shall be completed prior to issuance of building permits.
84. Upon completion and approval of the project plans, a CD shall be submitted to the Fire Department providing information on street layout, hydrant locations, water mains, storm drain inlets (i.e. Fire Department pre-planning).

Landscaping:

85. All residential lots shall have fully landscaped front yards prior to occupancy of each dwelling. Front yard landscape plans shall be submitted with the development Master Plans prior to building permit issuance and shall be approved by the City Engineer and Community and Economic Development Director.

86. Draught tolerant planting may replace front yard turf as approved by the Community and Economic Development Department and Public Works Department.
87. The developer shall comply with the adopted street tree ordinance.
88. Masonry walls shall be landscaped with vines to discourage graffiti.
89. The applicant shall submit landscape and irrigation plans with each phase of the improvement plans for City review and approval of streetscape landscaping.
90. Landscape plans for single-family residences shall utilize drought tolerant plantings for no less than 75 percent of front yards. Turf varieties shall be chosen for drought tolerance. Irrigation systems shall be set to minimize water use and spillage onto paved areas.
91. Landscape plans shall be designed in accordance with Title 10, Chapter 2, Water Efficient Landscape Ordinance of the Los Banos Municipal Code.

Stonecreek Area Plan

Mitigation Monitoring Program

Introduction

CEQA Guidelines section 15097 requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

The law was passed in response to historic non-implementation of mitigation measures presented in environmental documents and subsequently adopted as conditions of project approval. In addition, monitoring ensures that mitigation measures are implemented and thereby provides a mechanism to evaluate the effectiveness of the mitigation measures.

A definitive set of project conditions would include enough detailed information and enforcement procedures to ensure the measure's compliance. This monitoring program is designed to provide a mechanism to ensure that mitigation measures and subsequent conditions of project approval are implemented.

Monitoring Program

The basis for this monitoring program is the mitigation measures included in the project environmental impact report. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects to less than significant levels. These mitigation measures become conditions of project approval, which the project proponent is required to complete during and after implementation of the proposed project.

The attached list is proposed for monitoring the implementation of the mitigation measures. This monitoring checklist contains all appropriate mitigation measures in the environmental impact report.

Monitoring Program Procedures

The City of Los Banos shall use the attached monitoring list for the proposed project. The monitoring program should be implemented as follows:

1. The Los Banos Planning Department should be responsible for coordination of the monitoring program, including the monitoring list. The Planning Department should be responsible for completing the monitoring list and distributing the list to the responsible individuals or agencies for their use in monitoring the mitigation measures.
2. Each responsible individual or agency will then be responsible for determining whether the mitigation measures contained in the monitoring list have been complied with. Once all mitigation measures have been complied with, the responsible individual or agency should submit a copy of the monitoring list to the Planning Department to be placed in the project file. If the mitigation measure has not been complied with, the monitoring list should not be returned to the Planning Department.
3. The Los Banos Planning Department will review the list to ensure that appropriate mitigation measures included in the monitoring list have been complied with at the appropriate time. Compliance with mitigation measures is required for project approvals.
4. If a responsible individual or agency determines that a non-compliance has occurred, a written notice should be delivered by certified mail to the project proponent within 10 days, with a copy to the Planning Department, describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period, construction may be halted and fines may be imposed at the discretion of the City of Los Banos.

Each mitigation measure requires full or partial implementation at one or more of the following points in the development process:

- o Prior to approval of tentative or final maps;
- o Prior to approval of improvement plans;
- o Prior to approval of revegetation plan for the environmental reserve;
- o Prior to approval of demolition permits;
- o Prior to approval of grading permits;
- o Prior to approval of building permits.

Mitigation Measure Checklist

Prior to approval of tentative or final maps

2. Subject to the review and approval of the City of Los Banos Planning Department, future development within the proposed project shall integrate the following design features:
 - Carefully selected and located trees shall be planted to provide shade for structures and pathways during the hot summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on the southern and western exposures of buildings and pathways.
 - All new buildings shall incorporate the following energy conserving features: increased wall and ceiling insulation (beyond code requirements), super-insulated windows (triple-pane, low e, and/or argon-filled), maximum use of energy efficient lighting including the provision of compact fluorescent bulbs in all fixtures with standard screw bases, Energy Star rated appliances, and solar assisted water heating.
 - Buildings shall be oriented to maximize passive solar cooling and heating when practicable.
 - Gas-fired appliances shall be low NO_x emitting gas fired appliances complying with California NO_x Emission Rule #1121.
 - Natural gas (if provided) and electrical outlets shall be included in the backyard or patio areas of residential units to encourage the use of gas and/or electric barbecues.
 - Electrical outlets shall be installed on the exterior of residential units to encourage use of electrical landscape maintenance equipment.
 - Improvements shall be made or planned to encourage transit use when it becomes available. Appropriate easements shall be reserved to accommodate sheltered loading areas. Examples of improvements include the development of bus turnouts, and pedestrian paths efficiently connecting bus stops to commercial and residential areas. The project proponent shall consult with Merced County Transit to determine a feasible route or routes to serve the proposed project, and include appropriate physical improvements on that route or routes.
 - The applicant shall work with Caltrans to identify an appropriate location for a park and ride/ride share facility.
 - Pedestrian and bicycle access paths (or quiet residential streets) shall be designed and constructed throughout as much of the project area as possible to provide direct and convenient connections to all nearby open space areas, parks, schools, commercial areas, etc. to encourage walking and bicycling. In residential areas, at least one day-lighted cul-de-sac or other pedestrian access should be provided to adjacent arterial and collector streets between each arterial or collector street intersection, preferably located to make efficient connections to crosswalks at intersections and/or leading to schools or shopping areas. In the single-family residential areas, access shall be provided to the adjacent Wal Mart shopping center, Villages residential development, elementary school, park, and linear park.

- An enhanced bicycle/pedestrian connection (which could be a path or a directly connecting road) shall be provided to connect the proposed project to the adjacent neighborhood to the east at Sandra Street.
- The Linear Park bicycle path shall be constructed to provide a crossing of Pacheco Boulevard by either 1) under-crossing or bridge at Los Banos Creek with a connection to Pacheco Boulevard on the north side, or 2) surface crossing at Badger Flat Road with a signal actuation device and signal phasing developed to reduce conflicts with turning traffic.
- Bicycle racks shall be provided at all commercial and institutional uses.
- Traffic signals shall be programmed to provide an automatic pedestrian walk signal at the beginning of each green light phase.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

15. Prior to recording the final maps and declarations relating to the establishment of a State-certified homeowners' association for residential subdivisions, Covenants, Codes and Restrictions shall be prepared for the subdivision and shall require disclosure to homeowners of potentially sensitive wildlife resources occurring in the vicinity, and habitat protection measures implemented as part of the development.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

22. The City of Los Banos shall not permit construction of uses within *Merced County Airport Land Use Compatibility Plan* Zone 3 that are not compatible with Zone C. If the City determines not to relocate the airport, the area plan shall be amended prior to development of these locations to include uses that are compatible with Zone 3. If the airport is not relocated, adoption of the alternative land use plan would eliminate this restriction.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

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28. No building permits shall be issued for buildings on the portion of the project site south of Cardoza Road and Badger Flat Loop Road, without written evidence from the City of Los Banos Fire Chief that the City of Los Banos Fire Department can serve the development within acceptable response times.

Construction and operation of a fire station within the project site shall be considered adequate evidence and written evidence will not then be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, Los Banos Fire Department, State Architect**

Monitoring Notes and Status:

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29. The Area Plan shall include Class 2 bike lanes or a Class 3 bike route with a wide outside lane on Badger Flat Road and Badger Flat Loop Road. Intersections with Badger Flat Road and Badger Flat Loop Road shall be minimized on the side with the Class 1 bike path. All bicycle facilities should be designed and built in conformance with the Los Banos Commuter Bike Plan.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

Prior to approval of improvement plans

2. Subject to the review and approval of the City of Los Banos Planning Department, future development within the proposed project shall integrate the following design features:
 - Carefully selected and located trees shall be planted to provide shade for structures and pathways during the hot summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on the southern and western exposures of buildings and pathways.
 - All new buildings shall incorporate the following energy conserving features: increased wall and ceiling insulation (beyond code requirements), super-insulated windows (triple-pane, low e, and/or argon-filled), maximum use of energy efficient lighting including the provision of compact fluorescent bulbs in all fixtures with standard screw bases, Energy Star rated appliances, and solar assisted water heating.
 - Buildings shall be oriented to maximize passive solar cooling and heating when practicable.
 - Gas-fired appliances shall be low NO_x emitting gas fired appliances complying with California NO_x Emission Rule #1121.
 - Natural gas (if provided) and electrical outlets shall be included in the backyard or patio areas of residential units to encourage the use of gas and/or electric barbecues.
 - Electrical outlets shall be installed on the exterior of residential units to encourage use of electrical landscape maintenance equipment.
 - Improvements shall be made or planned to encourage transit use when it becomes available. Appropriate easements shall be reserved to accommodate sheltered loading areas. Examples of improvements include the development of bus turnouts, and pedestrian paths efficiently connecting bus stops to commercial and residential areas. The project proponent shall consult with Merced County Transit to determine a feasible route or routes to serve the proposed project, and include appropriate physical improvements on that route or routes.
 - The applicant shall work with Caltrans to identify an appropriate location for a park and ride/ride share facility.
 - Pedestrian and bicycle access paths (or quiet residential streets) shall be designed and constructed throughout as much of the project area as possible to provide direct and convenient connections to all nearby open space areas, parks, schools, commercial areas, etc. to encourage walking and bicycling. In residential areas, at least one day-lighted cul-de-sac or other pedestrian access should be provided to adjacent arterial and collector streets between each arterial or collector street intersection, preferably located to make efficient connections to crosswalks at intersections and/or leading to schools or shopping areas. In the single-family residential areas, access shall be provided to the adjacent Wal Mart shopping center, Villages residential development, elementary school, park, and linear park.

- An enhanced bicycle/pedestrian connection (which could be a path or a directly connecting road) shall be provided to connect the proposed project to the adjacent neighborhood to the east at Sandra Street.
- The Linear Park bicycle path shall be constructed to provide a crossing of Pacheco Boulevard by either 1) under-crossing or bridge at Los Banos Creek with a connection to Pacheco Boulevard on the north side, or 2) surface crossing at Badger Flat Road with a signal actuation device and signal phasing developed to reduce conflicts with turning traffic.
- Bicycle racks shall be provided at all commercial and institutional uses.
- Traffic signals shall be programmed to provide an automatic pedestrian walk signal at the beginning of each green light phase.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

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5. Developers of future projects on the project site shall demonstrate the following to the satisfaction of the Public Works Director:
- a. Compliance with the City of Los Banos grading regulations;
 - b. Development of an erosion control plan that will prevent the discharge of sediment into natural creeks/canals;
 - c. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board;
 - d. Development of a plan to meet state water quality standards as determined by the California Regional Water Quality Control Board;
 - e. Development of a plan to employ best management practices (BMPs) that reduce the level of pollutants discharged into natural waterways and wetlands.

These specifications shall be included in the final improvement plans and/or grading plans for each project.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Public Works Department**

Monitoring Notes and Status:

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14. Subject to the review and approval of the Los Banos Public Services Department, a signage, lighting, and fencing plan shall be prepared for the environmental reserve and open space to outline the number and location of signs, lights, and fences, the language to be included on signs, and a maintenance program for the signs and fences, to prohibit people and dogs from entering the environmental reserve. The fencing shall be designed to complement the natural area. Lighting shall be low in stature and directed away from Los Banos Creek. The plan shall require signs and fences to be installed prior to occupancy.

o Implementation Complete**Party Responsible for Implementation: Applicant****Party Responsible for Monitoring: Los Banos Public Services Department****Monitoring Notes and Status:**

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19. The applicant for any development project shall incorporate soil erosion control measures into plans for site preparation and construction activities prior to approval of final improvement plans by the City of Los Banos. These measures shall be monitored for effectiveness by the City of Los Banos. Such measures may include, but not be limited to, the following:
- a. Limit disturbance of soils and vegetation disturbance removal to the minimum area necessary for access and construction;
 - b. Confine all vehicular traffic associated with construction to the right-of-way of designated access roads;
 - c. Adhere to construction schedules designed to avoid periods of heavy precipitation or high winds;
 - d. Ensure that all exposed soil is provided with temporary drainage and soil protection when construction activity is shut down during the winter periods;
 - e. Inform construction personnel prior to construction and periodically during construction activities of environmental concerns, pertinent laws and regulations, and elements of the proposed erosion control measures;
 - f. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board; and
 - g. Development of a plan to employ best management practices that reduce the level of pollutants discharged into natural waterways and wetlands.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

20. Prior to the development of sensitive uses (ie: houses, schools, parks, day care, or other uses in which persons may contact soils), a Phase 1 environmental assessment shall be prepared to determine if soils may contain hazardous materials. If necessary, a remediation plan shall be created and implemented. For schools and day care centers, a Phase 1 environmental assessment shall be required at any location on the project site.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

23. Subject to the review and approval of the Los Banos Planning Department, residential development plans for the project site shall include sound attenuation meeting the following criteria:
- Along Pioneer Road a sound wall of at least six feet, and up to 11 feet if acceptable to the City, shall be provided;
 - Along the State Highway 152 bypass, a sound wall of at least five feet, and up to 10 feet if acceptable to the City, shall be provided;
 - Along Badger Flat Loop Road, south of Pacheco Boulevard, a sound wall of at least seven feet, and up to 12 feet if acceptable to the City, shall be provided;
 - Along Badger Flat Road west of Cardoza Road, a sound wall of at least five feet, and up to eight feet if acceptable to the City, shall be provided;
 - Along Badger Flat Road between Cardoza Road and Pacheco Boulevard, a sound wall of at least seven feet, and up to 12 feet if acceptable to the City, shall be provided;
 - Along Ortigalita Road between Cardoza Road and Pioneer Road, a sound wall of at least six feet, and up to 10 feet if acceptable to the City, shall be provided.

- Windows and sliding glass doors in facades of homes with a direct line-of-sight to Badger Flat Road or Badger Flat Loop Road, and within 80 feet of the roadway centerline, shall be sound rated to STC-33, and alternate ventilation provided;

Windows and sliding glass doors with a direct line-of-sight to Ortigalita Road or Pioneer Road, and within 80 feet of the roadway centerline, shall be sound rated to STC-29, and alternate ventilation provided;

- Houses with windows and sliding glass doors with a direct line-of-sight to the State Highway 152 bypass or Cardoza Road shall have alternative ventilation provided; and
- Further noise study shall be required to determine standards for housing within the neighborhood commercial areas with windows or sliding glass doors with a direct line of sight to Pacheco Boulevard.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

24. Classrooms and school offices shall be located no closer than 80 feet from the center line of Ortigalita Road or Pioneer Road. Windows in school buildings with direct line of sight to Pioneer Road or Ortigalita Road shall be sound-rated to STC 29 and alternate ventilation provided. Playgrounds and fields shall be located behind buildings, out of direct line of sight of Ortigalita Road and Pioneer Road.

o Implementation Complete

Party Responsible for Implementation: **LBUSD**

Party Responsible for Monitoring: **State Architect**

Monitoring Notes and Status:

29. The Area Plan shall include Class 2 bike lanes or a Class 3 bike route with a wide outside lane on Badger Flat Road and Badger Flat Loop Road. Intersections with Badger Flat Road and Badger Flat Loop Road shall be minimized on the side with the Class 1 bike path. All bicycle facilities should be designed and built in conformance with the Los Banos Commuter Bike Plan.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

30. The project proponent shall secure appropriate encroachment permits from the State Department of Transportation (Caltrans), Merced County, and the City of Los Banos, as applicable, prior to construction of off-site sewer and storm drainage lines. A traffic mitigation plan shall be developed and approved by Caltrans and Merced County Public Works, as appropriate, to maintain peak hour traffic operations at no less than LOS D, and may include limitations on hours and/or days of construction, requirements for flagging and advanced signage, and proposed detours.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with Caltrans)**

Monitoring Notes and Status:

Prior to approval of revegetation plan for the environmental reserve

6. If revegetation is conducted within the environmental reserve, plantings shall include appropriate locally-obtained native grass, herb, and shrub species, such as arroyo willow (*Salix lasiolepis*), blue elderberry (*Sambucus mexicana*), mule fat (*Baccharis salicifolia*), and native grasses, and shall not include plantings of non-native species. Significant numbers of blue elderberry shall be planted in the environmental reserve to enhance habitat for the valley elderberry longhorn beetle, but in areas no less than 20 feet from the open space and trail area, to reduce potential for future disturbance of beetles by trail and open space users. Trash (pipes, scrap wood, etc.) shall be removed as part of habitat restoration along this section of Los Banos Creek.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

7. Prior to initiation of habitat restoration within 100 feet of the Los Banos Creek banks a survey for blue elderberry plants shall be prepared by a qualified biologist. Prior to construction of improvements that are located within 100 feet of blue elderberry shrubs, consultation with the U.S. Fish and Wildlife Service (USFWS) shall be required to determine whether incidental take authorization is required, and to establish appropriate avoidance and minimization measures to be implemented to ensure that blue elderberry plants, and thus, potential habitat for valley elderberry longhorn beetle, are protected. Avoidance and minimization measures identified by USFWS may include, but not be limited to, measures identified in the *Mitigation Guidelines for the Valley Elderberry Longhorn Beetle* (USFWS 1996).

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with United States Fish and Wildlife Service)**

Monitoring Notes and Status:

Prior to approval of demolition permits

- 4. Prior to issuance of a demolition permit or demolition associated with a building permit, the project proponent shall have an asbestos survey completed by a qualified practitioner in accordance with the regulation of the National Emission Standards for Hazardous Air Pollutants and the San Joaquin Valley Air Pollution Control District. If asbestos is discovered in the structures, a work plan shall be developed and implemented to remove and dispose of the asbestos containing materials in accordance with the established regulations.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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- 21. Prior to issuance of a demolition permit, the project proponent shall have a lead survey completed by a qualified practitioner in accordance with the applicable regulations. The lead survey shall include an assessment of lead in building materials and in soils adjacent to the structure. If measured lead levels in or adjacent to a structure exceed established thresholds, a work plan shall be developed and implemented to remove and dispose of the lead-containing materials in accordance with the established regulations.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

Prior to approval of grading permits

3. Dust control requirements shall be included in all construction contract specifications. These construction contract specifications shall include the following San Joaquin Valley Unified Air Pollution Control District Regulation VIII, Rule 8020 fugitive dust mitigation requirements for the control of fine particulate matter (PM₁₀) from construction activities.
 - All disturbed areas of a construction site, including storage piles of fill dirt and other bulk materials, which are not being actively utilized for construction purposes for a period of seven calendar days or more, shall be stabilized using one or more of the following approved soil stabilization methods to effectively limit visible dust emissions. Disturbed areas shall be stabilized for the duration of the construction activity or until construction work resumes on the inactive disturbed area.
 - ◊ Where water is used as the dust suppressant, watering shall be applied to effectively limit visible dust emission;
 - ◊ Where a chemical dust stabilizer or suppressant is utilized, the stabilizer or suppressant shall be applied to effectively limit visible dust emissions;
 - ◊ Where planting of trees and vegetative ground cover is utilized, vegetation shall be planted in sufficient density and watered with sufficient frequency to effectively stabilize the disturbed area and limit visible dust emissions; or
 - ◊ Where soil moisture or natural crusting is sufficient to limit visible dust emission, no action is required.
 - All operations shall effectively limit visible dust emissions from on-site unpaved roads and off-site unpaved access roads. Road stabilization shall be maintained for the duration of construction. Where soil moisture is sufficient, no action is required. Traffic speed shall be limited to 15 miles per hour over unpaved surfaces.
 - No person shall undertake any land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill operations, or demolition activities, without utilizing appropriate dust control measures during the land preparation, demolition, excavation or extraction. Appropriate dust control measures may consist of the effective application of water or pre-soaking. Excavation and grading shall be suspended when winds exceed 20 miles per hour.
 - Internal combustion engines shall be maintained in proper operating condition, and idling shall be limited to 10 minutes in duration.
 - All operations shall limit or expeditiously remove the accumulation of mud or dirt from public paved roads, including shoulders, adjacent to the site. Removal activities must comply with local requirements and procedures. Wheel washers shall be used for trucks leaving the project site.
 - The use of dry rotary brushes for removal of deposited mud/dirt carryout from a paved road shall be prohibited, except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. The use of blower devices for removal of deposited mud/dirt carryout from subject paved roads shall be prohibited.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

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5. Developers of future projects on the project site shall demonstrate the following to the satisfaction of the Public Works Director:
- a. Compliance with the City of Los Banos grading regulations;
 - b. Development of an erosion control plan that will prevent the discharge of sediment into natural creeks/canals;
 - c. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board;
 - d. Development of a plan to meet state water quality standards as determined by the California Regional Water Quality Control Board;
 - e. Development of a plan to employ best management practices (BMPs) that reduce the level of pollutants discharged into natural waterways and wetlands.

