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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF SANTA BARBARA
 10 COOK DIVISION, SANTA MARIA BRANCH

11 LTB VENTURES, LLC, a Delaware limited liability company,)
 12)
 Plaintiff,)
 13)
 v.)
 14)
 McCADDEN DEVELOPMENT, LLC, a Delaware limited liability company; RICE RANCH VENTURES, LLC, a Delaware limited liability company; TROXLER RESIDENTIAL VENTURES 31, LLC, a Delaware limited liability company; TROXLER VENTURES PARTNERS III, LLC, a California limited liability company; BRYAN P. TROXLER, an individual; RANDY WHEELER, an individual; JOHN SCARDINO, an individual; and DOES 2 through 40, inclusive,)
 21 Defendants.)
 22)
 23)
 24)
 25)
 26)
 27)
 28)

Case No. 1196371
DECLARATION OF THOMAS FIGG IN SUPPORT OF PLAINTIFF'S CONSOLIDATED OPPOSITION TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT
[Consolidated Opposition; Declarations of Daniel E. Park, Dennis Harris, Randall Bell, and Timothy Simpson; Plaintiff's Evidentiary Objections; and Responses to Separate Statements of Undisputed Facts filed concurrently herewith]
 Date: January 9, 2007
 Time: 8:30 a.m.
 Dept: SM2
 Judge: Hon. Rodney S. Melville
 Complaint Filed: January 19, 2006
 Trial Date: February 5, 2007

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DECLARATION OF THOMAS FIGG

I, THOMAS E. FIGG, do declare as follows:

1. I am self-employed as a consultant with over 30 years of experience in public and private real estate development. I am specifically educated and trained in land use planning, having acquired a Bachelor of Science Degree in City & Regional Planning from California Polytechnic State University in 1975 and a Master of Public Administration Degree from California State University, Northridge in 1988. Before establishing my own consulting firm in 1998, I served as Planning and Redevelopment Manager for the City of San Buenaventura and Community Development Director for the City of Port Hueneme.

2. Since 1998, I have provided planning and redevelopment services to a host of public and private clients including the Cities of Buellton, Moorpark, Ojai, Oxnard, Port Hueneme and Ventura; Counties of Ventura and Santa Barbara; Ventura County Commission on Human Concerns; Rancho Mariano Corporation, Channel Seascape Company, Villagio Company, Avalon Bay Communities, Georgino Development, Goleta Old Town Partners, Oxnard Plaza Associates, Del Investments, KL Associates, CT Realty Corporation, UNOCAL Corporation, Countrywide Home Loans and D.R. Horton.

3. During my tenure in public and private employment, I have processed over 370 separate land use matters including subdivision maps, discretionary entitlements and legislative actions. A copy of my vitae and statement of qualifications is attached hereto as Exhibit 1 and incorporated herein by this reference. I am particularly knowledgeable of land use practices in Santa Barbara County having previously served as Planning Director for the City of Buellton in 2001 and 2005, and I currently manage complex development proposals on behalf of the County of Santa Barbara.

4. A Complaint has been filed by LTB VENTURES, LLC, a Delaware limited liability company ("Plaintiff") alleging, among other things, that McCadden Development, LLC, Rice Ranch Ventures, LLC, Troxler Residential Ventures 31, LLC, Troxler Ventures Partners III, LLC, Bryan P. Troxler, Randy Wheeler, et.al. ("Defendants") have breached the terms of a Purchase and Sales Agreement and Escrow Instructions dated August 20, 1996, and a First Amendment dated

1 September 25, 1996, regarding the sale and repurchase of two separate parcels, one 20 acres in size
2 contained within Key Site #12 of the Orcutt Community Plan (“Parcel 1”) and one parcel 40 acres in
3 size located outside of Key Site #12 (“Parcel 2”) but contained within the boundaries of the Orcutt
4 Community Plan area.

5 5. Parcels 1 and 2, together totaling 60 acres, are part of a larger 626-acre property
6 commonly referred to as “Rice Ranch.”¹ Of this total, the northernmost 580 acres are contained
7 within Key Site #12 of the Orcutt Community Plan and six acres are subject to line adjustment by
8 agreement with adjacent property owners. Key Site #12, less Parcel 1, is hereinafter referred to as
9 the “Parent Property”. Under terms of the Purchase and Sales Agreement and Escrow Instructions
10 dated August 20, 1996, and a First Amendment dated September 25, 1996, the Defendants were
11 bound to: (i) purchase Rice Ranch from the Plaintiff; (ii) obtain necessary governmental approvals
12 to create Parcels 1 and 2 as legally conveyable properties; and (iii) offer Parcels 1 and 2 for
13 repurchase to the Plaintiff “...in the same condition title is in at the time *[of initial sale from the*
14 *Plaintiff to the Defendants; “Initial Transaction”]*...” and “...not encumber or in any way alter,
15 adjust or impair the rights to develop *[Parcels 1 and 2]*.”

16 6. I am competent to testify to the matters herein asserted based on my personal
17 knowledge of them. I personally visited the Rice Ranch site and have reviewed relevant documents
18 concerning this litigation (Case No. 1196371) including:

19 a. Land Use Documents. The Santa Barbara County Comprehensive Plan (Land
20 Use, Circulation and Open Space Elements adopted December 1980 with amendments through
21 1992); Minute Order and Administrative Record of the Santa approving Ordinance No. 3406
22 (November 14, 1983); Orcutt Community Plan Community Plan (adopted July 22, 1997, and
23 amended July 10, 2001); Orcutt Community Plan Update Final Environmental Impact Report
24 (“EIR”; December 1995); Rice Ranch Specific Plan Final Supplemental EIR (dated September 2003
25 and certified December 9, 2003); Rice Ranch Specific Plan (adopted December 9, 2003); Minute
26 Order and Administrative Record of the Santa Barbara County Board of Supervisors approving the

27 _____
28 ¹ Rice Ranch Specific Plan, Paragraph 1.2 (Scope), page 1-4. (Attached as Exhibit 2 is a true and correct copy of the Rice Ranch Specific Plan page 1-4).

1 Rice Ranch project consisting of Zoning Ordinances, Administrative Findings, Statement of
2 Overriding Considerations, EIR Certification, Mitigation Monitoring and Reporting Plan, and
3 Conditions of Approval for the Specific Plan, Master Tract Map TM 14,636, Tentative Tract Map
4 14,430, Development Plans and Development Agreement dated December 9, 2003; Rice Ranch
5 Development Agreement (Recorded February 17, 2004); and Partial Release of Rice Ranch
6 Development Agreement (Recorded April 13, 2006).

7 b. Court Documents. Complaint for (1) Breach of Contract, (2) Fraud, and
8 (3) Intentional Interference with Contract; Defendants McCadden Development, LLC's and Randy
9 Wheeler's Notice of