These specifications shall be included in the final improvement plans and/or grading plans for each project.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Public Works Department**

Monitoring Notes and Status:

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8. Subject to the review of the Los Banos Planning Department, no earlier than 30 days prior to commencement of grading or construction activities on the project site, a field survey shall be conducted by a qualified biologist to determine if active kit fox dens are located on or within 150 meters (approximately 500 feet) of the project site. If an active kit fox den is detected within the survey area, the USFWS will be contacted immediately to determine the best course of action.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with United States Fish and Wildlife Service)**

Monitoring Notes and Status:

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10. Prior to approval of grading or building permits for development on the project site, if the project site has remained fallow and reverted to grassland vegetation, the following measures shall be required, subject to the review and approval of the Los Banos Planning Department:
- a. A pre-construction survey shall be conducted by a qualified biologist for burrowing owls within 30 days of the on-set of construction according to methods described in the *Staff Report on Burrowing Owl Mitigation* (CDFG 1995).
 - b. If pre-construction surveys undertaken during the breeding season (February through July) locate active nest burrows within or near construction zones, these nests, and an appropriate buffer around them (as determined by a qualified biologist) must remain off-limits to construction until the breeding season is over. The CDFG recommends setbacks from occupied nest burrows of 100 meters where construction will result in the loss of foraging habitat.
 - c. During the non-breeding season (August through January), resident owls may be relocated to alternative habitat. The relocation of resident owls must be according to a relocation plan prepared by a qualified biologist in consultation with the California Department of Fish and Game. Passive relocation is the preferred method of relocation. This plan must provide for the owl's relocation to nearby lands possessing available nesting and foraging habitat.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with California Department of Fish and Game)**

Monitoring Notes and Status:

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11. Prior to approval the grading or building permits for the proposed project, the project applicant shall conduct Swainson's hawk nesting surveys subject to the review and approval of the City of Los Banos Planning Department and the Department of Fish and Game. The surveys shall be conducted according to the recommended *Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*. Based on the Swainson's hawk survey findings, the biologist shall recommend mitigation to avoid impacts to Swainson's Hawk, if any, and may include but not be limited to, the following mitigation measures recommended in the *Staff*

Report regarding Mitigation for Impacts to the Swainson's Hawks in the Central Valley of California:

- a. No intensive new disturbances or other project related activities which may cause nest abandonment or forced fledging, should be initiated within one-quarter mile (buffer zone) of an active nest between March 1 and September 15 or until August 15 if a Management Authorization or Biological Opinion is obtained for the project. The buffer should be increased to one-half mile in nesting areas away from urban development (i.e. in areas where disturbance is not normal occurrence during the nesting season). Nest trees should not be removed unless there is no feasible way of avoiding it. If a nest tree must be removed, a Management Authorization (including conditions to off-set the loss of the nest tree) must be obtained with the tree removal period specified in the Management Authorization, generally October 1 to February 1. If construction or other project related activities that may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site (funded by the project proponent) by a qualified biologist (to determine if the nest is abandoned) should be required. If it is abandoned and if the nestling(s) are still alive, the project sponsor shall fund the recovery and hacking (controlled release of captive reared young) of the nestling(s). Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance activities within one-quarter mile of an active nest should not be prohibited.
- b. Hacking as a substitute for avoidance of impacts during the nesting period may be used in unusual circumstances after review and approval of a hacking plan by Environmental Service Division and Wildlife Management Division. Proponents who propose using hacking will be required to fund the full costs of the effort, including any telemetry work specified by the Department.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with California Department of Fish and Game)**

Monitoring Notes and Status:

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12. Subject to the review of the City of Los Banos, no more than 30 days prior to commencement of grading or construction activities occurring within 200 feet of trees located on and adjacent to the project site, a tree survey shall be conducted by a qualified biologist to determine if active nest(s) of protected birds are present in the trees. Areas within 200 feet of the construction zone that are not within the control of the applicant shall be visually assessed from the project site. This survey shall be required only if any construction would occur during the nesting and/or breeding season of protected bird species potentially nesting in the tree (generally March 1 through August 1). If active nest(s) are found, clearing and construction within 200 feet of the tree shall be postponed or halted until the nest(s) are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, at the discretion of the biologist. If construction activities are not scheduled between March 1 and August 1, no further surveys of the tree shall be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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16. Due to the possibility that significant buried cultural resources might be found during construction, the following language shall be included in any permits issued for the project site, including, but not limited to grading permits for future development, subject to the review and approval of the Los Banos Planning Department:

If archaeological resources or human remains are discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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17. During initial grading or excavation activities on the former Silva Ranch site (west of the commercial building property along Pacheco Boulevard), the project proponent shall arrange for monitoring by a qualified professional archeologist, and shall submit a certified archeological report describing the monitoring, any resources found, their archeological value, and disposition.

o Implementation Complete

Party Responsible for Implementation: **Applicant (Silva Ranch site only)**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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18. In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of Merced County is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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19. The applicant for any development project shall incorporate soil erosion control measures into plans for site preparation and construction activities prior to approval of final improvement plans by the City of Los Banos. These measures shall be monitored for effectiveness by the City of Los Banos. Such measures may include, but not be limited to, the following:
- a. Limit disturbance of soils and vegetation disturbance removal to the minimum area necessary for access and construction;
 - b. Confine all vehicular traffic associated with construction to the right-of-way of designated access roads;
 - c. Adhere to construction schedules designed to avoid periods of heavy precipitation or high winds;

- d. Ensure that all exposed soil is provided with temporary drainage and soil protection when construction activity is shut down during the winter periods;
- e. Inform construction personnel prior to construction and periodically during construction activities of environmental concerns, pertinent laws and regulations, and elements of the proposed erosion control measures;
- f. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board; and
- g. Development of a plan to employ best management practices that reduce the level of pollutants discharged into natural waterways and wetlands.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Public Works Department**

Monitoring Notes and Status:

Prior to approval of building permits

2. Subject to the review and approval of the City of Los Banos Planning Department, future development within the proposed project shall integrate the following design features:
 - Carefully selected and located trees shall be planted to provide shade for structures and pathways during the hot summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on the southern and western exposures of buildings and pathways.
 - All new buildings shall incorporate the following energy conserving features: increased wall and ceiling insulation (beyond code requirements), super-insulated windows (triple-pane, low e, and/or argon-filled), maximum use of energy efficient lighting including the provision of compact fluorescent bulbs in all fixtures with standard screw bases, Energy Star rated appliances, and solar assisted water heating.
 - Buildings shall be oriented to maximize passive solar cooling and heating when practicable.
 - Gas-fired appliances shall be low NO_x emitting gas fired appliances complying with California NO_x Emission Rule #1121.
 - Natural gas (if provided) and electrical outlets shall be included in the backyard or patio areas of residential units to encourage the use of gas and/or electric barbecues.
 - Electrical outlets shall be installed on the exterior of residential units to encourage use of electrical landscape maintenance equipment.
 - Improvements shall be made or planned to encourage transit use when it becomes available. Appropriate easements shall be reserved to accommodate sheltered loading areas. Examples of improvements include the development of bus turnouts, and pedestrian paths efficiently connecting bus stops to commercial and residential areas. The project proponent shall consult with Merced County Transit to determine a feasible route or routes to serve the proposed project, and include appropriate physical improvements on that route or routes.
 - The applicant shall work with Caltrans to identify an appropriate location for a park and ride/ride share facility.
 - Pedestrian and bicycle access paths (or quiet residential streets) shall be designed and constructed throughout as much of the project area as possible to provide direct and convenient connections to all nearby open space areas, parks, schools, commercial areas, etc. to encourage walking and bicycling. In residential areas, at least one day-lighted cul-de-sac or other pedestrian access should be provided to adjacent arterial and collector streets between each arterial or collector street intersection, preferably located to make efficient connections to crosswalks at intersections and/or leading to schools or shopping areas. In the single-family residential areas, access shall be provided to the adjacent Wal Mart shopping center, Villages residential development, elementary school, park, and linear park.
 - An enhanced bicycle/pedestrian connection (which could be a path or a directly connecting road) shall be provided to connect the proposed project to the adjacent neighborhood to the east at Sandra Street.

- The Linear Park bicycle path shall be constructed to provide a crossing of Pacheco Boulevard by either 1) under-crossing or bridge at Los Banos Creek with a connection to Pacheco Boulevard on the north side, or 2) surface crossing at Badger Flat Road with a signal actuation device and signal phasing developed to reduce conflicts with turning traffic.
- Bicycle racks shall be provided at all commercial and institutional uses.
- Traffic signals shall be programmed to provide an automatic pedestrian walk signal at the beginning of each green light phase.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

8. Subject to the review of the Los Banos Planning Department, no earlier than 30 days prior to commencement of grading or construction activities on the project site, a field survey shall be conducted by a qualified biologist to determine if active kit fox dens are located on or within 150 meters (approximately 500 feet) of the project site. If an active kit fox den is detected within the survey area, the USFWS will be contacted immediately to determine the best course of action.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with United States Fish and Wildlife Service)**

Monitoring Notes and Status:

9. Prior to commencement of construction activities and subject to review and approval by the Los Banos Planning Department, the project applicant shall arrange for a qualified biologist to inform workers of the potential presence of San Joaquin kit fox, their protected status, work boundaries, and measures to be implemented to avoid loss of these species during construction activities. Avoidance and minimization measures may include, but not be limited to, measures identified in the *U. S. Fish and Wildlife Service Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* (USFWS 1999) including the following measures:

- a. Any trench or pit deeper than two feet shall include ramps of either fill or planks to prevent kit fox from becoming trapped in the trench or pit.
- b. Pipes, culverts, and other hollow materials greater than four inches in diameter shall be stored in a manner that will prevent kit foxes from using these materials as temporary refuge. In addition, these materials shall be inspected for kit foxes daily, prior to the onset of construction activities.
- c. During construction activities, all food-related trash items shall be enclosed in sealed containers and regularly removed from the project site to avoid attracting wildlife to the project site, and pets shall not be allowed on the construction site. The proper location of the trash containers shall be subject to the review and approval of the Los Banos Planning Department.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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10. Prior to approval of grading or building permits for development on the project site, if the project site has remained fallow and reverted to grassland vegetation, the following measures shall be required, subject to the review and approval of the Los Banos Planning Department:
 - a. A pre-construction survey shall be conducted by a qualified biologist for burrowing owls within 30 days of the on-set of construction according to methods described in the *Staff Report on Burrowing Owl Mitigation* (CDFG 1995).
 - b. If pre-construction surveys undertaken during the breeding season (February through July) locate active nest burrows within or near construction zones, these nests, and an appropriate buffer around them (as determined by a qualified biologist) must remain off-limits to construction until the breeding season is over. The CDFG recommends setbacks from occupied nest burrows of 100 meters where construction will result in the loss of foraging habitat.
 - c. During the non-breeding season (August through January), resident owls may be relocated to alternative habitat. The relocation of resident owls must be according to a relocation plan prepared by a qualified biologist in consultation with the California Department of Fish and Game. Passive relocation is the preferred method of relocation. This plan must provide for the owl's relocation to nearby lands possessing available nesting and foraging habitat.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: Los Banos Planning Department (in cooperation with State Department of Fish and Game)

Monitoring Notes and Status:

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11. Prior to approval the grading or building permits for the proposed project, the project applicant shall conduct Swainson's hawk nesting surveys subject to the review and approval of the City of Los Banos Planning Department and the Department of Fish and Game. The surveys shall be conducted according to the recommended *Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*. Based on the Swainson's hawk survey findings, the biologist shall recommend mitigation to avoid impacts to Swainson's Hawk, if any, and may include but not be limited to, the following mitigation measures recommended in the *Staff Report regarding Mitigation for Impacts to the Swainson's Hawks in the Central Valley of California*:
- a. No intensive new disturbances or other project related activities which may cause nest abandonment or forced fledging, should be initiated within one-quarter mile (buffer zone) of an active nest between March 1 and September 15 or until August 15 if a Management Authorization or Biological Opinion is obtained for the project. The buffer should be increased to one-half mile in nesting areas away from urban development (i.e. in areas where disturbance is not normal occurrence during the nesting season). Nest trees should not be removed unless there is no feasible way of avoiding it. If a nest tree must be removed, a Management Authorization (including conditions to off-set the loss of the nest tree) must be obtained with the tree removal period specified in the Management Authorization, generally October 1 to February 1. If construction or other project related activities that may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site (funded by the project proponent) by a qualified biologist (to determine if the nest is abandoned) should be required. If it is abandoned and if the nestling(s) are still alive, the project sponsor shall fund the recovery and hacking (controlled release of captive reared young) of the nestling(s). Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance activities within one-quarter mile of an active nest should not be prohibited.
 - b. Hacking as a substitute for avoidance of impacts during the nesting period may be used in unusual circumstances after review and approval of a hacking plan by Environmental Service Division and Wildlife Management Division. Proponents who propose using hacking will be required to fund the full costs of the effort, including any telemetry work specified by the Department.

o Implementation Complete

Party Responsible for Implementation: Applicant

Party Responsible for Monitoring: Los Banos Planning Department (in cooperation with State Department of Fish and Game)

Monitoring Notes and Status:

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12. Subject to the review of the City of Los Banos, no more than 30 days prior to commencement of grading or construction activities occurring within 200 feet of trees located on and adjacent to the project site, a tree survey shall be conducted by a qualified biologist to determine if active nest(s) of protected birds are present in the trees. Areas within 200 feet of the construction zone that are not within the control of the applicant shall be visually assessed from the project site. This survey shall be required only if any construction would occur during the nesting and/or breeding season of protected bird species potentially nesting in the tree (generally March 1 through August 1). If active nest(s) are found, clearing and construction within 200 feet of the tree shall be postponed or halted until the nest(s) are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, at the discretion of the biologist. If construction activities are not scheduled between March 1 and August 1, no further surveys of the tree shall be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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13. Subject to the review and approval of the Los Banos Planning Department, future development on the project site shall not include buildings and antenna towers exceeding 35 feet. If structures taller than 35 feet are determined to be necessary by the approving agency, those buildings shall be constructed under the following guidelines;

- a. The use of continuously illuminated flood lamps that would attract birds shall be avoided;
- b. Navigational lights that flash for as short and infrequent an interval as possible (one second on and nine seconds off has been suggested) shall be installed on all tall structures that require lights;
- c. If feasible, blue navigational lights as opposed to red, shall be used on tall structures;
- d. All guide wires associated with antenna towers shall be painted a bright color and equipped at intervals with visually obvious objects (e.g. orange painted balls several inches in diameter) in order to increase their visibility during the daylight hours; and
- e. Substitute measures that can be shown to be equally effective in preventing birds from colliding into structures and wires may be used with the approval of the approving agency.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

25. Subject to the review and approval of the Los Banos Planning Department, development plans for commercial or office buildings along Pacheco Boulevard or Badger Flat Loop Road shall include sound attenuation meeting the following criteria:

- Sound rated windows and alternate ventilation shall be provided; and
- Outdoor uses areas, such as courtyards, shall be located out of direct line of sight of Pacheco Boulevard and Badger Flat Loop Road.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

26. Subject to the review and approval of the City of Los Banos Planning Department, office and commercial development plans for locations adjacent to residential uses shall be reviewed by an acoustical engineer prior to issuance of a building permit. The acoustical engineer shall recommend appropriate mitigation measures, such as buffer zones, noise barriers, and/or enclosures of mechanical equipment to protect residential areas from unacceptable levels of noise.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

27. The following language shall be included on any permits issued at the project site, subject to the review and approval of the City of Los Banos Planning Department. "All construction activities shall be limited to weekdays between 7:00 AM and 7:00 PM, and to Saturdays and City holidays between 9:00 AM and 7:00 PM. No construction is allowed on Sundays."

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

28. No building permits shall be issued for buildings on the portion of the project site south of Cardoza Road and Badger Flat Loop Road, without written evidence from the City of Los Banos Fire Chief that the City of Los Banos Fire Department can serve the development within acceptable response times.

Construction and operation of a fire station within the project site shall be considered adequate evidence and written evidence will not then be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

-END-

RESOLUTION NO. 2016-44

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING APPROVAL OF FINAL DEVELOPMENT PLAN #2016-03 FOR VILLAGES AT STONECREEK IX

WHEREAS, the Los Banos General Plan was adopted in July 2009, and is the guiding document for land use in the City of Los Banos; and

WHEREAS, the project site is zoned PD (Planned Development), and Title 9, Chapter 3, Article 4 – Planned Development District of the Los Banos Municipal Code (LBMC) outlines the procedure for establishing development standards within PD districts; and

WHEREAS, the Stonecreek Area Plan was adopted by the City of Los Banos City Council on April 21, 2004; and

WHEREAS, the applicant submitted a Final Development Plan in accordance with the Los Banos Zoning Code Sections 9-3.403 and 9-3.407 on July 27, 2016; and

WHEREAS, Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, the project was evaluated within the context of the Stonecreek Area Plan Program Environmental Impact Report (EIR), certified by the City of Los Banos on April 21, 2004. Staff has determined that the proposed project was adequately described, examined, and evaluated in the EIR, and that no significant new information or changes in the environmental setting have occurred that would result in new or greater significant effects not studied in the EIR ; and

WHEREAS, the Planning Commission of the City of Los Banos scheduled and duly noticed a public hearing in accordance with California Government Code Section 65091 by advertisement and notices by mail to property owners within a 300 foot radius of the project boundaries on August 12, 2016 to consider and take testimony regarding these matters on August 24, 2016.

WHEREAS, at the August 24, 2016, Planning Commission meeting the Los Banos Planning Commission heard and considered testimony, if any, of all persons desiring to be heard; reviewed the Project Final Development Plan and staff report; studied the compatibility of the applicant's request with adjacent land uses; has considered the applicant's request in accordance with the Final Development Plan criteria established in Title 9, Chapter 3, Article 4 of the Los Banos Municipal Code; and

BASED UPON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, the Planning Commission of the City of Los Banos does hereby make the findings set forth in Exhibit A (CEQA Findings), and Exhibit B (Findings of Approval), attached hereto and

incorporated herein by this reference.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby recommend approval of Final Development Plan #2016-03 for the Villages at Stonecreek IX, more specifically identified as Assessor's Parcel Number: 430-060-020.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 24th day of August 2016, by Commissioner _____, who moved its adoption, which motion was duly seconded by Commissioner _____, and the Resolution is hereby adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Tom Spada, Planning Commission Chair

ATTEST:

Sandra Benetti, Planning Commission Secretary

EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR FINAL DEVELOPMENT PLAN #2016-04 – VILLAGES AT STONECREEK IX

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 15000 et seq. (the "CEQA Guidelines"), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos Planning Commission hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, the project was evaluated within the context of the Stonecreek Area Plan Program Environmental Impact Report (EIR) (SCH #2002061015), certified by the City of Los Banos on April 21, 2004;
2. The EIR was adequately noticed, circulated for public review, considered at public hearings, and duly certified by the Los Banos City Council;
3. The Project will have significant and unavoidable impacts on prime agricultural lands for which no feasible mitigation measures are available, but specific overriding economic, legal, and social benefits of the project outweigh the adverse environmental effects, and a Statement of Overriding Considerations was adopted when the Stonecreek Area Plan EIR was certified;
4. The Project will have significant and unavoidable impacts on air quality and although all feasible mitigation measures that are available have been applied, a significant impact remains; but specific overriding economic, legal, and social benefits of the project outweigh the adverse environmental effects, and a Statement of Overriding Considerations was adopted when the Stonecreek Area Plan EIR was certified;
5. The City determined that the Stonecreek Area Plan could have a significant effect on the environment, however, all potentially significant effects were analyzed adequately in the EIR, and mitigation measures presented in the Stonecreek Area Plan EIR have been included as conditions of project approval, and will reduce potentially significant impacts, other than those on prime farmland and air quality, to a less than significant level;
6. The proposed project was adequately described, examined, and evaluated in the Stonecreek Area Plan EIR.
7. The Stonecreek Area Plan EIR contemplated a build-out of 1,868 residential units within the Stonecreek Area Plan, the proposed project

and will bring cumulative residential development within the area plan thus far to 720 units, and therefore, the proposed project is within the development density anticipated in the Stonecreek Area Plan and EIR;

8. No significant new information or changes in the environmental setting have occurred that would result in new or greater significant effects not studied in the EIR;
9. Because there are fewer units the project will have reduced traffic and wastewater generation, and reduced water consumption than was considered in the EIR, and will not result in any new or increased environmental effects not adequately described in the EIR;
10. No further environmental documentation is required because the proposed project was contemplated and adequately analyzed in the EIR;
11. The project was adequately noticed on August 12, 2016, and considered at a public hearing on August 24, 2016;
13. The project will be subject to the applicable mitigation measures presented in the EIR;
14. The City will monitor the implementation of mitigation measures in accordance with the Stonecreek Area Plan Mitigation Monitoring Program; and
15. The EIR and the CEQA findings for the EIR are incorporated herein by reference.

EXHIBIT B

FINDINGS FOR APPROVAL OF FINAL DEVELOPMENT PLAN #2016-03 – VILLAGES AT STONECREEK IX

The City of Los Banos Planning Commission hereby finds as follows:

1. The Los Banos General Plan was adopted by the City in July 2009 and the East Los Banos Area Plan was prepared pursuant to the Los Banos General Plan and adopted by the City on April 21, 2004.
2. The proposed project is consistent with the City of Los Banos General Plan “Low Density Residential” land use designation for the site, and with the revised Stonecreek Area Plan “Planned Development” designation for the site.
3. The project, as conditioned, complies with the provisions of the City’s Zoning Ordinance, and includes a Final Development Plan to implement the Planned Development designation pursuant to the requirements of the Los Banos Municipal Code section 9-3.403 and 9-3.407.
4. The conceptual architectural renderings and schematic building designs, landscape and lighting designs, and other designs presented in the Final Development Plan, as conditioned, substantially conform to the requirements of the City’s Residential Design Guidelines.
5. The proposal will not be detrimental to the health, safety, comfort, or general welfare of the persons residing or working in the City of Los Banos, or injurious to property or improvements in the surrounding neighborhoods or within the City. The project will enhance the surrounding area and offer the surrounding community choices for housing and recreation.
6. The designs of the Final Development Plan, as conditioned, are consistent with the General Plan and Stonecreek Area Plan goals, policies, and programs, and that the project density and development intensity are consistent with the General Plan and Stonecreek Area Plan land use designations for the site.
7. The project will provide adequate pedestrian and bicycle routes within the project, and, as conditioned, to nearby destinations including schools.

EXHIBIT C

CONDITIONS OF APPROVAL FOR FINAL DEVELOPMENT PLAN #2016-03 – VILLAGES AT STONECREEK IX

General:

1. All development shall be consistent with the Final Development Plan, reflecting any conditions of approval or amendments approved by the Los Banos City Council, which includes: the Vesting Tentative Tract Map, the land use type, pedestrian and vehicular access, architectural design, parks, open space, and recreation, public facilities, services, and infrastructure, and phasing plan.
2. Building Master Plans shall be consistent with the Final Development Plan and approved by the Community and Economic Development Department and Building Department prior to issuance of a building permit.

Lighting:

3. All street lighting shall be LED. The streetlights shall meet the illumination standards in the City Street Light standards. After Public Works inspection and approval, all street light electrical boxes shall be slurried per Public Works direction.

Architecture and Physical Design:

4. This project shall be subject to P-D (Planned Development) Design Standards as presented in the Final Development Plan.
5. The monotony of straight building lines shall be alleviated by varying the size of individual buildings, staggering the front yard setbacks, varying exterior building materials and colors, articulating building facades, and utilizing extensive landscaping.
6. The variation in setbacks, unit placement, and materials and colors shall be implemented in a random fashion with no apparent pattern, to avoid monotony.
7. The minimum front yard setback for front-loading garages shall be 20' and side-loading garages shall be 15'. The minimum setback to living areas shall be 15' from the front yard property line. The minimum front yard setback to porches shall be 10'.
8. The minimum side-yard setback for interior lots shall be 5', standard corner lots shall be 10', and reverse corner-lots shall be 15' from the property line.
9. The minimum rear-yard setback shall be 10' for single story units, and 20' for multi-story units.

10. The typical architecture and plot plans set forth in the Final Development Plan are conceptually approved with this application. Plans submitted for building permits shall be consistent with these elevations in terms of style, material, and character.
11. To protect privacy, building placement that offsets side-facing second-story bedroom windows at adjacent houses shall be required.
12. Residential dwelling units shall not exceed 30 feet in height.
13. The developer shall provide entry monumentation and/or landscaping to provide for a neighborhood identity, substantially similar to that shown in the Final Development Plan.
14. If parking for model homes is to be provided in a temporary parking lot, such lot shall be approved by the Community and Economic Development Director as a commercial lot conforming with Los Banos Municipal Code section 9-3.2009, and shall be removed within 60 days of the end of sales, if not intended to serve a permanent use.

Physical Amenities:

15. The developer shall provide the same decorative lighting as provided in Villages at Stonecreek IV (Southbrook) Subdivision throughout the project site.
16. Enhanced pedestrian treatments shall be used at the intersection of Badger Flat Road and Pioneer Road, such as, but not limited to stamped concrete as approved by the Community and Economic Development Director.
17. The developer shall install a six-foot high decorative masonry wall along Ortigalita Road and Pioneer Road within the non-access strip at the rear of private properties.

Landscaping:

18. Landscape plans shall emphasize deciduous shade tree plantings to the south and west of buildings.
19. Landscaping and site design shall substantially conform to the conceptual plans of the Final Development Plan.
20. The developer shall comply with the current development standards for drains, to include all landscaping and related irrigation systems. The applicant shall comply with the landscaping and irrigation requirements imposed by the Public Works Department.
21. Landscape plans for each residential front yard shall utilize drought tolerant plantings. The developer shall be required to follow local and State mandates regarding water conservation and water efficiency. Once the City adopts a

new water efficient landscape ordinance, the developer shall be required to follow the new ordinance requirements. Landscaping shall be installed prior to Certificate of Occupancy.

Stonecreek Area Plan Mitigation Monitoring Program

Introduction

CEQA Guidelines section 15097 requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

The law was passed in response to historic non-implementation of mitigation measures presented in environmental documents and subsequently adopted as conditions of project approval. In addition, monitoring ensures that mitigation measures are implemented and thereby provides a mechanism to evaluate the effectiveness of the mitigation measures.

A definitive set of project conditions would include enough detailed information and enforcement procedures to ensure the measure's compliance. This monitoring program is designed to provide a mechanism to ensure that mitigation measures and subsequent conditions of project approval are implemented.

Monitoring Program

The basis for this monitoring program is the mitigation measures included in the project environmental impact report. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects to less than significant levels. These mitigation measures become conditions of project approval, which the project proponent is required to complete during and after implementation of the proposed project.

The attached list is proposed for monitoring the implementation of the mitigation measures. This monitoring checklist contains all appropriate mitigation measures in the environmental impact report.

Monitoring Program Procedures

The City of Los Banos shall use the attached monitoring list for the proposed project. The monitoring program should be implemented as follows:

1. The Los Banos Planning Department should be responsible for coordination of the monitoring program, including the monitoring list. The Planning Department should be responsible for completing the monitoring list and distributing the list to the responsible individuals or agencies for their use in monitoring the mitigation measures.
2. Each responsible individual or agency will then be responsible for determining whether the mitigation measures contained in the monitoring list have been complied with. Once all mitigation measures have been complied with, the responsible individual or agency should submit a copy of the monitoring list to the Planning Department to be placed in the project file. If the mitigation measure has not been complied with, the monitoring list should not be returned to the Planning Department.
3. The Los Banos Planning Department will review the list to ensure that appropriate mitigation measures included in the monitoring list have been complied with at the appropriate time. Compliance with mitigation measures is required for project approvals.
4. If a responsible individual or agency determines that a non-compliance has occurred, a written notice should be delivered by certified mail to the project proponent within 10 days, with a copy to the Planning Department, describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period, construction may be halted and fines may be imposed at the discretion of the City of Los Banos.

Each mitigation measure requires full or partial implementation at one or more of the following points in the development process:

- o Prior to approval of tentative or final maps;
- o Prior to approval of improvement plans;
- o Prior to approval of revegetation plan for the environmental reserve;
- o Prior to approval of demolition permits;
- o Prior to approval of grading permits;
- o Prior to approval of building permits.

Mitigation Measure Checklist

Prior to approval of tentative or final maps

2. Subject to the review and approval of the City of Los Banos Planning Department, future development within the proposed project shall integrate the following design features:
 - Carefully selected and located trees shall be planted to provide shade for structures and pathways during the hot summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on the southern and western exposures of buildings and pathways.
 - All new buildings shall incorporate the following energy conserving features: increased wall and ceiling insulation (beyond code requirements), super-insulated windows (triple-pane, low e, and/or argon-filled), maximum use of energy efficient lighting including the provision of compact fluorescent bulbs in all fixtures with standard screw bases, Energy Star rated appliances, and solar assisted water heating.
 - Buildings shall be oriented to maximize passive solar cooling and heating when practicable.
 - Gas-fired appliances shall be low NO_x emitting gas fired appliances complying with California NO_x Emission Rule #1121.
 - Natural gas (if provided) and electrical outlets shall be included in the backyard or patio areas of residential units to encourage the use of gas and/or electric barbecues.
 - Electrical outlets shall be installed on the exterior of residential units to encourage use of electrical landscape maintenance equipment.
 - Improvements shall be made or planned to encourage transit use when it becomes available. Appropriate easements shall be reserved to accommodate sheltered loading areas. Examples of improvements include the development of bus turnouts, and pedestrian paths efficiently connecting bus stops to commercial and residential areas. The project proponent shall consult with Merced County Transit to determine a feasible route or routes to serve the proposed project, and include appropriate physical improvements on that route or routes.
 - The applicant shall work with Caltrans to identify an appropriate location for a park and ride/ride share facility.
 - Pedestrian and bicycle access paths (or quiet residential streets) shall be designed and constructed throughout as much of the project area as possible to provide direct and convenient connections to all nearby open space areas, parks, schools, commercial areas, etc. to encourage walking and bicycling. In residential areas, at least one day-lighted cul-de-sac or other pedestrian access should be provided to adjacent arterial and collector streets between each arterial or collector street intersection, preferably located to make efficient connections to crosswalks at intersections and/or leading to schools or shopping areas. In the single-family residential areas, access shall be provided to the adjacent Wal Mart shopping center, Villages residential development, elementary school, park, and linear park.

- An enhanced bicycle/pedestrian connection (which could be a path or a directly connecting road) shall be provided to connect the proposed project to the adjacent neighborhood to the east at Sandra Street.
- The Linear Park bicycle path shall be constructed to provide a crossing of Pacheco Boulevard by either 1) under-crossing or bridge at Los Banos Creek with a connection to Pacheco Boulevard on the north side, or 2) surface crossing at Badger Flat Road with a signal actuation device and signal phasing developed to reduce conflicts with turning traffic.
- Bicycle racks shall be provided at all commercial and institutional uses.
- Traffic signals shall be programmed to provide an automatic pedestrian walk signal at the beginning of each green light phase.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

15. Prior to recording the final maps and declarations relating to the establishment of a State-certified homeowners' association for residential subdivisions, Covenants, Codes and Restrictions shall be prepared for the subdivision and shall require disclosure to homeowners of potentially sensitive wildlife resources occurring in the vicinity, and habitat protection measures implemented as part of the development.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

22. The City of Los Banos shall not permit construction of uses within *Merced County Airport Land Use Compatibility Plan* Zone 3 that are not compatible with Zone C. If the City determines not to relocate the airport, the area plan shall be amended prior to development of these locations to include uses that are compatible with Zone 3. If the airport is not relocated, adoption of the alternative land use plan would eliminate this restriction.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

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28. No building permits shall be issued for buildings on the portion of the project site south of Cardoza Road and Badger Flat Loop Road, without written evidence from the City of Los Banos Fire Chief that the City of Los Banos Fire Department can serve the development within acceptable response times.

Construction and operation of a fire station within the project site shall be considered adequate evidence and written evidence will not then be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, Los Banos Fire Department, State Architect**

Monitoring Notes and Status:

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29. The Area Plan shall include Class 2 bike lanes or a Class 3 bike route with a wide outside lane on Badger Flat Road and Badger Flat Loop Road. Intersections with Badger Flat Road and Badger Flat Loop Road shall be minimized on the side with the Class 1 bike path. All bicycle facilities should be designed and built in conformance with the Los Banos Commuter Bike Plan.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

Prior to approval of improvement plans

2. Subject to the review and approval of the City of Los Banos Planning Department, future development within the proposed project shall integrate the following design features:
 - Carefully selected and located trees shall be planted to provide shade for structures and pathways during the hot summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on the southern and western exposures of buildings and pathways.
 - All new buildings shall incorporate the following energy conserving features: increased wall and ceiling insulation (beyond code requirements), super-insulated windows (triple-pane, low e, and/or argon-filled), maximum use of energy efficient lighting including the provision of compact fluorescent bulbs in all fixtures with standard screw bases, Energy Star rated appliances, and solar assisted water heating.
 - Buildings shall be oriented to maximize passive solar cooling and heating when practicable.
 - Gas-fired appliances shall be low NO_x emitting gas fired appliances complying with California NO_x Emission Rule #1121.
 - Natural gas (if provided) and electrical outlets shall be included in the backyard or patio areas of residential units to encourage the use of gas and/or electric barbecues.
 - Electrical outlets shall be installed on the exterior of residential units to encourage use of electrical landscape maintenance equipment.
 - Improvements shall be made or planned to encourage transit use when it becomes available. Appropriate easements shall be reserved to accommodate sheltered loading areas. Examples of improvements include the development of bus turnouts, and pedestrian paths efficiently connecting bus stops to commercial and residential areas. The project proponent shall consult with Merced County Transit to determine a feasible route or routes to serve the proposed project, and include appropriate physical improvements on that route or routes.
 - The applicant shall work with Caltrans to identify an appropriate location for a park and ride/ride share facility.
 - Pedestrian and bicycle access paths (or quiet residential streets) shall be designed and constructed throughout as much of the project area as possible to provide direct and convenient connections to all nearby open space areas, parks, schools, commercial areas, etc. to encourage walking and bicycling. In residential areas, at least one day-lighted cul-de-sac or other pedestrian access should be provided to adjacent arterial and collector streets between each arterial or collector street intersection, preferably located to make efficient connections to crosswalks at intersections and/or leading to schools or shopping areas. In the single-family residential areas, access shall be provided to the adjacent Wal Mart shopping center, Villages residential development, elementary school, park, and linear park.

- An enhanced bicycle/pedestrian connection (which could be a path or a directly connecting road) shall be provided to connect the proposed project to the adjacent neighborhood to the east at Sandra Street.
- The Linear Park bicycle path shall be constructed to provide a crossing of Pacheco Boulevard by either 1) under-crossing or bridge at Los Banos Creek with a connection to Pacheco Boulevard on the north side, or 2) surface crossing at Badger Flat Road with a signal actuation device and signal phasing developed to reduce conflicts with turning traffic.
- Bicycle racks shall be provided at all commercial and institutional uses.
- Traffic signals shall be programmed to provide an automatic pedestrian walk signal at the beginning of each green light phase.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

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5. Developers of future projects on the project site shall demonstrate the following to the satisfaction of the Public Works Director:
- a. Compliance with the City of Los Banos grading regulations;
 - b. Development of an erosion control plan that will prevent the discharge of sediment into natural creeks/canals;
 - c. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board;
 - d. Development of a plan to meet state water quality standards as determined by the California Regional Water Quality Control Board;
 - e. Development of a plan to employ best management practices (BMPs) that reduce the level of pollutants discharged into natural waterways and wetlands.

These specifications shall be included in the final improvement plans and/or grading plans for each project.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Public Works Department**

Monitoring Notes and Status:

14. Subject to the review and approval of the Los Banos Public Services Department, a signage, lighting, and fencing plan shall be prepared for the environmental reserve and open space to outline the number and location of signs, lights, and fences, the language to be included on signs, and a maintenance program for the signs and fences, to prohibit people and dogs from entering the environmental reserve. The fencing shall be designed to complement the natural area. Lighting shall be low in stature and directed away from Los Banos Creek. The plan shall require signs and fences to be installed prior to occupancy.

o Implementation Complete**Party Responsible for Implementation: Applicant****Party Responsible for Monitoring: Los Banos Public Services Department****Monitoring Notes and Status:**

19. The applicant for any development project shall incorporate soil erosion control measures into plans for site preparation and construction activities prior to approval of final improvement plans by the City of Los Banos. These measures shall be monitored for effectiveness by the City of Los Banos. Such measures may include, but not be limited to, the following:
- a. Limit disturbance of soils and vegetation disturbance removal to the minimum area necessary for access and construction;
 - b. Confine all vehicular traffic associated with construction to the right-of-way of designated access roads;
 - c. Adhere to construction schedules designed to avoid periods of heavy precipitation or high winds;
 - d. Ensure that all exposed soil is provided with temporary drainage and soil protection when construction activity is shut down during the winter periods;
 - e. Inform construction personnel prior to construction and periodically during construction activities of environmental concerns, pertinent laws and regulations, and elements of the proposed erosion control measures;
 - f. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board; and
 - g. Development of a plan to employ best management practices that reduce the level of pollutants discharged into natural waterways and wetlands.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

20. Prior to the development of sensitive uses (ie: houses, schools, parks, day care, or other uses in which persons may contact soils), a Phase 1 environmental assessment shall be prepared to determine if soils may contain hazardous materials. If necessary, a remediation plan shall be created and implemented. For schools and day care centers, a Phase 1 environmental assessment shall be required at any location on the project site.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

23. Subject to the review and approval of the Los Banos Planning Department, residential development plans for the project site shall include sound attenuation meeting the following criteria:
- Along Pioneer Road a sound wall of at least six feet, and up to 11 feet if acceptable to the City, shall be provided;
 - Along the State Highway 152 bypass, a sound wall of at least five feet, and up to 10 feet if acceptable to the City, shall be provided;
 - Along Badger Flat Loop Road, south of Pacheco Boulevard, a sound wall of at least seven feet, and up to 12 feet if acceptable to the City, shall be provided;
 - Along Badger Flat Road west of Cardoza Road, a sound wall of at least five feet, and up to eight feet if acceptable to the City, shall be provided;
 - Along Badger Flat Road between Cardoza Road and Pacheco Boulevard, a sound wall of at least seven feet, and up to 12 feet if acceptable to the City, shall be provided;
 - Along Ortigalita Road between Cardoza Road and Pioneer Road, a sound wall of at least six feet, and up to 10 feet if acceptable to the City, shall be provided.

- Windows and sliding glass doors in facades of homes with a direct line-of-sight to Badger Flat Road or Badger Flat Loop Road, and within 80 feet of the roadway centerline, shall be sound rated to STC-33, and alternate ventilation provided;

Windows and sliding glass doors with a direct line-of-sight to Ortigalita Road or Pioneer Road, and within 80 feet of the roadway centerline, shall be sound rated to STC-29, and alternate ventilation provided;
- Houses with windows and sliding glass doors with a direct line-of-sight to the State Highway 152 bypass or Cardoza Road shall have alternative ventilation provided; and
- Further noise study shall be required to determine standards for housing within the neighborhood commercial areas with windows or sliding glass doors with a direct line of sight to Pacheco Boulevard.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

24. Classrooms and school offices shall be located no closer than 80 feet from the center line of Ortigalita Road or Pioneer Road. Windows in school buildings with direct line of sight to Pioneer Road or Ortigalita Road shall be sound-rated to STC 29 and alternate ventilation provided. Playgrounds and fields shall be located behind buildings, out of direct line of sight of Ortigalita Road and Pioneer Road.

o Implementation Complete

Party Responsible for Implementation: **LBUSD**

Party Responsible for Monitoring: **State Architect**

Monitoring Notes and Status:

29. The Area Plan shall include Class 2 bike lanes or a Class 3 bike route with a wide outside lane on Badger Flat Road and Badger Flat Loop Road. Intersections with Badger Flat Road and Badger Flat Loop Road shall be minimized on the side with the Class 1 bike path. All bicycle facilities should be designed and built in conformance with the Los Banos Commuter Bike Plan.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

30. The project proponent shall secure appropriate encroachment permits from the State Department of Transportation (Caltrans), Merced County, and the City of Los Banos, as applicable, prior to construction of off-site sewer and storm drainage lines. A traffic mitigation plan shall be developed and approved by Caltrans and Merced County Public Works, as appropriate, to maintain peak hour traffic operations at no less than LOS D, and may include limitations on hours and/or days of construction, requirements for flagging and advanced signage, and proposed detours.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with Caltrans)**

Monitoring Notes and Status:

Prior to approval of revegetation plan for the environmental reserve

6. If revegetation is conducted within the environmental reserve, plantings shall include appropriate locally-obtained native grass, herb, and shrub species, such as arroyo willow (*Salix lasiolepis*), blue elderberry (*Sambucus mexicana*), mule fat (*Baccharis salicifolia*), and native grasses, and shall not include plantings of non-native species. Significant numbers of blue elderberry shall be planted in the environmental reserve to enhance habitat for the valley elderberry longhorn beetle, but in areas no less than 20 feet from the open space and trail area, to reduce potential for future disturbance of beetles by trail and open space users. Trash (pipes, scrap wood, etc.) shall be removed as part of habitat restoration along this section of Los Banos Creek.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

7. Prior to initiation of habitat restoration within 100 feet of the Los Banos Creek banks a survey for blue elderberry plants shall be prepared by a qualified biologist. Prior to construction of improvements that are located within 100 feet of blue elderberry shrubs, consultation with the U.S. Fish and Wildlife Service (USFWS) shall be required to determine whether incidental take authorization is required, and to establish appropriate avoidance and minimization measures to be implemented to ensure that blue elderberry plants, and thus, potential habitat for valley elderberry longhorn beetle, are protected. Avoidance and minimization measures identified by USFWS may include, but not be limited to, measures identified in the *Mitigation Guidelines for the Valley Elderberry Longhorn Beetle* (USFWS 1996).

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with United States Fish and Wildlife Service)**

Monitoring Notes and Status:

Prior to approval of demolition permits

- 4. Prior to issuance of a demolition permit or demolition associated with a building permit, the project proponent shall have an asbestos survey completed by a qualified practitioner in accordance with the regulation of the National Emission Standards for Hazardous Air Pollutants and the San Joaquin Valley Air Pollution Control District. If asbestos is discovered in the structures, a work plan shall be developed and implemented to remove and dispose of the asbestos containing materials in accordance with the established regulations.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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- 21. Prior to issuance of a demolition permit, the project proponent shall have a lead survey completed by a qualified practitioner in accordance with the applicable regulations. The lead survey shall include an assessment of lead in building materials and in soils adjacent to the structure. If measured lead levels in or adjacent to a structure exceed established thresholds, a work plan shall be developed and implemented to remove and dispose of the lead-containing materials in accordance with the established regulations.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

Prior to approval of grading permits

3. Dust control requirements shall be included in all construction contract specifications. These construction contract specifications shall include the following San Joaquin Valley Unified Air Pollution Control District Regulation VIII, Rule 8020 fugitive dust mitigation requirements for the control of fine particulate matter (PM₁₀) from construction activities.
 - All disturbed areas of a construction site, including storage piles of fill dirt and other bulk materials, which are not being actively utilized for construction purposes for a period of seven calendar days or more, shall be stabilized using one or more of the following approved soil stabilization methods to effectively limit visible dust emissions. Disturbed areas shall be stabilized for the duration of the construction activity or until construction work resumes on the inactive disturbed area.
 - ◊ Where water is used as the dust suppressant, watering shall be applied to effectively limit visible dust emission;
 - ◊ Where a chemical dust stabilizer or suppressant is utilized, the stabilizer or suppressant shall be applied to effectively limit visible dust emissions;
 - ◊ Where planting of trees and vegetative ground cover is utilized, vegetation shall be planted in sufficient density and watered with sufficient frequency to effectively stabilize the disturbed area and limit visible dust emissions; or
 - ◊ Where soil moisture or natural crusting is sufficient to limit visible dust emission, no action is required.
 - All operations shall effectively limit visible dust emissions from on-site unpaved roads and off-site unpaved access roads. Road stabilization shall be maintained for the duration of construction. Where soil moisture is sufficient, no action is required. Traffic speed shall be limited to 15 miles per hour over unpaved surfaces.
 - No person shall undertake any land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill operations, or demolition activities, without utilizing appropriate dust control measures during the land preparation, demolition, excavation or extraction. Appropriate dust control measures may consist of the effective application of water or pre-soaking. Excavation and grading shall be suspended when winds exceed 20 miles per hour.
 - Internal combustion engines shall be maintained in proper operating condition, and idling shall be limited to 10 minutes in duration.
 - All operations shall limit or expeditiously remove the accumulation of mud or dirt from public paved roads, including shoulders, adjacent to the site. Removal activities must comply with local requirements and procedures. Wheel washers shall be used for trucks leaving the project site.
 - The use of dry rotary brushes for removal of deposited mud/dirt carryout from a paved road shall be prohibited, except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. The use of blower devices for removal of deposited mud/dirt carryout from subject paved roads shall be prohibited.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

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5. Developers of future projects on the project site shall demonstrate the following to the satisfaction of the Public Works Director:
- a. Compliance with the City of Los Banos grading regulations;
 - b. Development of an erosion control plan that will prevent the discharge of sediment into natural creeks/canals;
 - c. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board;
 - d. Development of a plan to meet state water quality standards as determined by the California Regional Water Quality Control Board;
 - e. Development of a plan to employ best management practices (BMPs) that reduce the level of pollutants discharged into natural waterways and wetlands.

These specifications shall be included in the final improvement plans and/or grading plans for each project.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Public Works Department**

Monitoring Notes and Status:

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8. Subject to the review of the Los Banos Planning Department, no earlier than 30 days prior to commencement of grading or construction activities on the project site, a field survey shall be conducted by a qualified biologist to determine if active kit fox dens are located on or within 150 meters (approximately 500 feet) of the project site. If an active kit fox den is detected within the survey area, the USFWS will be contacted immediately to determine the best course of action.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: Los Banos Planning Department (in cooperation with United States Fish and Wildlife Service)

Monitoring Notes and Status:

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10. Prior to approval of grading or building permits for development on the project site, if the project site has remained fallow and reverted to grassland vegetation, the following measures shall be required, subject to the review and approval of the Los Banos Planning Department:
- a. A pre-construction survey shall be conducted by a qualified biologist for burrowing owls within 30 days of the on-set of construction according to methods described in the *Staff Report on Burrowing Owl Mitigation* (CDFG 1995).
 - b. If pre-construction surveys undertaken during the breeding season (February through July) locate active nest burrows within or near construction zones, these nests, and an appropriate buffer around them (as determined by a qualified biologist) must remain off-limits to construction until the breeding season is over. The CDFG recommends setbacks from occupied nest burrows of 100 meters where construction will result in the loss of foraging habitat.
 - c. During the non-breeding season (August through January), resident owls may be relocated to alternative habitat. The relocation of resident owls must be according to a relocation plan prepared by a qualified biologist in consultation with the California Department of Fish and Game. Passive relocation is the preferred method of relocation. This plan must provide for the owl's relocation to nearby lands possessing available nesting and foraging habitat.

o Implementation Complete

Party Responsible for Implementation: Applicant

Party Responsible for Monitoring: Los Banos Planning Department (in cooperation with California Department of Fish and Game)

Monitoring Notes and Status:

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11. Prior to approval the grading or building permits for the proposed project, the project applicant shall conduct Swainson's hawk nesting surveys subject to the review and approval of the City of Los Banos Planning Department and the Department of Fish and Game. The surveys shall be conducted according to the recommended *Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*. Based on the Swainson's hawk survey findings, the biologist shall recommend mitigation to avoid impacts to Swainson's Hawk, if any, and may include but not be limited to, the following mitigation measures recommended in the *Staff*

Report regarding Mitigation for Impacts to the Swainson's Hawks in the Central Valley of California:

- a. No intensive new disturbances or other project related activities which may cause nest abandonment or forced fledging, should be initiated within one-quarter mile (buffer zone) of an active nest between March 1 and September 15 or until August 15 if a Management Authorization or Biological Opinion is obtained for the project. The buffer should be increased to one-half mile in nesting areas away from urban development (i.e. in areas where disturbance is not normal occurrence during the nesting season). Nest trees should not be removed unless there is no feasible way of avoiding it. If a nest tree must be removed, a Management Authorization (including conditions to off-set the loss of the nest tree) must be obtained with the tree removal period specified in the Management Authorization, generally October 1 to February 1. If construction or other project related activities that may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site (funded by the project proponent) by a qualified biologist (to determine if the nest is abandoned) should be required. If it is abandoned and if the nestling(s) are still alive, the project sponsor shall fund the recovery and hacking (controlled release of captive reared young) of the nestling(s). Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance activities within one-quarter mile of an active nest should not be prohibited.
- b. Hacking as a substitute for avoidance of impacts during the nesting period may be used in unusual circumstances after review and approval of a hacking plan by Environmental Service Division and Wildlife Management Division. Proponents who propose using hacking will be required to fund the full costs of the effort, including any telemetry work specified by the Department.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with California Department of Fish and Game)**

Monitoring Notes and Status:

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12. Subject to the review of the City of Los Banos, no more than 30 days prior to commencement of grading or construction activities occurring within 200 feet of trees located on and adjacent to the project site, a tree survey shall be conducted by a qualified biologist to determine if active nest(s) of protected birds are present in the trees. Areas within 200 feet of the construction zone that are not within the control of the applicant shall be visually assessed from the project site. This survey shall be required only if any construction would occur during the nesting and/or breeding season of protected bird species potentially nesting in the tree (generally March 1 through August 1). If active nest(s) are found, clearing and construction within 200 feet of the tree shall be postponed or halted until the nest(s) are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, at the discretion of the biologist. If construction activities are not scheduled between March 1 and August 1, no further surveys of the tree shall be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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16. Due to the possibility that significant buried cultural resources might be found during construction, the following language shall be included in any permits issued for the project site, including, but not limited to grading permits for future development, subject to the review and approval of the Los Banos Planning Department:

If archaeological resources or human remains are discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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17. During initial grading or excavation activities on the former Silva Ranch site (west of the commercial building property along Pacheco Boulevard), the project proponent shall arrange for monitoring by a qualified professional archeologist, and shall submit a certified archeological report describing the monitoring, any resources found, their archeological value, and disposition.

o Implementation Complete

Party Responsible for Implementation: **Applicant (Silva Ranch site only)**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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18. In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of Merced County is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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19. The applicant for any development project shall incorporate soil erosion control measures into plans for site preparation and construction activities prior to approval of final improvement plans by the City of Los Banos. These measures shall be monitored for effectiveness by the City of Los Banos. Such measures may include, but not be limited to, the following:
- a. Limit disturbance of soils and vegetation disturbance removal to the minimum area necessary for access and construction;
 - b. Confine all vehicular traffic associated with construction to the right-of-way of designated access roads;
 - c. Adhere to construction schedules designed to avoid periods of heavy precipitation or high winds;

- d. Ensure that all exposed soil is provided with temporary drainage and soil protection when construction activity is shut down during the winter periods;
- e. Inform construction personnel prior to construction and periodically during construction activities of environmental concerns, pertinent laws and regulations, and elements of the proposed erosion control measures;
- f. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board; and
- g. Development of a plan to employ best management practices that reduce the level of pollutants discharged into natural waterways and wetlands.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Public Works Department**

Monitoring Notes and Status:



Prior to approval of building permits

2. Subject to the review and approval of the City of Los Banos Planning Department, future development within the proposed project shall integrate the following design features:
 - Carefully selected and located trees shall be planted to provide shade for structures and pathways during the hot summer months. Deciduous trees should be favored since they provide shade in the summer and allow sun to reach residences during cold and winter months. This measure should be focused on the southern and western exposures of buildings and pathways.
 - All new buildings shall incorporate the following energy conserving features: increased wall and ceiling insulation (beyond code requirements), super-insulated windows (triple-pane, low e, and/or argon-filled), maximum use of energy efficient lighting including the provision of compact fluorescent bulbs in all fixtures with standard screw bases, Energy Star rated appliances, and solar assisted water heating.
 - Buildings shall be oriented to maximize passive solar cooling and heating when practicable.
 - Gas-fired appliances shall be low NO_x emitting gas fired appliances complying with California NO_x Emission Rule #1121.
 - Natural gas (if provided) and electrical outlets shall be included in the backyard or patio areas of residential units to encourage the use of gas and/or electric barbecues.
 - Electrical outlets shall be installed on the exterior of residential units to encourage use of electrical landscape maintenance equipment.
 - Improvements shall be made or planned to encourage transit use when it becomes available. Appropriate easements shall be reserved to accommodate sheltered loading areas. Examples of improvements include the development of bus turnouts, and pedestrian paths efficiently connecting bus stops to commercial and residential areas. The project proponent shall consult with Merced County Transit to determine a feasible route or routes to serve the proposed project, and include appropriate physical improvements on that route or routes.
 - The applicant shall work with Caltrans to identify an appropriate location for a park and ride/ride share facility.
 - Pedestrian and bicycle access paths (or quiet residential streets) shall be designed and constructed throughout as much of the project area as possible to provide direct and convenient connections to all nearby open space areas, parks, schools, commercial areas, etc. to encourage walking and bicycling. In residential areas, at least one day-lighted cul-de-sac or other pedestrian access should be provided to adjacent arterial and collector streets between each arterial or collector street intersection, preferably located to make efficient connections to crosswalks at intersections and/or leading to schools or shopping areas. In the single-family residential areas, access shall be provided to the adjacent Wal Mart shopping center, Villages residential development, elementary school, park, and linear park.
 - An enhanced bicycle/pedestrian connection (which could be a path or a directly connecting road) shall be provided to connect the proposed project to the adjacent neighborhood to the east at Sandra Street.

- The Linear Park bicycle path shall be constructed to provide a crossing of Pacheco Boulevard by either 1) under-crossing or bridge at Los Banos Creek with a connection to Pacheco Boulevard on the north side, or 2) surface crossing at Badger Flat Road with a signal actuation device and signal phasing developed to reduce conflicts with turning traffic.
- Bicycle racks shall be provided at all commercial and institutional uses.
- Traffic signals shall be programmed to provide an automatic pedestrian walk signal at the beginning of each green light phase.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

8. Subject to the review of the Los Banos Planning Department, no earlier than 30 days prior to commencement of grading or construction activities on the project site, a field survey shall be conducted by a qualified biologist to determine if active kit fox dens are located on or within 150 meters (approximately 500 feet) of the project site. If an active kit fox den is detected within the survey area, the USFWS will be contacted immediately to determine the best course of action.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department (in cooperation with United States Fish and Wildlife Service)**

Monitoring Notes and Status:

9. Prior to commencement of construction activities and subject to review and approval by the Los Banos Planning Department, the project applicant shall arrange for a qualified biologist to inform workers of the potential presence of San Joaquin kit fox, their protected status, work boundaries, and measures to be implemented to avoid loss of these species during construction activities. Avoidance and minimization measures may include, but not be limited to, measures identified in the *U. S. Fish and Wildlife Service Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* (USFWS 1999) including the following measures:

- a. Any trench or pit deeper than two feet shall include ramps of either fill or planks to prevent kit fox from becoming trapped in the trench or pit.
- b. Pipes, culverts, and other hollow materials greater than four inches in diameter shall be stored in a manner that will prevent kit foxes from using these materials as temporary refuge. In addition, these materials shall be inspected for kit foxes daily, prior to the onset of construction activities.
- c. During construction activities, all food-related trash items shall be enclosed in sealed containers and regularly removed from the project site to avoid attracting wildlife to the project site, and pets shall not be allowed on the construction site. The proper location of the trash containers shall be subject to the review and approval of the Los Banos Planning Department.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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10. Prior to approval of grading or building permits for development on the project site, if the project site has remained fallow and reverted to grassland vegetation, the following measures shall be required, subject to the review and approval of the Los Banos Planning Department:
 - a. A pre-construction survey shall be conducted by a qualified biologist for burrowing owls within 30 days of the on-set of construction according to methods described in the *Staff Report on Burrowing Owl Mitigation* (CDFG 1995).
 - b. If pre-construction surveys undertaken during the breeding season (February through July) locate active nest burrows within or near construction zones, these nests, and an appropriate buffer around them (as determined by a qualified biologist) must remain off-limits to construction until the breeding season is over. The CDFG recommends setbacks from occupied nest burrows of 100 meters where construction will result in the loss of foraging habitat.
 - c. During the non-breeding season (August through January), resident owls may be relocated to alternative habitat. The relocation of resident owls must be according to a relocation plan prepared by a qualified biologist in consultation with the California Department of Fish and Game. Passive relocation is the preferred method of relocation. This plan must provide for the owl's relocation to nearby lands possessing available nesting and foraging habitat.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: Los Banos Planning Department (in cooperation with State Department of Fish and Game)

Monitoring Notes and Status:

11. Prior to approval the grading or building permits for the proposed project, the project applicant shall conduct Swainson's hawk nesting surveys subject to the review and approval of the City of Los Banos Planning Department and the Department of Fish and Game. The surveys shall be conducted according to the recommended *Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley*. Based on the Swainson's hawk survey findings, the biologist shall recommend mitigation to avoid impacts to Swainson's Hawk, if any, and may include but not be limited to, the following mitigation measures recommended in the *Staff Report regarding Mitigation for Impacts to the Swainson's Hawks in the Central Valley of California*:
 - a. No intensive new disturbances or other project related activities which may cause nest abandonment or forced fledging, should be initiated within one-quarter mile (buffer zone) of an active nest between March 1 and September 15 or until August 15 if a Management Authorization or Biological Opinion is obtained for the project. The buffer should be increased to one-half mile in nesting areas away from urban development (i.e. in areas where disturbance is not normal occurrence during the nesting season). Nest trees should not be removed unless there is no feasible way of avoiding it. If a nest tree must be removed, a Management Authorization (including conditions to off-set the loss of the nest tree) must be obtained with the tree removal period specified in the Management Authorization, generally October 1 to February 1. If construction or other project related activities that may cause nest abandonment or forced fledging are necessary within the buffer zone, monitoring of the nest site (funded by the project proponent) by a qualified biologist (to determine if the nest is abandoned) should be required. If it is abandoned and if the nestling(s) are still alive, the project sponsor shall fund the recovery and hacking (controlled release of captive reared young) of the nestling(s). Routine disturbances such as agricultural activities, commuter traffic, and routine facility maintenance activities within one-quarter mile of an active nest should not be prohibited.
 - b. Hacking as a substitute for avoidance of impacts during the nesting period may be used in unusual circumstances after review and approval of a hacking plan by Environmental Service Division and Wildlife Management Division. Proponents who propose using hacking will be required to fund the full costs of the effort, including any telemetry work specified by the Department.

o Implementation Complete

Party Responsible for Implementation: Applicant

Party Responsible for Monitoring: Los Banos Planning Department (in cooperation with State Department of Fish and Game)

Monitoring Notes and Status:

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12. Subject to the review of the City of Los Banos, no more than 30 days prior to commencement of grading or construction activities occurring within 200 feet of trees located on and adjacent to the project site, a tree survey shall be conducted by a qualified biologist to determine if active nest(s) of protected birds are present in the trees. Areas within 200 feet of the construction zone that are not within the control of the applicant shall be visually assessed from the project site. This survey shall be required only if any construction would occur during the nesting and/or breeding season of protected bird species potentially nesting in the tree (generally March 1 through August 1). If active nest(s) are found, clearing and construction within 200 feet of the tree shall be postponed or halted until the nest(s) are vacated and juveniles have fledged and there is no evidence of a second attempt at nesting, at the discretion of the biologist. If construction activities are not scheduled between March 1 and August 1, no further surveys of the tree shall be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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13. Subject to the review and approval of the Los Banos Planning Department, future development on the project site shall not include buildings and antenna towers exceeding 35 feet. If structures taller than 35 feet are determined to be necessary by the approving agency, those buildings shall be constructed under the following guidelines;

- a. The use of continuously illuminated flood lamps that would attract birds shall be avoided;
- b. Navigational lights that flash for as short and infrequent an interval as possible (one second on and nine seconds off has been suggested) shall be installed on all tall structures that require lights;
- c. If feasible, blue navigational lights as opposed to red, shall be used on tall structures;
- d. All guide wires associated with antenna towers shall be painted a bright color and equipped at intervals with visually obvious objects (e.g. orange painted balls several inches in diameter) in order to increase their visibility during the daylight hours; and
- e. Substitute measures that can be shown to be equally effective in preventing birds from colliding into structures and wires may be used with the approval of the approving agency.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

25. Subject to the review and approval of the Los Banos Planning Department, development plans for commercial or office buildings along Pacheco Boulevard or Badger Flat Loop Road shall include sound attenuation meeting the following criteria:

- Sound rated windows and alternate ventilation shall be provided; and
- Outdoor uses areas, such as courtyards, shall be located out of direct line of sight of Pacheco Boulevard and Badger Flat Loop Road.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

26. Subject to the review and approval of the City of Los Banos Planning Department, office and commercial development plans for locations adjacent to residential uses shall be reviewed by an acoustical engineer prior to issuance of a building permit. The acoustical engineer shall recommend appropriate mitigation measures, such as buffer zones, noise barriers, and/or enclosures of mechanical equipment to protect residential areas from unacceptable levels of noise.

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

27. The following language shall be included on any permits issued at the project site, subject to the review and approval of the City of Los Banos Planning Department. "All construction activities shall be limited to weekdays between 7:00 AM and 7:00 PM, and to Saturdays and City holidays between 9:00 AM and 7:00 PM. No construction is allowed on Sundays."

o Implementation Complete

Party Responsible for Implementation: **Applicant**

Party Responsible for Monitoring: **Los Banos Planning Department**

Monitoring Notes and Status:

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28. No building permits shall be issued for buildings on the portion of the project site south of Cardoza Road and Badger Flat Loop Road, without written evidence from the City of Los Banos Fire Chief that the City of Los Banos Fire Department can serve the development within acceptable response times.

Construction and operation of a fire station within the project site shall be considered adequate evidence and written evidence will not then be required.

o Implementation Complete

Party Responsible for Implementation: **Applicant, LBUSD**

Party Responsible for Monitoring: **Los Banos Planning Department, State Architect**

Monitoring Notes and Status:

-END-

RESOLUTION #2016-__

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING APPROVAL TO THE LOS BANOS CITY COUNCIL A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LOS BANOS AND ANDERSON HOMES, A CALIFORNIA CORPORATION FOR DEVELOPMENT OF APPROXIMATELY 18.64 ACRES LOCATED AT THE NORTHWEST CORNER OF ORTIGALITA AND PIONEER ROADS MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 430-060-020. [Villages at Stonecreek IX]

WHEREAS, Government Code § 65864, *et seq.*, authorizes the City of Los Banos to enter into development agreements which will provide certainty, definition and commitment to developers as well as to necessary public improvements required by development;

WHEREAS, Anderson Homes, a California corporation (“Developer”) submitted an application to the City of Los Banos for a Final Development Plan and Vesting Tentative Tract Map for approximately 18.64 acres located at the Northwest corner of Origalita and Pioneer Roads, in the city of Los Banos (APN 430-060-020), (the “Property”); and

WHEREAS, the proposed applications would allow development of the Property, which includes 71 low density detached single family homes as part of the Stonecreek South Planned Development (the “Project”); and

WHEREAS, in connection with the Project, the Developer and City staff have, in good faith, negotiated a proposed development agreement attached to this Resolution as **Exhibit A** the terms of which carry out the legislative purpose of Government Code § 65864, *et seq* and will assure the parties to this Agreement of mutually desirable development of the Property. Developer has agreed to provide the following significant public benefits as consideration for this Agreement:

- a. Continuation of the Planned Development known as Stonecreek South.
- b. Formation or annexation of the Property to a Community Facilities District created for the purpose of funding public safety.
- c. Formation or annexation of the Property to a Lighting and Landscaping district created for the purpose of maintaining public landscape areas, signage, and public lighting and traffic signal maintenance.

WHEREAS, in accord with the California Environmental Quality Act (CEQA) and State and City guidelines, City has accepted and previously approved and certified the Stonecreek Area Plan Environmental Impact Report, on April 21, 2004.

WHEREAS, the Planning Commission of the City of Los Banos scheduled and duly noticed a public hearing in accordance with California Government Code Section 65091 by advertisement and notices by mail to property owners within a 300 foot radius of the project as required to consider and take testimony regarding these matters on August 24, 2016.

WHEREAS, the Planning Commission, having duly considered this Agreement and having held the noticed public hearing, finds and declares that the provisions of this Agreement are consistent with the maps and text of the City's General Plan; and

NOW, THEREFORE, BE IT RESOLVED that, based on the findings set forth in this Resolution and the evidence in the staff report, the above-referenced CEQA Findings, and all other Project applications considered by the Planning Commission concurrently with the proposed Development Agreement, the Planning Commission hereby recommends that the City Council approve the Development Agreement for the Villages at Stonecreek IX project for property located at the Northwest corner of Ortigalita and Pioneer Roads, in the City of Los Banos, more specifically identified as Assessor's Parcel Number: 430-060-020, substantially in the form set forth at **Exhibit A** hereto.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 24rd day of August 2016 by Commissioner _____, who moved its adoption, which motion was duly seconded by Commissioner _____, and the Resolution is hereby adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Tom Spada,
Planning Commission Chair

ATTEST:

Sandra Benetti,
Planning Commission Secretary

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

City of Los Banos
520 J Street
Los Banos, CA 93635
Attn: City Clerk

(Space Above This Line Is for Recorder's Use Only)

This Agreement is recorded at the request and for the benefit of the City of Los Banos and is exempt from the payment of a recording fee pursuant to Government Code §§ 6103 and 27383.

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF LOS BANOS AND
ANDERSON HOMES, A CALIFORNIA CORPORATION
RELATIVE TO
VILLAGES AT STONECREEK IX**

(Date)

THIS DOCUMENT, INCLUDING EXHIBITS, TOTALS _____ PAGES.
EACH PAGE IS "BATES STAMPED" SEQUENTIALLY IN THE LOWER RIGHT HAND CORNER.

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF LOS BANOS AND
ANDERSON HOMES, A CALIFORNIA CORPORATION
RELATIVE TO
VILLAGES AT STONECREEK IX**

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2016, by and between the CITY OF LOS BANOS, a municipal corporation (“City”), and Anderson Homes, a California corporation (“Developer”), pursuant to the authority of Article 2.5, Chapter 4, Division 1, Title 7 (§ 65864, *et seq.* of the Government Code) relating to Development Agreements. City and Developer are sometimes collectively referred to in this Agreement as the “Parties” and individually as a “Party.”

RECITALS

1. Developer owns has an equitable interest in that certain real property, more particularly described in the legal description attached hereto as **Exhibit “A”** and as depicted on the site map attached hereto as **Exhibit “B”**.

2. In order to encourage investment in, and commitment to, comprehensive planning and public facilities financing, strengthen the public planning process and encourage private implementation of the local general plan, provide certainty in the approval of projects in order to avoid waste of time and resources, and reduce the economic costs of development by providing assurance to property owners that they may proceed with projects consistent with existing land use policies, rules, and regulations, the California Legislature adopted California Government Code sections 65864-65869.5 (the “Development Agreement Statute”) authorizing cities and counties to enter into development agreements with persons or entities having a legal or equitable interest in real property located within their jurisdiction.

3. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development of the Subject Property. Developer has agreed to provide the following significant public benefits as consideration for this Agreement:

- a. Continuation of the Planned Development known as Stonecreek South.
- b. Formation or annexation of the Subject Property to a Community Facilities District created for the purpose of funding public safety.
- c. Formation or annexation of the Subject Property to a Lighting and Landscaping district created for the purpose of maintaining public landscape areas, signage, and public lighting and traffic signal maintenance.

4. City, in response to Developer's applications, after public hearings and extensive environmental analysis, has granted the following entitlements (hereinafter the “Entitlements”).

- a. By Planning Commission Resolution No. 2016 - __ approval of Vesting Tentative Tract Map for Villages at Stonecreek IX (VTTM 2016-04).
- b. By City Council Resolution No. 2016- __ approval of Final Development Plan for Villages at Stonecreek IX (FDP 2016-03)

5. In support of the various Entitlements described in paragraph 4 above, and in accord with the California Environmental Quality Act (CEQA) and State and City guidelines, City has accepted and previously approved and certified the Stonecreek Area Plan Environmental Impact Report, on April 21, 2004.

6. Development of the Subject Property pursuant to the terms and conditions of the various entitlements, the General Plan, and the Stonecreek Area Plan Environmental Impact Report will provide for orderly growth and development consistent with the City's General Plan and other development policies and programs.

7. On August 24, 2016, the City Planning Commission held a public hearing on this Agreement, considered this Agreement, and recommended its adoption to the City Council.

8. On _____, 2016, the City Council also held a public hearing on this Agreement and considered the Planning Commission recommendations and testimony and information submitted by City Staff, Developer, and members of the public. Having duly considered this Agreement and having held the noticed public hearings, City finds and declares that the provisions of this Agreement are consistent with the Development Agreement Statute, and the maps and text of the City's General Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. The Project. The Project is the Final Development Plan and Vesting Tentative Tract Map for the potential development of approximately 18.64 acres of land located generally in the southwestern quadrant of the City. The Project consists of the subdivision and development of the Subject Property: into 71 low density detached single family homes on approximately 18.64 with an average density of 3.8 units per acre; the entire project area is zoned Planned Development (P-D District).

Section 1.2. Subject Property. The Subject Property consists of approximately 18.64 acres identified as Merced County Assessor's Parcel Number 430-060-020, generally located on the northwest corner of Ortigalita and Pioneer Roads, in the City of Los Banos. The Subject Property is more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by this reference and made a part of this Agreement. The Subject Property was previously designated as a public school site and part of what is known as Villages at Stonecreek IV. It is the parties' intent that to the extent that the Subject Property is part of the Villages at Stonecreek IV

Development Agreement this Agreement shall replace the terms of that Agreement as applied to the Subject Property only.

Section 1.3. Definitions. As used in this Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) **Adopting Ordinance** means Ordinance Number _____ entitled: Development Agreement By and Between the City of Los Banos and Anderson Homes, a California corporation, relative to Villages at Stonecreek IX, dated _____, and effective _____, which approves this Agreement as required by Government Code section 65867.5.

(b) **Assumption Agreement** means an agreement substantially conforming to the model assumption agreement described in **Exhibit "F"** or other agreement in a form approved by the City Attorney, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(c) **Certificate of Occupancy** means either a certificate issued after inspections by City authorizing a person or persons in possession of property to dwell or otherwise use a specified building or dwelling unit, or the final inspection if a formal certificate is not issued.

(d) **CEQA** means the California Environmental Quality Act section 21000 *et seq.*, of the Public Resources Code of the State of California.

(e) **City** means the Los Banos City Council, or its designee.

(f) **City Laws** means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other exactions and impositions, and any other actions having the force of law, that are enacted or adopted by City, or by its electorate through the initiative or referendum process.

(g) **Collective Standards** means this Development Agreement, its Exhibits, the Planning Documents, the City Laws that are operative and in force and effect as of the Effective Date, and the Subsequent Approvals.

(h) **Developer** means Anderson Homes, a California corporation, or successor in interest.

(i) **Director** means the Community and Economic Development Director for the City of Los Banos or designee.

(j) **Effective Date** means the effective date of the Adopting Ordinance.

(k) **Entitlements** shall mean those approvals listed in Recital 4 including any and all conditions of approval and mitigation measures.

(l) **Final Development Plan** means FDP #2016-03 and conditions of approval applicable thereto, attached as **Exhibit "E"**.

(m) **General Plan** means the 2030 General Plan Update of the City, approved July 15, 2009, excluding any amendment after the Effective Date that impairs or restricts Developer's rights set forth in this Agreement, unless such amendment is expressly authorized by this Agreement or is specifically agreed to by Developer.

(n) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(o) **New City Laws** means City Laws enacted, adopted or implemented by City, or by its electorate through the initiative or referendum process, after the Effective Date.

(p) **Planning Documents** means, and shall be limited to, those approvals set forth in paragraph 4, 5 and 6 of the Recitals.

(q) **Project** means the anticipated development of the Subject Property as specified in Section 1.1 and as provided for in the provisions of this Agreement and all other incorporated exhibits.

(r) **Reserved Powers** shall mean those powers explicitly reserved to the City by this Agreement.

(s) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

(t) **Subsequent Approvals** means that Developer may make application for other land use approvals, actions, agreements, permits and other entitlements that are necessary or desirable in connection with the development of the Project, including without limitations, multiple planned development zoning district approvals, multiple vesting or non-vesting tentative subdivision maps, site plan approvals, use and grading permits, lot line adjustments, sewer and water connections, design review, building permits and certificates of occupancy, including all conditions of approval imposed in connection therewith.

(u) **Tentative Map(s)** shall mean Map #VTM 2016-04, and conditions of approval applicable thereto, attached as **Exhibit "D"**.

Section 1.4. Exhibits. Exhibits to this Agreement are as follows:

Exhibit “A” Subject Property.

Exhibit “B” Site Map.

Exhibit “C” Special Conditions and Requirements.

Exhibit “D” Vesting Tentative Tract Map VTTM 2016-04 and Conditions of Approval.

Exhibit “E” Final Development Plan FDP 2016-03 and Conditions of Approval.

Exhibit “F” Sample Assumption Agreement.

Exhibit “G” Sample Notice of Termination.

Section 1.5. Incorporation of Exhibits and Recitals. Exhibits A – G and Recitals 1 through 8 are incorporated herein, including all exhibits referred to in said Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. Parties to Agreement. The parties to this Agreement are:

(a) **The City of Los Banos.** A municipal corporation exercising general governmental functions and powers. The principal office of the City is located at 520 J Street, Los Banos, California 93635.

(b) **Developer.** Anderson Homes, a California corporation who owns in fee or has an equitable interest in the Subject Property and represents that it has the legal authority to enter into this Agreement. The principal office of Developer is 1851 Airway Drive, Suite E, Hollister, California 95023.

(c) **Landowner.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. Project is a Private Undertaking. It is agreed among the parties that the Project is a private development and that the City has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. Term of Agreement. This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement. Upon becoming operative, this Agreement shall continue in force for a period of ten (10) years from the Effective Date unless terminated as provided herein. Following the expiration of the term, or if sooner terminated, this Agreement shall have no force and effect, subject however, to post-termination obligations of Developer or Landowner, if any.

Section 1.9. Priority of Enactment. In the event of conflict between the Development Agreement, the Planning Documents and the City Laws, the parties agree that the following sequence of approvals establishes the relative priority of the approvals, each approval superior to the approvals listed thereafter: (1) the Development Agreement; (2) the Planning Documents; and (3) the City Laws. In the event of a conflict between two or more of the foregoing

documents, the language of that document which is superior in priority as provided above shall govern.

Section 1.10. Vested Rights of Developer. During the term of this Agreement, unless sooner terminated in accordance with the terms hereof, in developing the Subject Property consistent with the Project described herein, Developer is assured, and City agrees, that the development rights, obligations, terms and conditions specified in the Collective Standards are fully vested in the Developer and may not be changed or modified by the City except as may be expressly permitted by, and in accordance with, the terms and conditions of this Agreement, or as expressly consented thereto in writing as provided for in Section 1.13 and 1.14 below, by the Developer, which consent Developer may withhold in its sole and exclusive discretion. Developer shall be obligated to pay only those fees, make only those dedications and improvements, and otherwise be subject to only those conditions/exactions expressly authorized in this Agreement. Except as expressly provided herein and in sections 1.22 and 1.23, City shall not establish, enact, impose or exact any new or additional fees, charges, general taxes, special taxes, conditions, dedications, improvements, and/or other exactions, policies, standards, laws, or regulations which directly or indirectly relate to or affect development or occupancy of the Project or Subject Property.

Section 1.11. Assignment and Assumption. Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation at any time during the term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide City with a copy of the Assumption Agreement. Express written assumption by such purchaser, assignee or transferee, to the satisfaction of the City Attorney, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or transferring such interest of such obligations so expressly assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form of the Assumption Agreement attached hereto as **Exhibit "E"** and incorporated herein by this reference, or such other form as shall be approved by the City Attorney.

Section 1.12. Covenants Running With the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the City for occupancy, this Agreement shall automatically terminate.

Section 1.13. Amendment to Agreement (Developer and City). This Agreement may be amended by mutual consent of the parties in writing, in accordance with the provisions of

Government Code section 65868, provided that: any amendment which relates to the term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a noticed public hearing before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

Any amendment entered into between the City and the Developer shall require the signature of each owner of any portion of the Subject Property to the extent the amendment modifies this Agreement as to that other owner's property.

Section 1.14. Amendment to Agreement (Landowner and City). This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a Landowner who has acquired a portion of the Subject Property from Developer and City as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the City and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the extent the amendment modifies the Agreement as to that Landowner's or the Developer's property.

Section 1.15. Releases. Developer, and any subsequent Landowner, may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the City Clerk receives a copy of the Assumption Agreement provided for in Section 1.11.

Section 1.16. Notices. Notices, demands, correspondence, and other communication to City and Developer shall be deemed given if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6. Notice to the City shall be to the attention of both the City Manager and the Director. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 1.17. Reimbursement for Agreement Expense of City. Developer agrees to reimburse City for reasonable and actual expenses over and above fees paid by Developer as an applicant for costs specifically incurred by City for the preparation of this Agreement, including recording fees, publishing fees, and reasonable staff, City Attorney, Special Counsel, and consultant costs not otherwise included within application fees then due and payable to the City. Such reimbursement shall be paid to the City prior to execution of this Agreement by the City.

Section 1.18. Recordation of Agreement. The City Clerk shall cause a copy of this Agreement to be recorded with the Merced County Recorder not later than ten (10) days following execution of this Agreement by the City. Developer hereby covenants that during the period following execution and the recording of this Agreement by the City, Developer shall not, without prior written approval by the City Attorney, cause or allow to be recorded against the Subject Property any instrument affecting the priority, validity or enforceability of this Agreement.

Section 1.19. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 1.20. Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

Section 1.21. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement, the Entitlements or any approval subsequently granted by the City for the development of the Subject Property, the parties and any Landowner agree to cooperate with each other in good faith. City may elect to tender the defense of any lawsuit filed by a third person or entity to Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "City" shall include all employees, consultants and agents acting on behalf of the City. Neither party shall settle any such lawsuit without the consent of the other party. The City may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the City for its litigation costs and fees, including the retention of outside legal counsel. It is the intent of the Parties that the City's participation not result in unnecessary duplication of legal services, but rather that the City's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the City, involve broader City concerns than those immediately affecting the Landowner and/or Developer. Upon written demand of the City, Developer and/or Landowner shall deposit with the City such sums as may be specified by the City as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the City elects to settle a claim, and Developer refuses to also settle, City at its sole option, may require Developer to post security in a form and amount reasonably acceptable to the City, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from City, fails to post this security, the Developer shall settle the claim on terms as previously approved by the City.

Section 1.22. Fees. Developer shall be subject to all fees currently adopted by the City, including scheduled or periodic increases as provided for in the adopting ordinances or resolutions ("Current Fees"). Developer shall pay, without protest or without challenge, Current Fees in effect at the time of the issuance of a requested permit or entitlement.

In addition, Developer agrees to pay any new fees adopted by the City, or the recalculation of existing fees ("New Fees") in effect at the time of the issuance of a requested building permit. Developer shall retain the right to challenge the New Fees as permitted by law.

Section 1.23. Reserved Powers. Notwithstanding any other provision of this Agreement, including Sections 2.1 and 2.2, and without limitation as to any other requirements or exceptions contained in this Agreement, the City shall retain the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the City Council to adopt regulations to protect the City and its citizens from an immediate adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt or increase utility charges in accordance with applicable laws and regulations; and

(c) As set forth in Section 1.22, increase and apply Current Fees, and adopt and apply New Fees.

(d) Adopt revised subdivision, building design (residential and non-residential), and development improvement standards, provided, however, no such revised standards shall apply to the Project earlier than the 366th day following the date the City Council adopts the revised standard.

(e) Land use regulations, ordinances, policies, programs, resolutions or fees adopted or undertaken by City in order to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(f) City land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the City Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

(g) Adopt a revised growth management policy for residential development, provided, however, no such revised policy shall apply to the Project earlier than the 366th day following the date the City Council adopts the revised policy.

Section 1.24. Waiver of Claims. Developer waives, as to the Subject Property only, any and all existing claims that may have against the City, its agents, employees and consultants arising out of the adoption and/or application of development requirements and standards, impact

fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

Section 1.25. Availability of Facilities. Notwithstanding any other provision set forth in this Agreement to the contrary, nothing in this Agreement is intended or shall be interpreted to require City to guarantee or reserve to or for the benefit of Developer or the Property any utility capacity, service, or facilities that may be needed to serve the Project, whether domestic or reclaimed water service, sanitary sewer transmission or wastewater treatment capacity, downstream drainage capacity, or otherwise, and City shall have the right to limit or restrict Development of the Project if and to the extent that City reasonably determines that inadequate utility capacity exists to adequately serve the Project at the time Development is scheduled to commence. Notwithstanding the foregoing, City covenants to provide utility services to the Project on a non-discriminatory basis (i.e., on the same terms and conditions that City undertakes to provide such services to other similarly situated new developments in the City of Los Banos as and when service connections are provided and service commences).

ARTICLE 2

PROJECT DEVELOPMENT

Section 2.1. Vested Right to Develop. Developer shall have the vested right to develop the Subject Property in accordance with the terms and provisions of this Agreement.

To the extent that Developer, prior to execution of this Agreement, possesses vested rights under the authority of the Subdivision Map Act or common law, Developer expressly waives any and all rights thereto, and agrees that any claim to a vested right is defined solely by the Development Agreement.

Section 2.2. Permitted Uses and Development Standards. The permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation and dedication of land or payment of fees in lieu of dedication for public purposes, the construction, installation and extension of public improvements, development guidelines, policies and standards, implementation program for processing of subsequent entitlements and other conditions of development for the Subject Property shall be those set forth in the Collective Standards. The parties hereto intend that the Collective Standards shall serve as the definitive and controlling document for all subsequent actions, discretionary or ministerial, relating to the development and occupancy of the Project.

Section 2.3. Amendments. Modifications to the Tentative Map may be approved in accordance with the provisions of the Subdivision Map Act and local ordinance and shall not require an amendment to this Agreement.

Section 2.4. No Conflicting Enactments. Except as provided for as a Reserved Power or as otherwise provided for in this Agreement, neither the City nor any agency of the City, shall enact, adopt or implement any New City Law that: (a) is in conflict with the Collective Standards; (b) relates to the rate, timing or sequencing of the development or construction of the

Subject Property on all or any part of the Subject Property that is in conflict with this Agreement, or any amendments thereto; or (c) reduces the development rights provided by the Collective Standards. Without limiting the foregoing general statement, and for all purposes pursuant to this Agreement generally, and this Section specifically, any New City Law shall be deemed to conflict with this Agreement if, either with specific reference to this Subject Property or as part of a general enactment that directly or indirectly applies to this Subject Property, it would or could:

(a) Limit or reduce the density or intensity of the Project development granted by the Collective Standards or otherwise require any reduction in the height, number, size or square footage of lots, structures or buildings;

(b) Expand or increase Developer's obligations under the Collective Standards with respect to the provision of parking spaces, streets, roadways and/or any other public or private improvements or structures;

(c) Directly limit public services or facilities otherwise available (e.g., water, drainage, sewer or sewage treatment capacity) to, within or available for use by the Project unless such limitation applies on an equitable basis to other similarly situated properties;

(d) Limit or control in any manner the timing or phasing of the construction/development of the Project allowed by the Collective Standards;

(e) Limit the location of buildings, structures, grading or other improvements relating to the development of the Project in a manner which is inconsistent with or more restrictive than the Collective Standards;

(f) Limit the processing of applications for or procurement of Subsequent Approvals;

(g) Establish, enact or increase in any manner applicable to the Project, or impose against the Project, any fees, taxes (including, without limitation, general, special, and excise taxes), assessments, liens or other financial obligations other than: (i) those specifically permitted by this Agreement; and (ii) any City-wide taxes and assessments; or

(h) Initiate, support or establish any assessment district or other public financing mechanism that would include or otherwise burden or effect the Project or the Subject Property that has not been established prior to the Effective Date.

Clauses (a) through (h) above are intended as examples, and not as a comprehensive or exclusive list, of New City Laws that would or could conflict with the Collective Standards, and therefore with this Agreement. Except as otherwise provided in Section 1.23, all City actions applying any City Law to the development of the Project shall be consistent with this Agreement.

Section 2.5. Changes to City Laws. Only the following changes to the City Laws shall apply to the development of the Subject Property:

(a) Land use regulations, ordinances, policies, programs, resolutions or fees adopted or undertaken by City in order to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(b) City land use regulations, ordinances, policies, programs, resolutions or fees adopted after the Effective Date, that are not in conflict with the terms and conditions for development of the Subject Property established by this Agreement or otherwise applicable Existing Land Use Regulations and which do not impose additional burdens on the Project and/or the Subject Property.

(c) City land use regulations, ordinances, policies, programs, resolutions or fees adopted after the Effective Date, which are in conflict with the Existing Land Use Regulations, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

Section 2.6. Further Reviews. Developer acknowledges that the City Laws contemplate further reviews of elements of the Project by the City and Subsequent Approvals. These reviews include review of final map(s), improvement plans and building permit applications. Nothing in this Section 2.6 shall be deemed to limit or expand the legal authority of City with respect to such reviews or Subsequent Approvals.

Section 2.7. Application, Processing and Inspection Fees. Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within City and are in compliance with State and Federal law.

Section 2.8. Timing of Development. The parties acknowledge that the most efficient and economic development of the Subject Property depends upon numerous factors, such as market orientation and demand, interest rates, competition, and similar factors, and that generally it will be most economically beneficial to the ultimate purchasers to have the rate of development determined by Developer. Accordingly, the timing, sequencing, and phasing of the development is solely the responsibility of Developer and, except as may be expressly set forth in this Development Agreement and the conditions of approval of the Tentative Map or final Development Plan, the City Council shall not impose, by ordinance, resolution, or otherwise, any restrictions on the timing, sequencing or phasing of any construction activity within the Subject Property.

Section 2.9. Obligation and Rights of Mortgage Lenders. The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

Section 2.10. Automatic Extension of the Approved Tentative Map. Pursuant to Government Code §66452.6(a) the life of the Tentative Map is automatically extended by a period of time equal to the Term of this Agreement. In the event this Agreement is cancelled, the map shall continue in effect for twelve (12) months from the date of cancellation or the expiration date, whichever comes later. Thereafter, the Tentative Map approval shall be considered to have expired as provided for in Government Code §66452.6(d). In the event that the Agreement is cancelled, the subdivider may exercise all rights allowed by the Subdivision Map Act with respect to the extension of the Tentative Map. As long as this Agreement is not cancelled, it is the intent of the Developer to waive any and all rights and claims to extend the Tentative Map as might otherwise be permitted by Government Code §66452.6(a), as a result of conditions of approval, which require the subdivider to construct specified offsite improvements.

ARTICLE 3

DEFAULT

Section 3.1. General Provisions. Subject to extensions of time by mutual consent in writing, failure or delay by either party or Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party or Landowner not less than sixty (60) days notice in writing specifying the nature of the alleged default and the manner in which said default may be cured. During any such sixty (60) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at his option, institute legal proceedings pursuant to this Agreement or give notice of its intent to terminate this Agreement pursuant to California Government Code section 65868 and any regulations of the City implementing said Government

Code section. Following notice of intent to terminate, or prior to instituting legal proceedings, the matter shall be scheduled for consideration and review in the manner set forth in Government Code sections 65865, 65867, and 65868 and City regulations implementing said sections by the City within thirty (30) calendar days.

Following consideration of the evidence presented in said review before the City and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

Section 3.2. Annual Compliance Review. City shall review this Agreement once during every twelve (12) month period following the Effective Date for compliance with the terms of this Agreement as provided in Government Code section 65865.1. Developer shall pay City a reasonable fee in an amount City may reasonably establish from time to time to cover the actual and necessary costs for the annual review. City's failure to timely provide or conduct an annual review shall not constitute a Default hereunder by City.

During each annual review by City, Developer is required to demonstrate good faith compliance with the terms of the Agreement. Developer agrees to furnish such evidence of good faith compliance as City, in the reasonable exercise of its discretion, may require, upon thirty (30) days prior written notice from the City.

Such periodic review shall be conducted by the Director and shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. If the Director finds that Developer has so complied, the annual review shall be concluded.

If the Director finds that the Developer has not complied, the City Council of City shall conduct a duly noticed hearing and shall determine, on the basis of substantial evidence, whether or not Developer has, for the period under review, complied with the terms of this Agreement. If the City Council finds that Landowner has so complied, the annual review shall be concluded. If the City Council finds, on the basis of substantial evidence, that Developer has not so complied, written notice shall be sent to Developer by first class mail of the City Council's finding of non-compliance, and Developer shall be given at least ten (10) days to cure any noncompliance that relates to the payment of money and thirty (30) days to cure any other type of noncompliance. If a cure not relating to the payment of money cannot be completed within thirty (30) days for reasons which are beyond the control of Developer, Developer must commence the cure within such thirty (30) days and diligently pursue such cure to completion. If Landowner fails to cure such noncompliance within the time(s) set forth above, such failure shall be considered to be a Default and City shall be entitled to exercise the remedies set forth in this Article 3.

The annual review procedures set forth in this Section 3.2 shall not be the exclusive means for City to identify a Default by Landowner or limit City's rights or remedies for any such Default.

Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners. Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred. Similarly, the obligations of the Developer and Landowners shall be severable and no default hereunder in performance of a covenant or obligation by any one of them shall constitute a default applicable to any other owner who is not affiliated with such defaulting owner, and any remedy arising by reason of such default shall be solely applicable to the defaulting owner and the portion of the Subject Property owned thereby.

Section 3.4. Default by City. In the event City does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise provided in this Agreement, or the City otherwise defaults under the terms of this Agreement, Developer and/or Landowner may give written notice thereof to the City and if not cured within sixty (60) days following receipt of such notice, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing sentence, the City, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder. In the event City is in default under the terms of this Agreement, any resulting delays in Developer's performance caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. Cumulative Remedies of Parties/Waiver of Right to Damages. In addition to any other rights or remedies, City, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement. Notwithstanding the foregoing sentence, the City, Developer and Landowner each waives any and all rights to seek monetary damages from the other party as a result of any breach or alleged breach of such other party's obligations hereunder.

Section 3.6. Enforced Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either party or Landowner hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, State or federal laws, regulations, decisions or orders which conflict with this Agreement, or judicial or other governmental agency decisions or orders, directing the City, or which have the effect of requiring the City, to take actions or refrain from taking actions which conflict with the obligations under this Agreement. Any and all extensions of the time of performance shall be limited to thirty-six (36) months. This section 3.6 shall not apply to the twenty-four (24) month term within which this Agreement is required to take effect.

ARTICLE 4

TERMINATION

Section 4.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the term or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith are satisfied. Upon termination of this Agreement, the City shall record a notice of such termination in substantially the form attached hereto as **Exhibit "F"**. This Agreement shall automatically terminate and be of no further force or effect as to any single-family residence, any other residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the City for occupancy.

Section 4.2. Effect of Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any of the Developer's obligations to comply with the City general plan and the terms and conditions of any applicable zoning, or subdivision map or other land use entitlements approved with respect to the Subject Property, any other covenants or any other development requirements specified in this Agreement to continue after the termination of this Agreement, or obligations to pay assessments, liens, fees, or taxes.

Section 4.3. Effect of Termination on City. Upon any termination of this Agreement, as provided for under the terms and conditions of this Agreement, as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the Subject Property affected by such termination (provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be governed by planning and zoning law) and the City shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property.

ARTICLE 5

STANDARD TERMS AND CONDITIONS

Section 5.1. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Merced.

Section 5.2. Waiver. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

Section 5.3. Completeness of Instrument. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

Section 5.4. Supersedes Prior Agreements. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

Section 5.5. Captions. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 5.6. Number and Gender. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word “person” includes corporations, partnerships, firms or associations, wherever the context so requires.

Section 5.7. Mandatory and Permissive. “Shall” and “will” and “agrees” are mandatory. “May” is permissive.

Section 5.8. Term Includes Extensions. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

Section 5.9. Successors and Assigns. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

Section 5.10. Modification. No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Section 5.11. Counterparts. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

Section 5.12. Other Documents. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Section 5.13. Partial Invalidity. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. Controlling Law. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. Time Is of the Essence. Time is of the essence of this Agreement and each covenant and term a condition herein.

Section 5.16. Authority. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. Document Preparation. This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. Advice of Legal Counsel. Each party acknowledges that it has reviewed this agreement with its own legal counsel, and based up on the advice of that counsel, and freely entered into this Agreement.

Section 5.19. Estoppel Certificate. Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the City to reimburse the City for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(a) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the City Manager, or his or her designee.

Section 5.20. Attorneys Fees and Costs. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

Section 5.21. Consent/Subordination. Unless waived in writing by the City Attorney, Developer shall furnish proof satisfactory to the City, prior to approval of the Agreement, that all persons possessing a legal interest in the property have consented to the recording of this Agreement. Unless waived in writing by the City Attorney, the City shall require subordination by all lenders of record as a condition precedent to the City approval of the Agreement. The City shall have no duty to subordinate its interest in this Agreement.

IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth below.

CITY OF LOS BANOS
a municipal corporation

By: _____
Michael Villalta
Mayor

Dated _____

ATTEST:

Lucille L. Mallonee
City Clerk

Dated _____

APPROVED AS TO FORM:

William A. Vaughn
City Attorney

Dated _____

ANDERSON HOMES,
a California corporation

By: _____
Larry W. Anderson
President

Dated _____

SIGNATURES MUST BE NOTARIZED

EXHIBIT A

Legal Description

LEGAL DESCRIPTION

Real property in the City of Los Banos, County of Merced, State of California, described as follows:

BEING A PORTION OF SECTION 21, TOWNSHIP 10 SOUTH, RANGE 10 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

ALSO BEING A PORTION OF THE PARCEL MAP OF MS 02057, FILED JUNE 2, 2003, IN BOOK 93 OF PARCEL MAPS AT PAGES 47-48, SAID COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF PARCEL 2, AS SHOWN ON SAID PARCEL MAP (93 PM 47-48); DISTANT THEREON NORTH 89°58'30" EAST, 277.49 FEET FROM THE SOUTHWESTERLY CORNER OF SAID PARCEL 2 (93 P.M. 47-48); THENCE, FROM SAID POINT OF BEGINNING AND LEAVING SAID LINE (93 P.M. 47-48), THE FOLLOWING COURSES; NORTH 00°17'55" EAST, 926.14 FEET AND SOUTH 89°40'11" EAST, 894.27 FEET TO EASTERLY LINE OF SAID PARCEL 2 (93 P.M. 47-48); THENCE, ALONG SAID EASTERLY AND SOUTHERLY LINES (93 P.M. 47-48), THE FOLLOWING COURSES; SOUTH 01°03'42" WEST, 920.75 FEET AND SOUTH 89°58'30" WEST, 882.03 FEET TO SAID POINT OF BEGINNING.

APN: 430-060-020

EXHIBIT B

Map

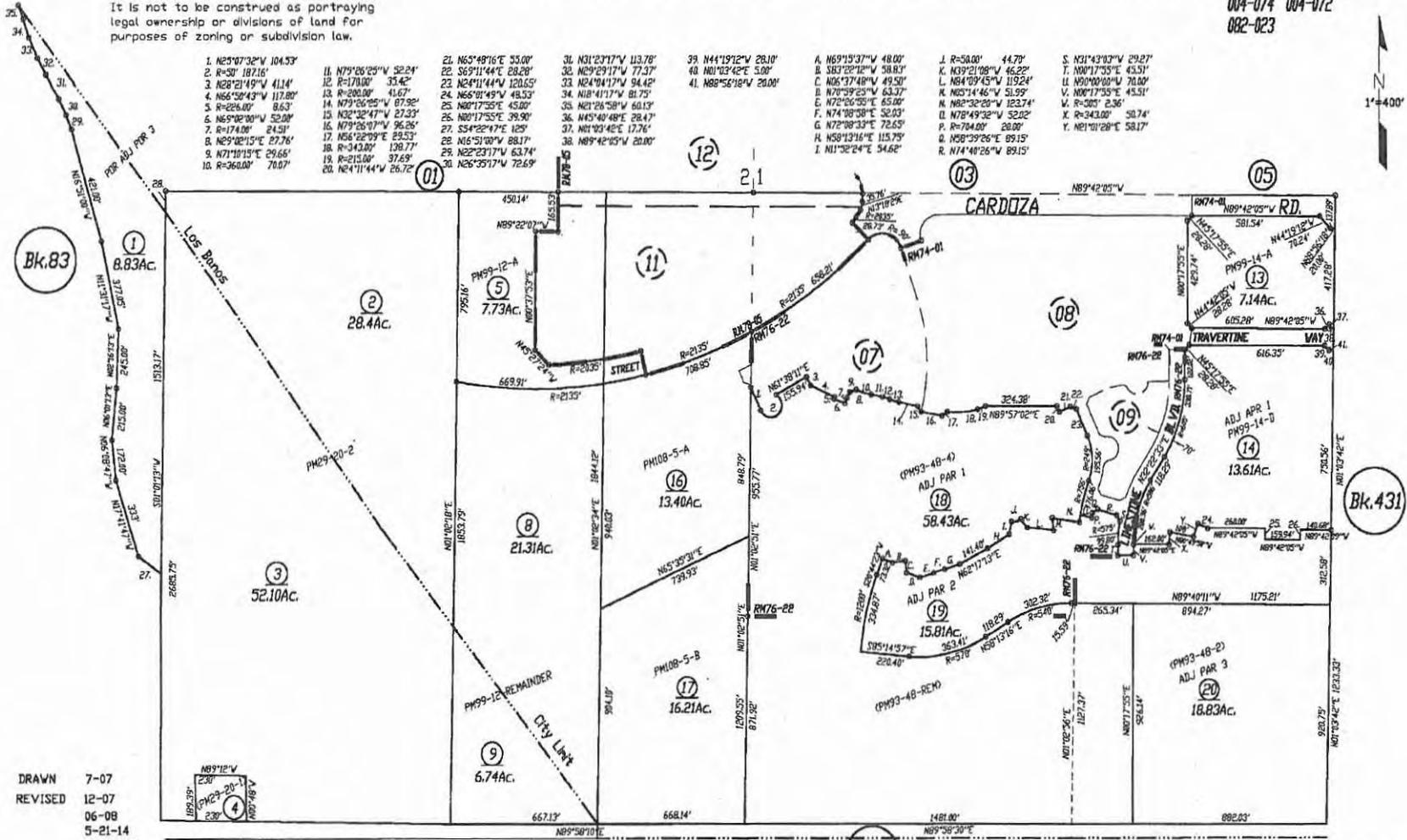
PDR S1/2 SEC. 21, T.10S., R.10E., M.D.B.&M.

Tax Rate Area 004-068 430-06
 004-074 004-072
 082-023

-NOTE-

This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

- | | | | | | | | |
|------------------------|------------------------|-------------------------|-------------------------|------------------------|------------------------|------------------------|-----------------------|
| 1. N25°07'32"V 104.53' | 11. N79°26'25"V 32.24' | 21. N65°49'16"E 55.00' | 31. N31°23'17"V 113.78' | 41. N88°56'16"V 20.00' | A. N69°15'37"V 48.00' | J. R=58.00' 44.70' | S. N31°43'03"V 29.27' |
| 2. R=30' 187.16' | 12. R=170.00' 35.42' | 22. S69°11'44"E 28.28' | 32. N29°29'17"V 77.37' | 42. N01°03'42"E 5.00' | B. S83°22'12"V 58.81' | K. N39°21'09"V 46.22' | T. N00°17'35"E 45.51' |
| 3. N28°21'49"V 41.14' | 13. R=200.00' 41.67' | 23. N24°11'44"V 120.65' | 33. N24°04'17"V 94.42' | 43. N88°56'16"V 20.00' | C. N06°37'48"V 49.50' | L. N84°09'45"V 119.24' | U. N90°00'00"V 70.00' |
| 4. N66°50'43"V 117.80' | 14. N79°26'25"V 87.92' | 24. N68°10'49"V 48.33' | 34. N18°41'17"V 81.75' | | D. N70°29'25"V 63.37' | M. N03°14'46"V 51.59' | V. N00°17'35"E 45.51' |
| 5. R=225.00' 8.63' | 15. N32°32'47"V 27.33' | 25. N01°17'55"E 45.00' | 35. N21°28'58"V 80.15' | | E. N72°26'05"E 65.00' | N. N82°32'20"V 123.74' | W. R=505' 2.36' |
| 6. N65°02'00"V 52.00' | 16. N79°26'25"V 96.26' | 26. N00°17'55"E 39.90' | 36. N45°40'48"E 28.47' | | F. N74°08'58"E 52.03' | O. N78°49'32"V 52.02' | X. R=343.00' 30.74' |
| 7. R=174.00' 24.51' | 17. N56°42'09"E 29.53' | 27. S54°22'47"E 125' | 37. N01°03'42"E 17.76' | | G. N72°08'33"E 72.65' | P. R=704.00' 28.00' | Y. N21°01'28"E 58.17' |
| 8. N29°42'15"E 27.76' | 18. R=342.00' 19.77' | 28. N16°51'00"V 88.17' | 38. N89°42'05"V 20.00' | | H. N58°13'16"E 115.75' | Q. N58°39'26"E 89.15' | |
| 9. N71°18'15"E 29.66' | 19. R=215.00' 37.69' | 29. N22°23'17"V 63.74' | 39. N44°19'12"V 28.10' | | I. N11°32'24"E 54.62' | R. N14°40'26"V 89.15' | |
| 10. R=360.00' 70.07' | 20. N24°11'44"V 26.72' | 30. N26°35'17"V 72.69' | 40. N01°03'42"E 5.00' | | | | |



DRAWN 7-07
 REVISED 12-07
 06-08
 5-21-14
 12-03-15

Villages IV Southbrook Phase 1B At Stonecreek, R.M. Vol. 76, Pg. 22
 Villages IIA PHASE 2 At Stonecreek, R.M. Vol.78, Pg.5

Assessor's Map Bk430 Pg.06
 County of Merced, Calif
 2007

NOTE-Assessor's Block Numbers Shown in Ellipses
 Assessor's Parcel Numbers Shown in Circles

EXHIBIT C

SPECIAL CONDITIONS AND REQUIREMENTS

1. **Participation in a Community Facilities District.** Prior to the recordation of a Final Map the Developer shall form or annex the Subject Property to a community facilities district created for the purposes of funding public safety, as authorized by Government Code section 53313(a) and (b). The form, terms and conditions and the tax rate for the formation of the Mello-Roos district, or in the alternative the annexation of the Subject Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. District formation or annexation shall be at the sole cost of the Developer.
 2. **Participation in a Lighting and Landscaping District.** Prior to approval of any final or parcel map, the Developer shall form or annex the Subject Property to a Lighting and Landscaping District created for purposes of maintaining public landscape areas, signage and public lighting including a share of traffic signal maintenance costs as authorized pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, and Article XIID of the California Constitution. The form, terms and conditions and the tax rate for the formation of the Lighting and Landscaping District, or in the alternative the annexation of the Subject Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. It is the intent of the parties that the assessment of the Subject Property will be apportioned to each parcel in proportion to the special benefit it receives. District formation or annexation shall be at the sole cost of the Developer.
-

EXHIBIT D
VTTM 2016-04

EXHIBIT E

FDP 2016-03

EXHIBIT F

[SAMPLE FORM]

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this _____ day of _____, 20__, by and between _____ (hereinafter called "Owner") and, _____ (hereinafter "Assignee").

RECITALS

A. On _____, 20__, the City of Los Banos and Owner entered into that certain agreement entitled "Development Agreement," approved by Ordinance _____ (hereinafter "Agreement"), relative to the development known as the _____ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in **Exhibit "A,"** attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns, effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: _____

By: _____

ASSIGNEE

By: _____

By: _____

SIGNATURES MUST BE NOTARIZED

EXHIBIT G

[SAMPLE FORM]

NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this day of _____, 20__, by the City of Los Banos (hereinafter called "City") for the benefit of _____, (hereinafter "Owner").

1. On _____, 20__, the City of Los Banos and _____ entered into that certain agreement entitled "Development Agreement," approved by Ordinance _____ (hereinafter "Agreement"), relative to the development known as the _____ (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in **Exhibit "A,"** attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section of the Development Agreement, the Development Agreement is no longer in effect with respect to the Released Property.

CITY OF LOS BANOS

By: _____
City Manager or Designee

SIGNATURES MUST BE NOTARIZED

LANDOWNER'S CONSENT
[APNs 430-060-020]

I/We, the undersigned am/are the landowner(s) of record of APN 430-060-020 of that property described in Exhibit A to this Development Agreement by and between the City of Los Banos and Anderson Homes, a California corporation, relative to the project known as Villages at Stonecreek IX. I/We hereby consent to all the terms and conditions of said Agreement and agree that my/our property as described herein shall be bound by all of the terms and conditions of said agreement.

Landowner and each person executing this Consent on behalf of Landowner hereby represents and warrants to City as follows: (i) that Landowner is the owner of the fee simple title to the Property; (ii) if Landowner or any co-owner comprising Landowner is a legal entity that such entity is duly formed and existing and is authorized to do business in the State of California; (iii) if Landowner or any co-owner comprising Landowner is a natural person that such natural person has the legal right and capacity to execute this Consent; (iv) that all actions required to be taken by all persons and entities comprising Landowner to enter into this Consent have been taken and that Landowner has the legal authority to enter into this Consent; (v) that Developer's entering into and performing its obligations set forth in this Agreement will not result in a violation of any obligation, contractual or otherwise, that Landowner or any person or entity comprising Landowner has to any third party; (vi) that neither Landowner nor any co-owner comprising Landowner is the subject of any voluntary or involuntary petition; and (vii) that Landowner has no actual knowledge of any pending or threatened claims of any person or entity affecting the validity of any of the representations and warranties set forth in clauses (i)- (vi), inclusive, or affecting Developer's authority or ability to enter into or perform any of its obligations set forth in this Agreement.

Dated:

Arthur W. Dunkley, Co-trustee of the
Arthur W. and Anne L. Dunkley Marital
Property Trust UDT 12/04/87

Dated:

Anne L. Dunkley, Co-trustee of the
Arthur W. and Anne L. Dunkley Marital
Property Trust UDT 12/04/87

Dated:

Rosalyn M. Simon, Trustee of the
Rosalyn M. Simon Revocable Trust
UDT 10/24/06

SIGNATURES MUST BE NOTARIZED

PLAN REVISIONS	
NO.	DATE

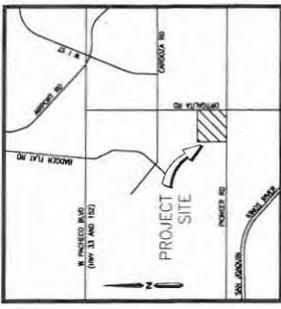
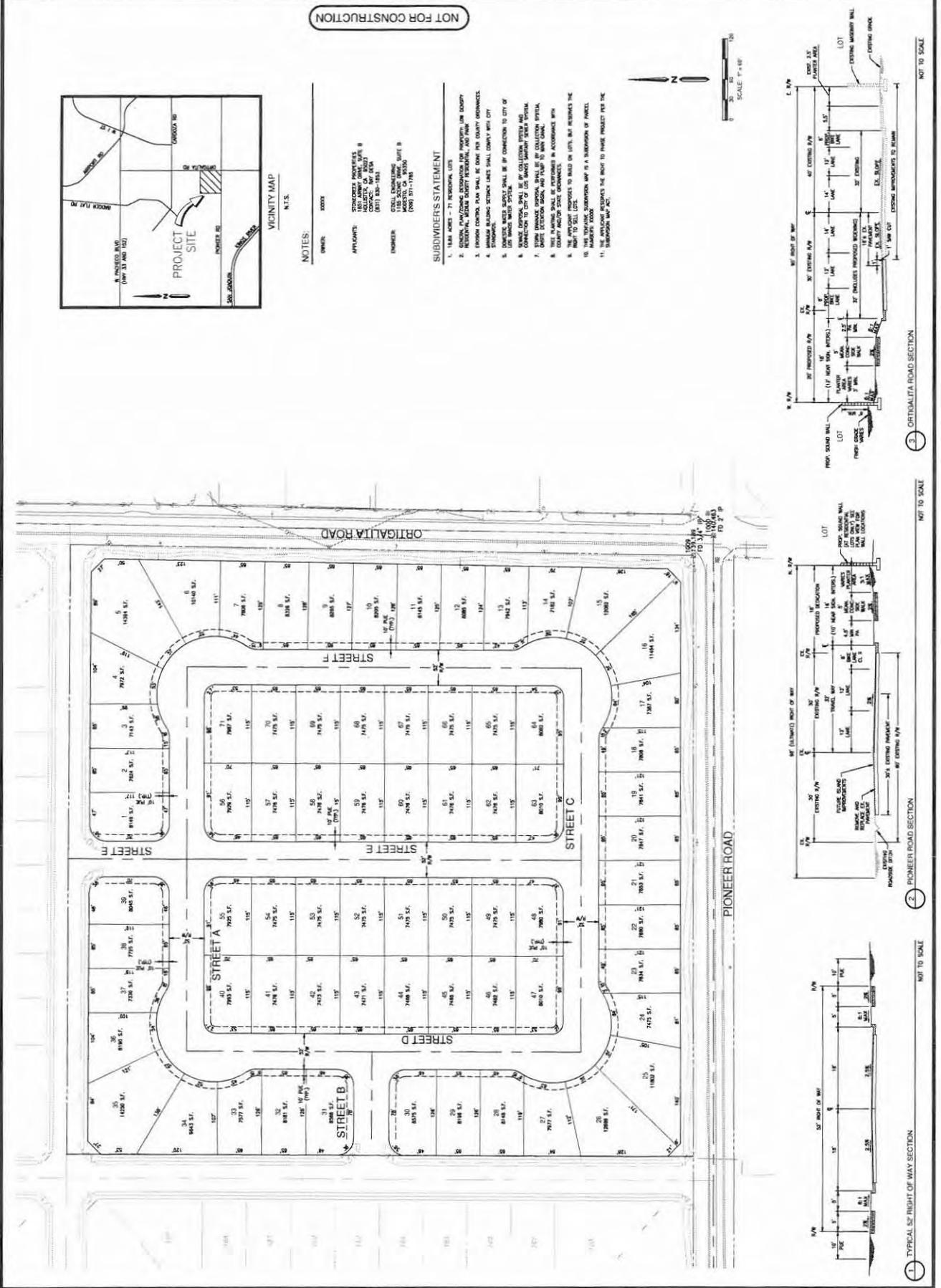
ODELL ENGINEERING
 11500 S. Fairview
 Redwood City, CA 94061
 Tel: 650.571.1705 odelldesign@aol.com

VESTING TENTATIVE MAP
VILLAGE IX
 71 LOT SUBDIVISION
 LOS BANOS, CALIFORNIA

TENTATIVE LAYOUT

APPROVED:	
DESIGNED: CN	
DRAWN: CN	
CHECKED: VI	
SCALE: 1"=40'	
DATE: 06/20/2018	
JOB NO.: 31300	
FILE NO.: 31300-VTLMG	

SHEET NO. **1** OF **2**



NOTES:

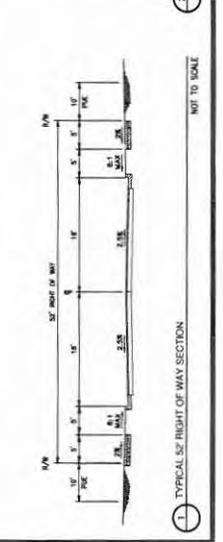
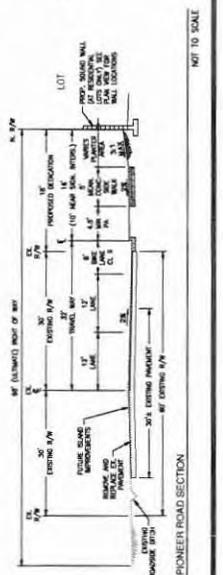
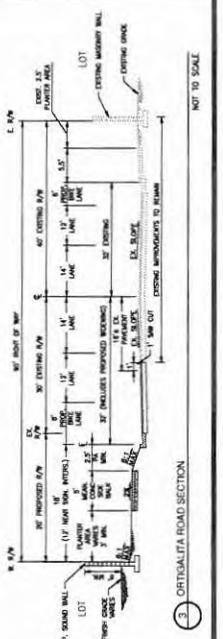
OWNER: XXXXX

APPLICANTS: STONEMASTER PROPERTIES, INC. (SFPD) 15000 S. FAIRVIEW, REDWOOD CITY, CA 94061 (650) 533-1053

ENGINEER: ODELL ENGINEERING, 11500 S. FAIRVIEW, REDWOOD CITY, CA 94061 (650) 571-1705

SUBDIVIDER'S STATEMENT

1. 15000 AVENUE - 71 RESIDENTIAL LOTS
2. GENERAL PLANNING/ENGINEERING EXPENSES FOR SURVEYING, LUMBER, COPY
3. RECORDING COSTS SHALL BE DONE BY THE COUNTY OFFICERS.
4. EXISTING UTILITIES SHALL BE MAINTAINED, REPAIRED, AND PROTECTED.
5. EXISTING UTILITIES SHALL BE MAINTAINED, REPAIRED, AND PROTECTED.
6. EXISTING UTILITIES SHALL BE MAINTAINED, REPAIRED, AND PROTECTED.
7. EXISTING UTILITIES SHALL BE MAINTAINED, REPAIRED, AND PROTECTED.
8. EXISTING UTILITIES SHALL BE MAINTAINED, REPAIRED, AND PROTECTED.
9. EXISTING UTILITIES SHALL BE MAINTAINED, REPAIRED, AND PROTECTED.
10. EXISTING UTILITIES SHALL BE MAINTAINED, REPAIRED, AND PROTECTED.
11. EXISTING UTILITIES SHALL BE MAINTAINED, REPAIRED, AND PROTECTED.



Village IX



FINAL DEVELOPMENT PLAN

Stonecreek Properties
Los Banos, California
July 2016

Applicant:

Stonecreek Properties
1851 Airway Drive, Suite E
Hollister, CA 95023
(831)630-1853

Engineering/Surveying/Planning/Landscape Architecture



O'Dell Engineering
1165 Scenic Drive, Suite B
Modesto, CA 95350
209.571.1765

Applicant 1

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 Architecture: The Monterey 12

 Architecture: The Big Sur 13

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 Architecture: The Cypress 15

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Purpose of This Document

The Village IX Final Development Plan (FDP) will guide development of 18.64 acres in the southwestern part of the City of Los Banos. This FDP presents development of 7,000 S.F. lots and presents a range of attractive production home choices. Sample architectural products are included in this document along with color renderings and elevation views.

The 18.64 acre Final Development Plan proposes 71 residential lots on 52' right-of-way streets. The resulting density will be approximately 3.8 dwelling units per gross acre (du/ac).

The typical number of bedrooms per single-family residence is three to five, with each unit to include an attached two- or three-car garage. Residential product types, as shown in the attached architectural exhibits, will include a mix of single and two-story dwelling units.

Landscape Summary

The developer/home builder, successors and any assigns, shall be responsible for installation, maintenance and replacement of all landscaping materials shown or indicated on the approved site plan or landscape plan on file in the planning department. All landscaping will be installed as delineated on the plan, prior to issuance of certificates of occupancy.

Landscapes within the project will be irrigated by methods that minimize water run-off and conserve water. Irrigation systems will be designed to, at a minimum, meet the State water efficient landscape ordinance and to follow City of Los Banos Municipal Code standards.

MASTER STREET TREE LIST

A master street tree list has been provided on page 14. All trees along public street frontages within the project will be one of the street trees listed in this table. Trees will be varied to improve the urban forest's resilience to insect infestations and climate anomalies. This list was prepared in conjunction with the City of Los Banos Master Tree List. Trees listed in the Master Street Tree List are also appropriate for other landscape areas and though not listed in the project plant species table should be considered as part of the overall list of landscape species.

FREESTANDING LIGHTS

Freestanding lights will be installed as part of this project. Interior street lights will be City standard 25'-30' lights.

SURFACE MATERIALS

Surface materials to be used in this project will consist of two standard typologies. Standard sidewalks will be poured concrete adhering to the City of Los Banos standards and streets will be standard asphalt pavement.

FENCES AND WALLS

Fences and walls installed as part of this project will adhere to a set typology. Wood fences will be 6' high "good neighbor" style fences. Walls will be a 6' masonry wall. Stucco finish in neutral tone with formed cap in a contrasting tones are options. Pilasters will be placed at locations to be shown on landscape plans and will include a decorative facade.



Reference Map

Legend

- Village IX FDP Boundary
- Village IX FDP Area
- Photo Location
- Photo Orientation

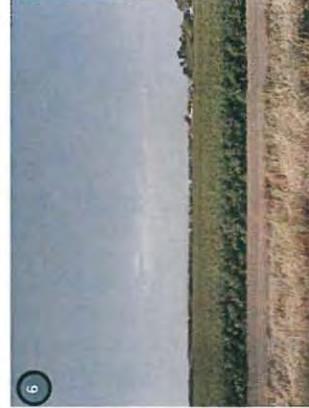




Legend

Village IX FDP Boundary

Photo Location





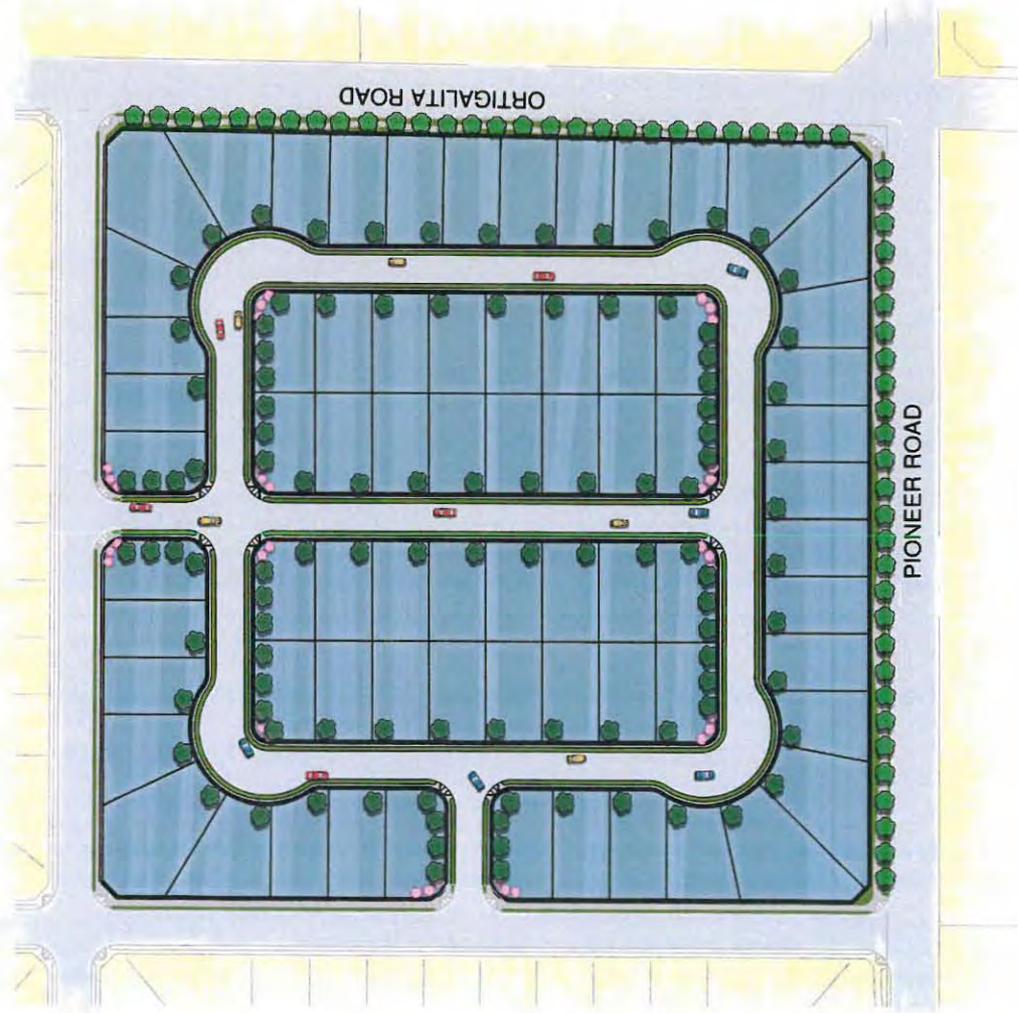
Reference Map

Legend

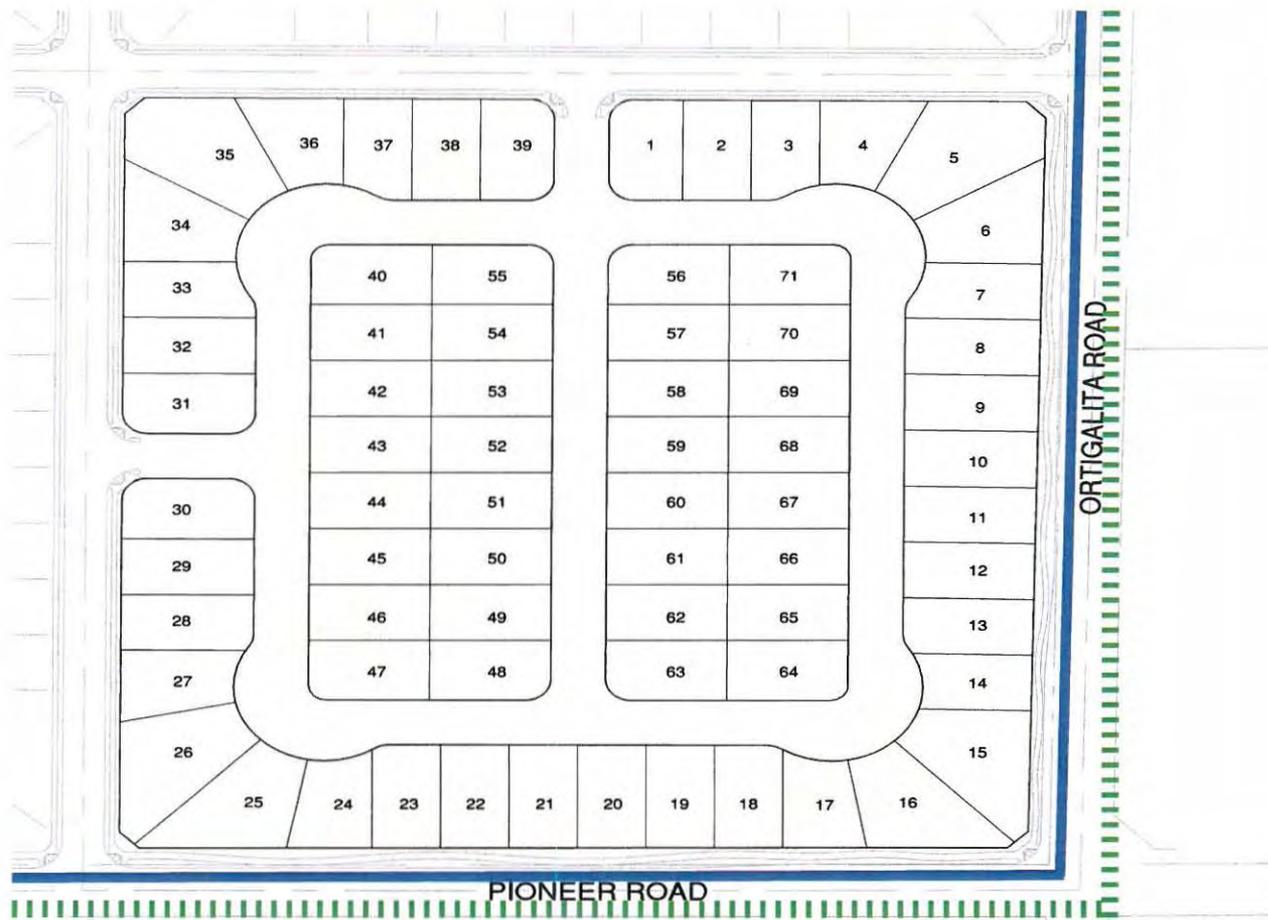
Village IX FDP Boundary



7,000+ S.F. Lots



Conceptual Layout

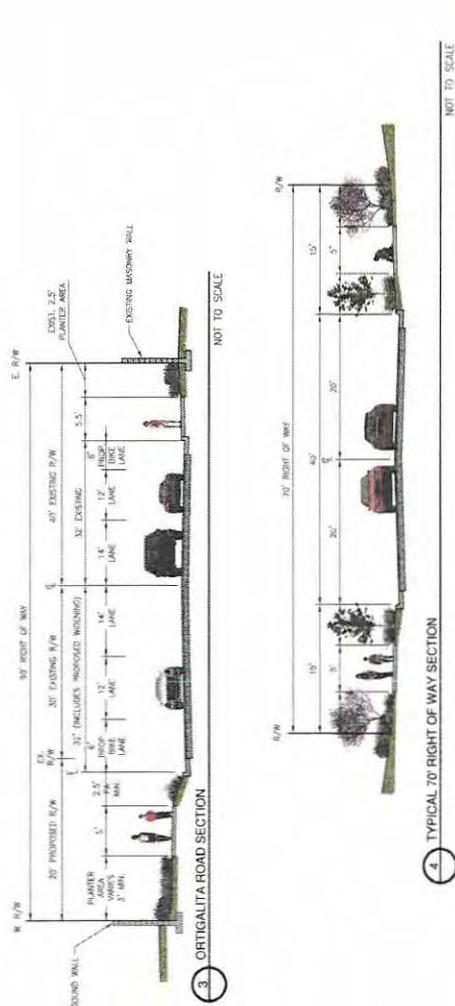
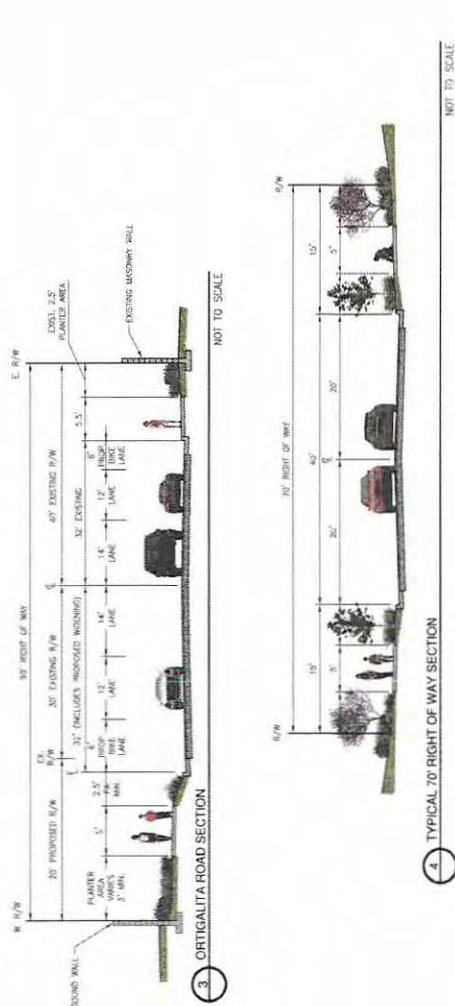
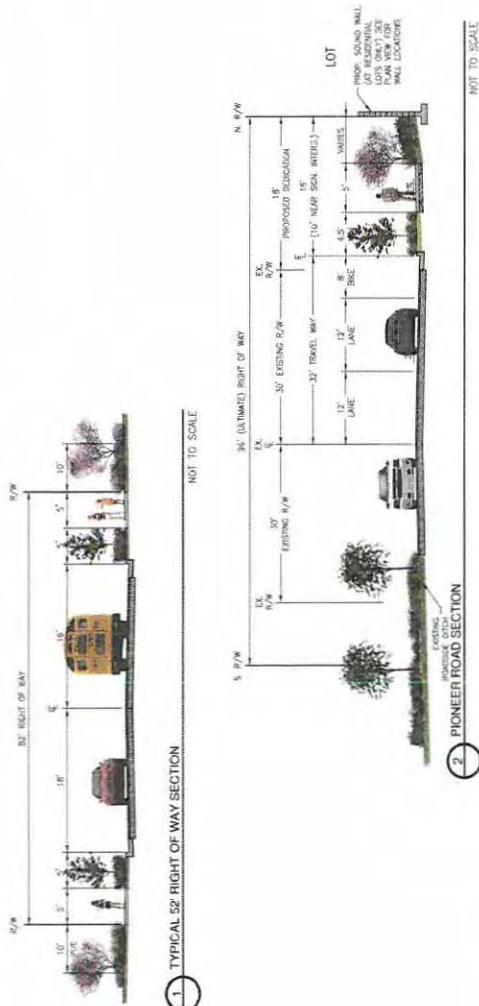


Reference Map

Legend

-  Village IX FDP Plan Boundary
-  Arterial
-  Proposed Class 2 Bike Path





Reference Map

Legend

Village IX FDP Boundary



Potential Plant Species	Common Name	Scientific Name	Size	Water Use
Shrubs	Yarrow	Achillea 'Moonshine'	1 gal	Low
	California Lilac	Ceanothus sp.	5 gal	Low
	Orchid Rockrose	Cistus x purpureus	5 gal	Low
	Cotoneaster	Cotoneaster sp.	5 gal	Low
	African Iris	Dietes sp.	5 gal	Low
	Grevillea	Grevillea 'Noelii'	5 gal	Low
	Spanish Lavender	Lavandula stoechas	5 gal	Low
	Hairy Awn Muhly	Muhlenbergia capillaris	5 gal	Low
	Dwarf Myrtle	Myrtus communis 'Compacta'	5 gal	Low
	Oleander	Nerium oleander	5 gal	Low
	Little Ollie Olive	Olea europea 'Little Ollie'	5 gal	Low
	Fountain Grass	Pennisetum setaceum	1 gal	Low
	New Zealand Flax	Phormium tenax	5 gal	Low
	Mugo Pine	Pinus mugo	5 gal	Low
	India Hawthorne	Rhaphiolepis indica	5 gal	Low
	Sage	Salvia sp.	5 gal	Low-Mod
	Bush Germander	Teucrium fruticans	5 gal	Low
	Variegated Society Garlic	Tulbaghia v. 'Silver Lace'	1 gal	Low
	Coast Rosemary	Westringia 'Wynyabbie Gem'	5 gal	Low
	Groundcovers / Turf	Manzanita	Arctostaphylos 'Emerald Carpet'	1 gal
Myoporum		Myoporum parvifolium	1 gal	Low
Mexican Primrose		Oenothera speciosa 'Siskiyou'	1 gal	Low
		90 / 10 active turf fescue grass blend	Seed/Sod	High
Potential Street Trees	Common Hackberry	Celtis occidentalis		Low
	Mayten tree	Maytenus boaria		Moderate
	Chinese Pistache	Pistachia chinensis 'Keith Davey'		Low
	Coast Live Oak	Quercus agrifolia	15 Gallon	Very Low
	Cork Oak	Quercus suber		Low
	American Linden	Tilia americana		Moderate
	Loebark Elm	Ulmus parvifolia 'Allee'		Moderate
	Zelkova	Zelkova serrata 'Green Vase'		Moderate
Potential General Use Trees	California Buckeye	Aesculus californica		Very Low
	Strawberry Tree	Arbutus unedo		Low
	Eastern Redbud	Cercis canadensis		Moderate
	Desert Willow	Chilopsis linearis		Very Low
	Chitalpa	Chitalpa tashkentensis		Moderate
	Australian Willow	Geijera parviflora	15 Gallon	Moderate
	Flowering Cherry	Prunus serrulata		Moderate
	Valley Oak	Quercus lobata		Low
	Crape Myrtle	Lagerstroemia indica ssp.		Low
	Flowering Crabapple	Malus floribunda ssp.		Moderate
	Purple Robe Locust	Robinia pseudoacacia 'Purple Robe'		Low



Landscape Description

Plants selected for use in project streetscapes and other open spaces, will be native or adapted species well suited to the local climate and specific uses. The project area is located on the border of Sunset Western Garden Climate Zones 8-9. Minimum plant stock sizes used for landscape installations will be:

- Street Trees -15 gallon
- Shrubs - 1 gallon
- Groundcover - 1 gallon

All plant stock supplied will be nursery grown material conforming to national nursery standards and will be free of harmful insects. Planting design will follow City of Los Banos standards. Appropriate landscape species and their locations will be determined at the landscape improvement plan stage, however, a sample list of plants that may be used within project landscape areas can be found in the "master plant list".



Reference Map

Legend

Village IX FDP Boundary



Good Neighbor Privacy 6' Fence



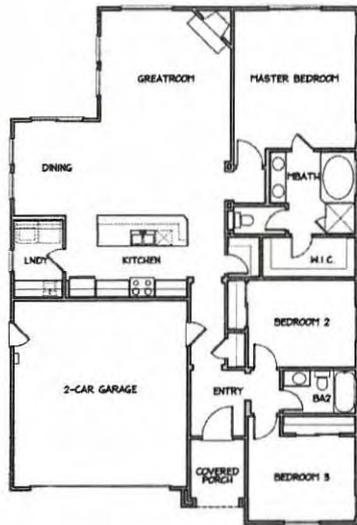
Decorative 6' Privacy Wall



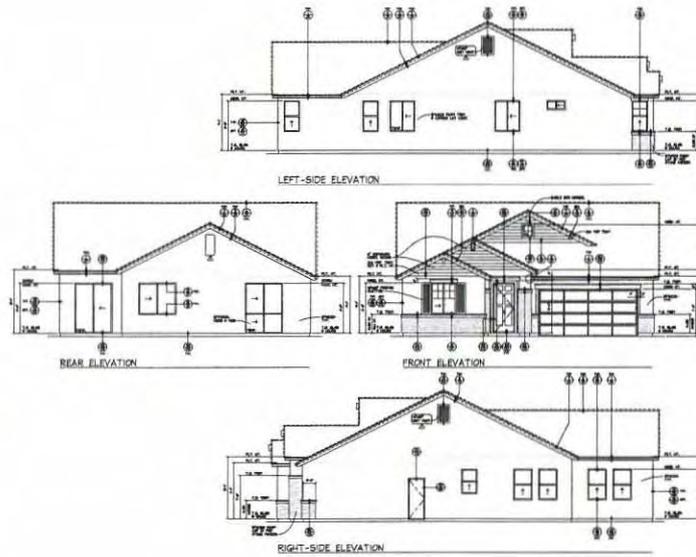
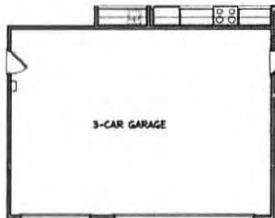
Asphalt Pavement Streets



Standard Brushed Concrete Walks



1675 Sq. Ft.
 Three Bedrooms
 Two Baths
 Two or Three-Car Garage
 Three-Car Garage Option



Elevation A



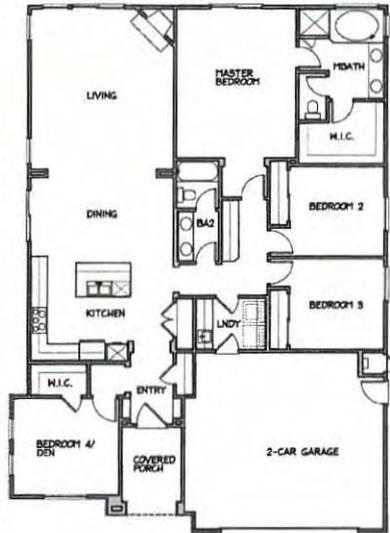
Elevation B



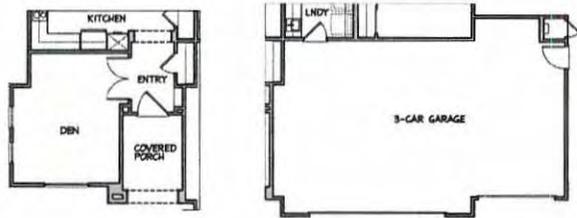
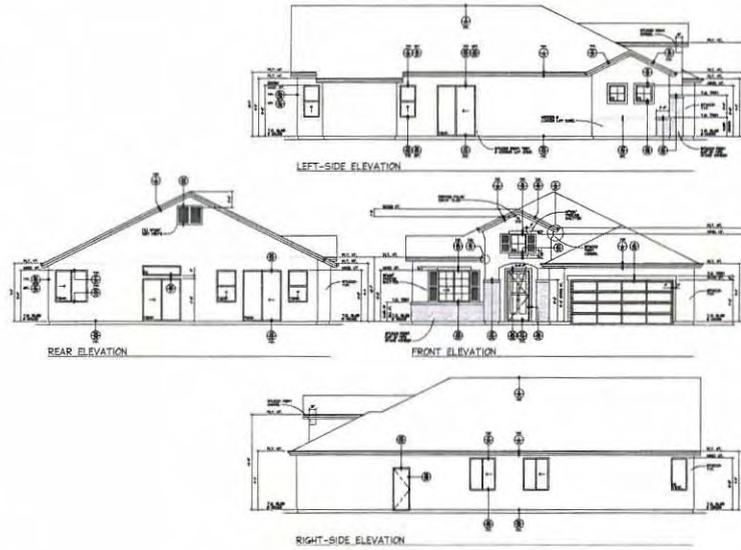
Elevation C

THE CARMEL: 1675 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



2016 Sq. Ft.
Four Bedrooms
Two Baths
Two or Three-Car Garage
Den Option
Three-Car Garage Option



THE MONTEREY: 2016 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



Elevation A



Elevation C



Elevation D



2460 Sq. Ft.
 Four Bedrooms
 Three Baths
 Two-Car + Tandem
 Garage

Den Option
 Living Option
 Retreat Option
 Bedroom 5 Option



Elevation A



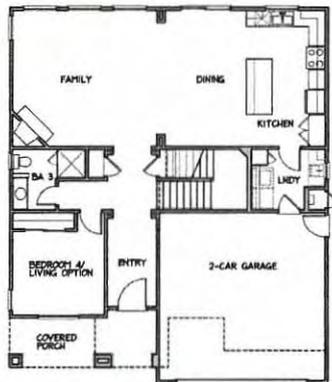
Elevation B



Elevation C

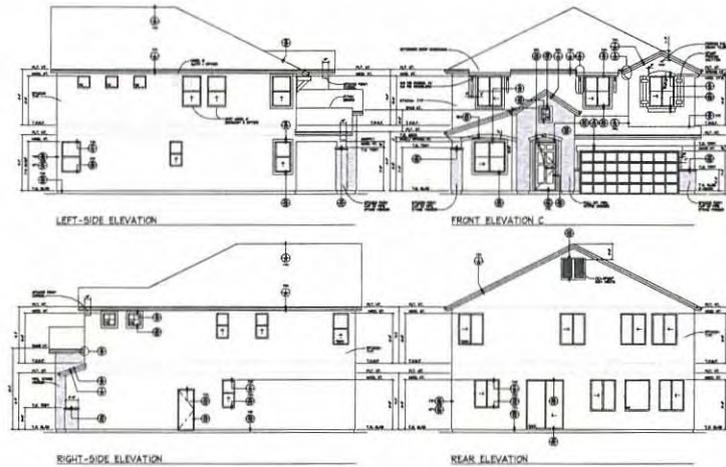
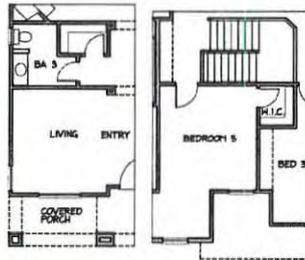
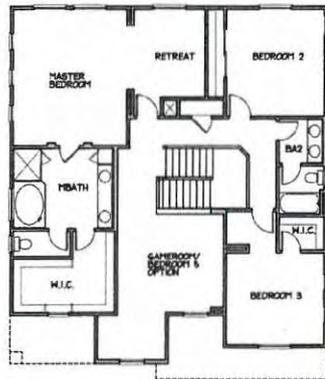
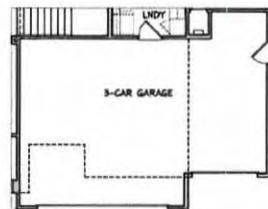
THE BIG SUR: 2460 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



2698 Sq. Ft.
 Four Bedrooms
 Three Baths
 Two-Car Garage
 Sitting Area (Elevations A & D)

Three-Car Garage Option
 Living Option
 Bedroom 5 Option



Elevation A



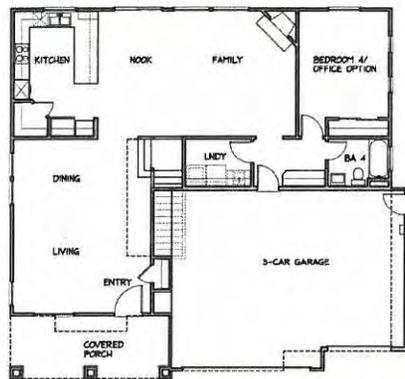
Elevation B



Elevation D

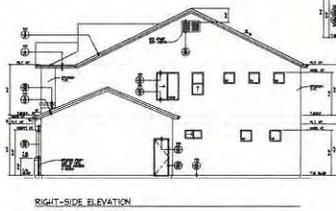
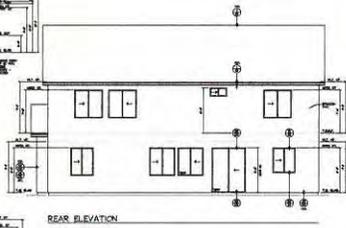
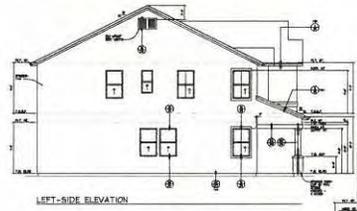
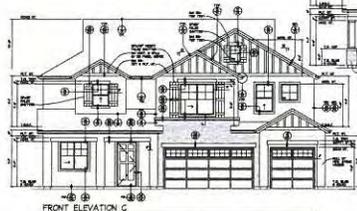
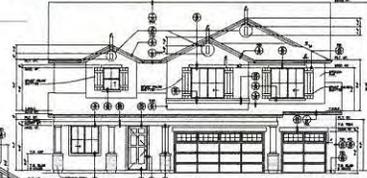
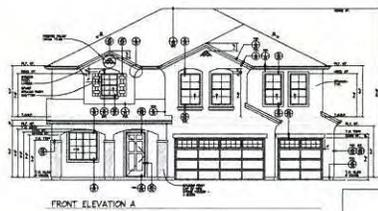
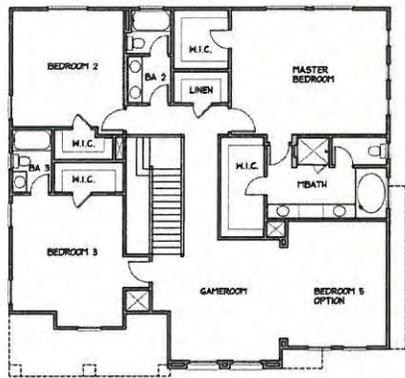
THE BIXBY: 2298 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



3363 Sq. Ft.
 Four Bedrooms
 Four Baths
 Three-Car Garage

Gameroom Closet Option
 Bedroom 5 Option



Elevation A



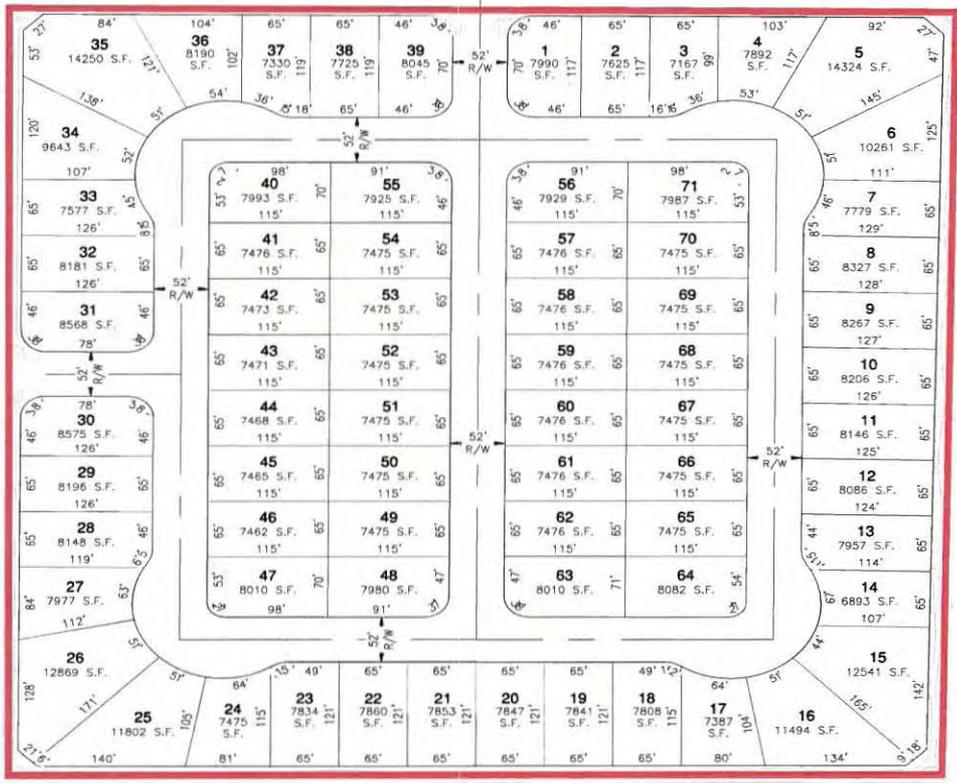
Elevation B



Elevation C

THE CYPRESS: 3363 S.F.

TYPICAL MATERIALS: Walls: Stucco Siding • Roof: Concrete barrel tile or Concrete tile • Windows: Vinyl • Doors: Wood • Garage Doors: Metal Roll Up



PIONEER ROAD

ORTIGALITA ROAD



Reference Map

Legend

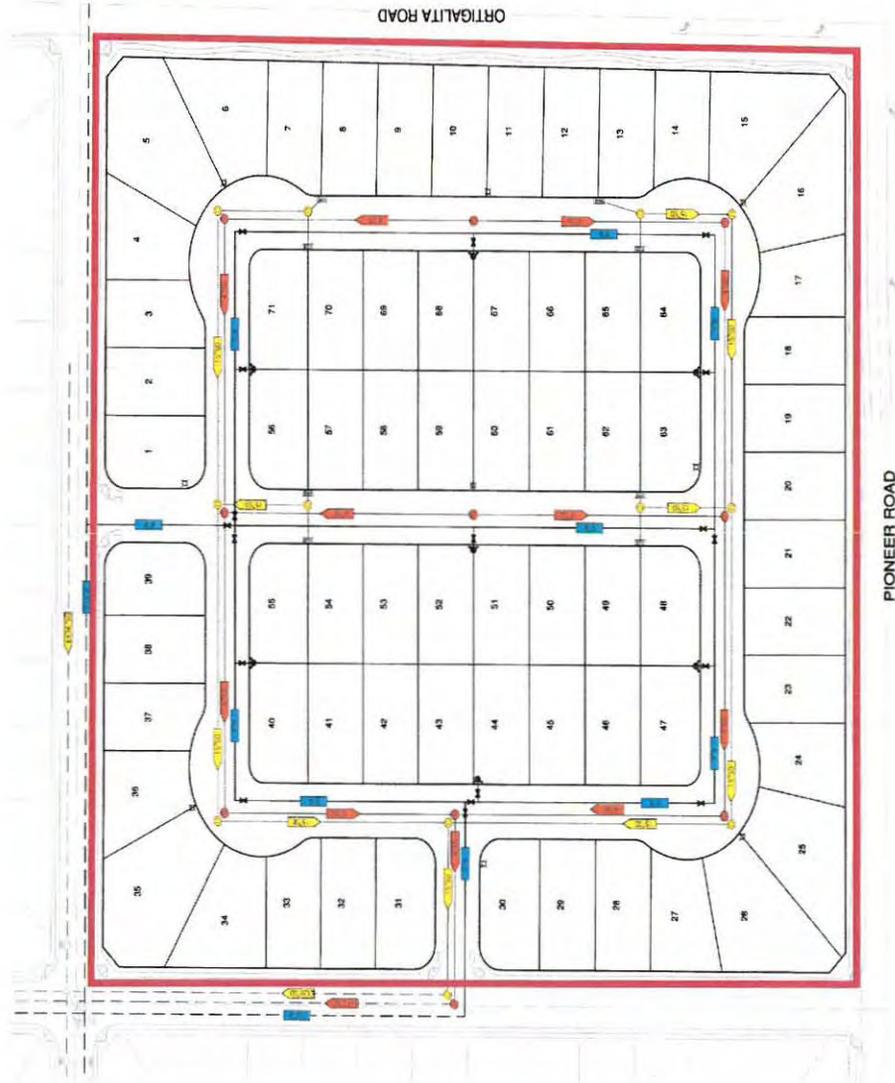
 Village IX FDP Boundary





Reference Map

- Legend**
- Village IX FDP Boundary
 - 8" W
 - 8" SS
 - 15" SD
 - Water Line
 - Sanitary Sewer
 - Storm Drain





City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: August 12, 2016

Re: Notice of Public Hearing

Proposal: Villages IX at Stonecreek Vesting Tentative Tract Map #2016-04 and Final Development Plan #2016-03

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider Vesting Tentative Tract Map #2016-04, Final Development Plan #2016-03 consistent with the Stonecreek Environmental Impact Report (EIR). The proposed project consists of the subdivision of approximately 18.6 acres into 71 single-family residential lots. The Final Development Plan consists of site design and conceptual architecture to implement the Planned Development zoning. The project site is located at the northwest corner of Ortigalita Road and Pioneer Road; more specifically identified as Assessor's Parcel Number: 430-060-020.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, August 24, 2016 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Senior Planner at City Hall or at (209) 827-7000, Ext. 133.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from the Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Senior Planner



DESIGN REVIEW STUDY SESSION

TO: Chairman Spada and Planning Commissioners

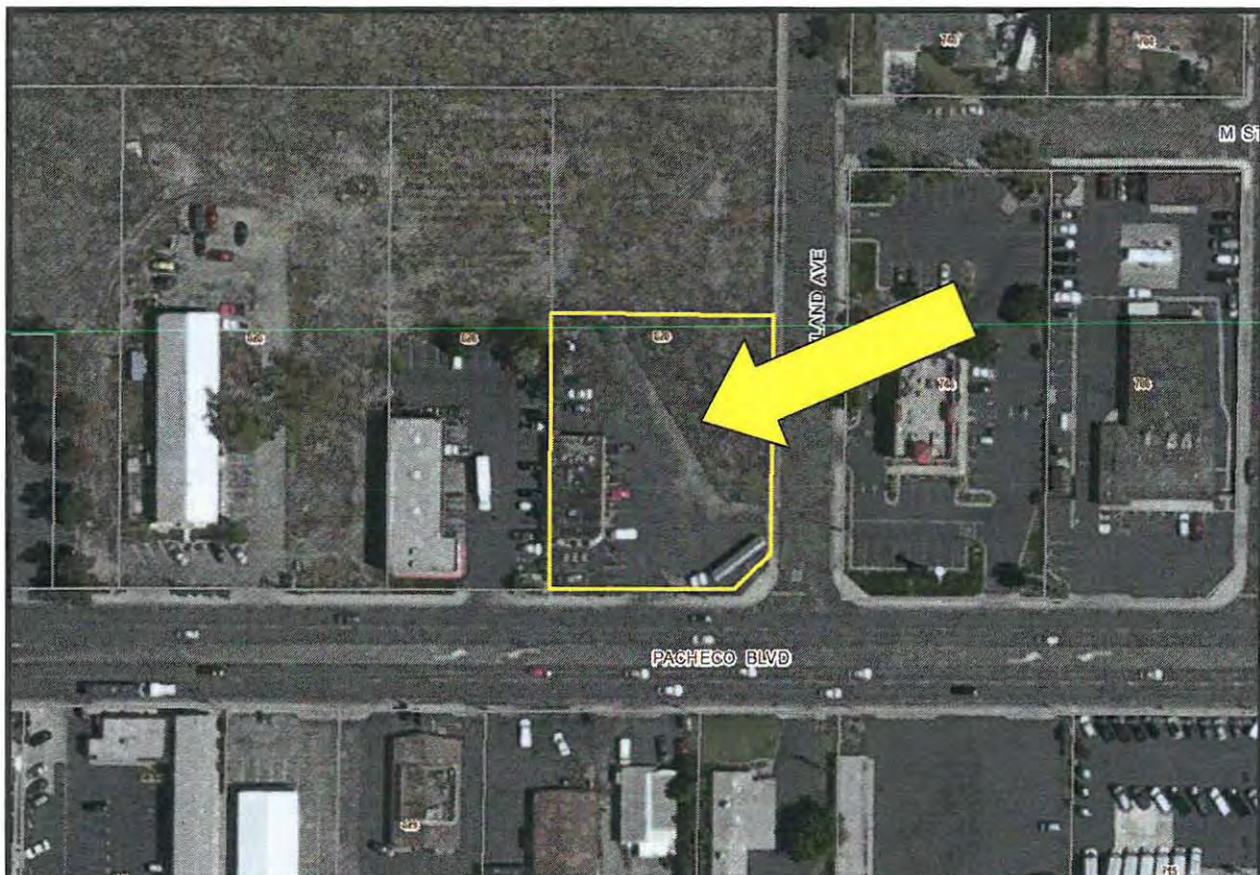
FROM: Stacy Souza Elms, Senior Planner *SSE*

DATE: August 24, 2016

SUBJECT: La Michoacana
820 West Pacheco Boulevard

Project Description

The Applicant, Yasser Ibrahim (d.b.a. Carniceria La Michoacana), is proposing to remodel and expand the existing 2,184 square foot building by 1,680 square feet for a total building square footage of 3,864 square foot. The project site is located at 820 W. Pacheco Blvd., on the northwest corner of Maryland Avenue and West Pacheco Blvd. The project would consist of enhancing the existing façade by providing a new modern façade and site work to update the parking lot.



The Community and Economic Development Department has referred the project to the Planning Commission for a study session on the aesthetic aspects related to the proposed project pursuant to Section 9-3.2318(a) of the Design Review Ordinance. The proposed project will require final site plan approval by the Planning Commission through a public hearing at a later date.

Planning Commission Project Study Session Review

Pursuant to Section 9-3.2318(a) of the Design Review Ordinance, the purpose of the study session is to provide the applicant with feedback from the Planning Commission early on in the design process, before becoming overly invested in a design. The review is in the nature of a discussion between the Planning Commission and the applicant concerning the aesthetic aspects of a proposal, and does not constitute a final decision by the Planning Commission concerning the proposed development.

Pursuant to Section 9-3.2318(b) of the Design Review Ordinance, the Planning Commission's scope during the study session is to review, consider, and provide feedback on the following design aspects of the proposed project in light of the City's General Plan and applicable policies:

- Architecture;
- Landscaping; and
- Lighting.

Architecture

Pursuant to Section 9-3.2318(c) of the Design Review Ordinance, the Planning Commission shall evaluate and provide feedback on the following architectural elements:

- Architectural style and consistency;
- Height;
- Bulk;
- Area;
- Color of buildings;
- Types of construction materials;
- Physical and architectural relationships with existing and proposed structures;
- Materials and variations of boundary walls;
- Fences;
- Exterior elevations of all sides of the buildings or structures; and
- Methods used to screen mechanical equipment from public view.

The preferred style along Pacheco Boulevard is Spanish/Mission architectural character. Some of the characteristics of the Community Design Standards incorporated in the elevations include low pitched roof, exposed wood beams, stucco walls, and an arched door way.

The remodel consists of enhancements on the east elevation wall. The existing chain link fencing around the parking lot will be removed.

The rooftop equipment will be screened by the parapet roof and the downspouts have been integrated into the building's architecture. The remodeled building will be using brown earth tones to help integrate consistency with the Spanish/Mission style characteristics.

Landscaping

Pursuant to Section 9-3.2318(c) of the Design Review Ordinance, the Planning Commission shall evaluate and provide feedback on the following landscaping and site treatment elements:

- Types of planting and vegetation;
- Rock groupings; and
- Topography and location of landscaping areas.

The proposed site plan shows planting areas with a few tree and shrub species. The applicant is proposing to provide drought tolerant plants and efficient irrigation. The trees proposed to be used throughout the project site are Pepper Tree and Freemont Cottonwood trees. The shrubs included in the site plan consist of: Lily of the Nile and Shrub Daisy.

The proposed landscape plan will be required to meet the City minimum standard of 4% gross landscape area and the 50% shade tree canopy ordinance. Landscaping will be required to be irrigated in a manner that focuses on water conservation, with properly designed and installed low-volume irrigation.

Lighting

Pursuant to Section 9-3.2318(c) of the Design Review Ordinance, the Planning Commission shall evaluate and provide feedback on the following lighting elements:

- Aesthetics of exterior lighting

The project proposes to utilize the same parking lot lighting fixtures in the existing parking lot. The building site plan does not propose any exterior lighting for the building.

Project Review Board

The proposed project will be reviewed by the Project Review Board (PRB) for these aspects:

- Building layout;
- Location;
- Orientation of all new and existing structures and the relationship to one another and surrounding properties
- Methods of landscape irrigation;
- Location and design of facilities for physically disabled persons;
- Location of fencing and other screening;
- Location and screening of refuse facilities;
- Traffic circulation on-site and off-site;
- Pedestrian and bicycle circulation and safety;
- Arrangement of off-street parking and loading facilities;
- Location and intensity of all onsite lighting; and

- Provision of municipal and public services.

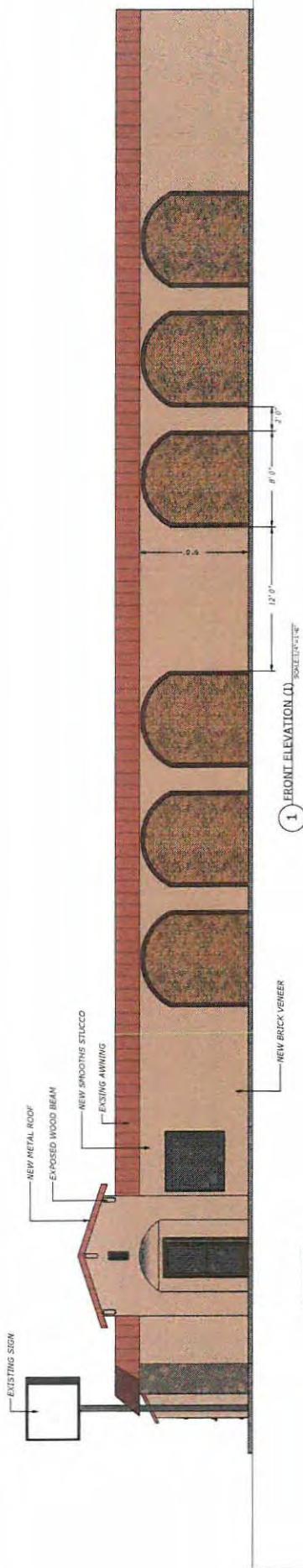
The PRB will be providing a formal recommendation to the Planning Commission concerning the scope of their review during the Site Plan Review process.

Recommendation

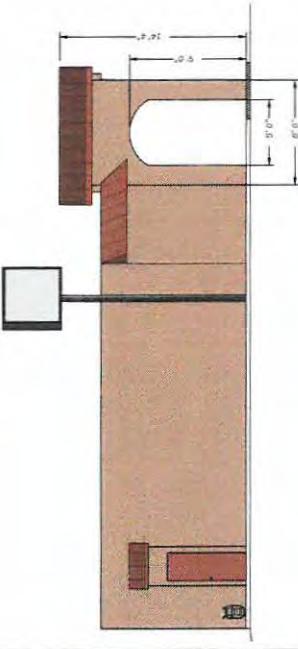
Staff is requesting that the Planning Commission evaluate the architectural considerations, landscape and site treatment, and lighting elements as described above and provides initial feedback to the applicant on the proposed design. No formal action will be taken at this time.

Attachments

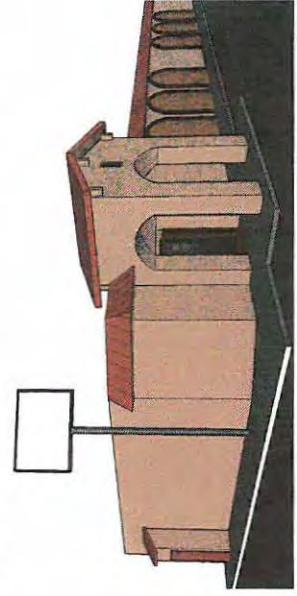
Site Plan
Elevations



1 FRONT ELEVATION (I)

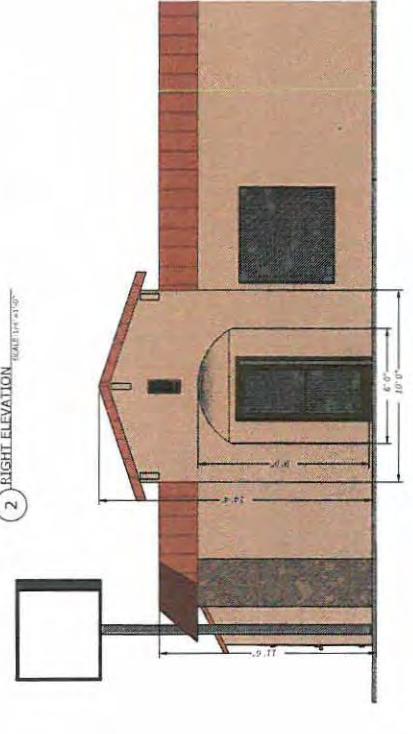


2 RIGHT ELEVATION

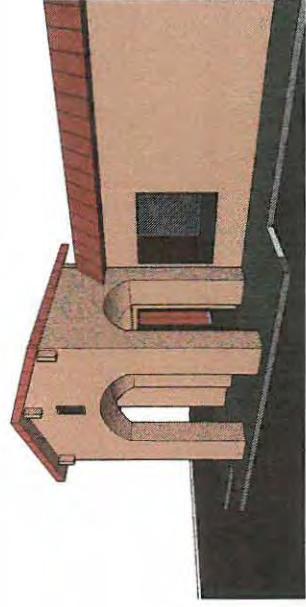


4 PERSPECTIVE ELEVATION (I)

- BEHR-SANTA FE BXC-67
-MAIN BUILDING COLOR
- BEHR-CIMARRON BXC-69
-TRIPY AT ARCHES
- BRICK VENEER



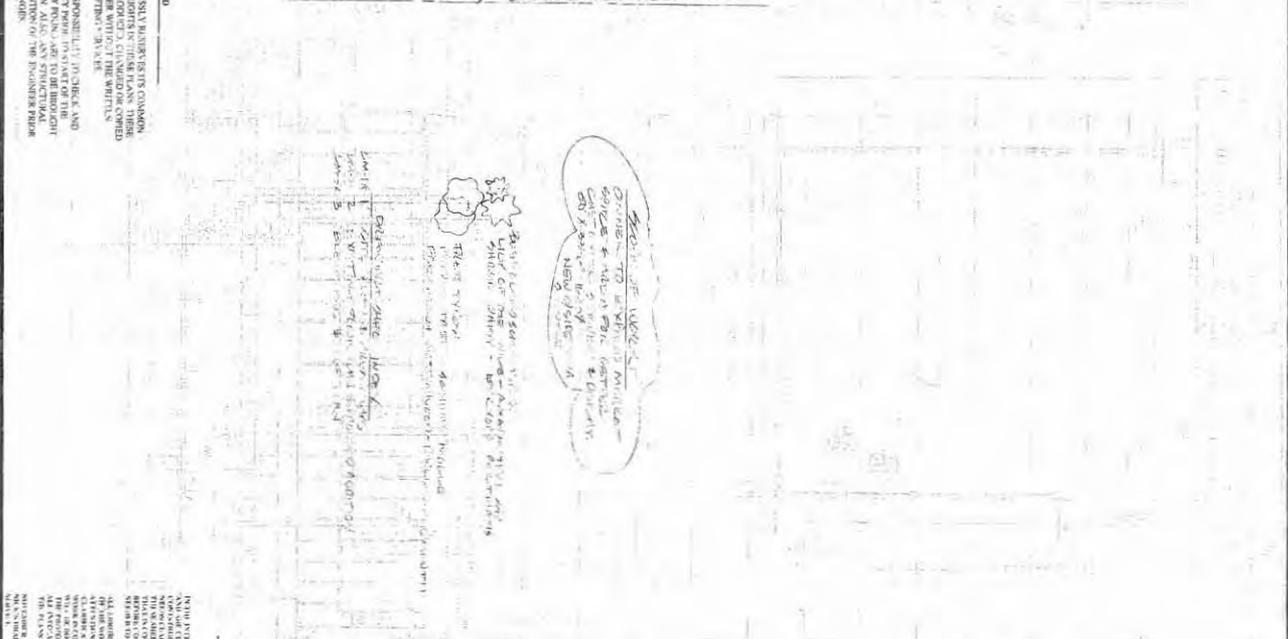
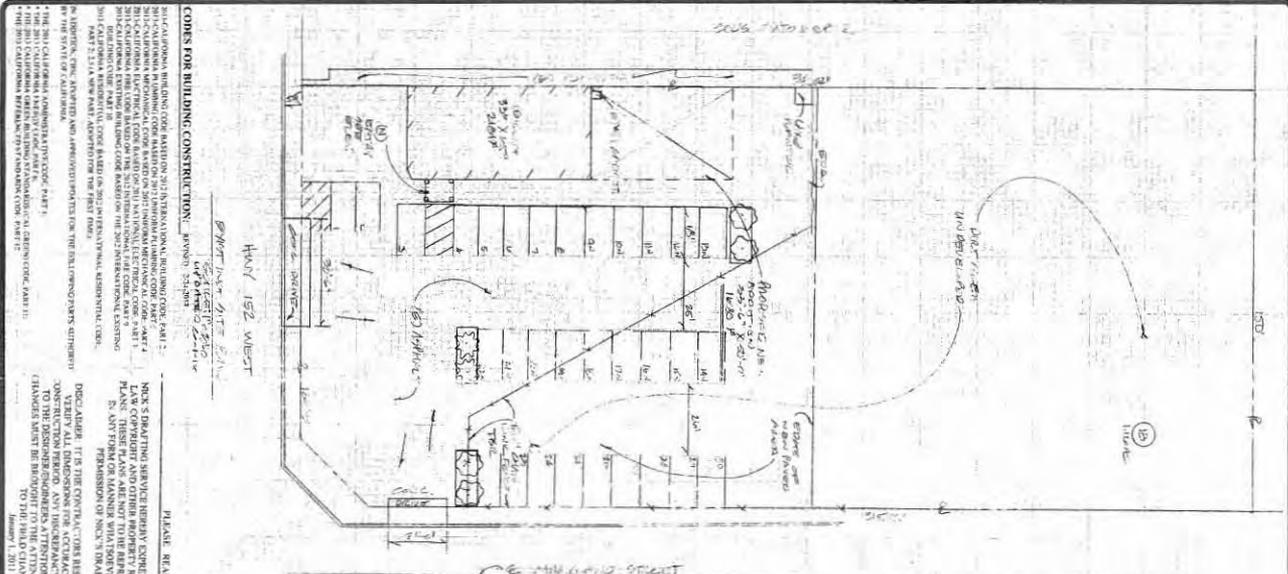
3 FRONT ELEVATION (II)



5 PERSPECTIVE ELEVATION (II)



PROPOSED MARKET ADDITION
LOS BANOS, CA



CONCRETE FOR BUILDING CONSTRUCTION: APPROVED FOR THE ARCHITECT BY THE ARCHITECT'S REPRESENTATIVE.

NOTICE TO CUSTOMER AND BUILDER:

THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.

SITE INFORMATION:

OWNER: [Name]

ARCHITECT: [Name]

DATE: [Date]

SCALE: [Scale]

PROJECT: [Project Name]

LOT: [Lot Number]

ADDRESS: [Address]

CITY: [City]

STATE: [State]

ZIP: [ZIP Code]

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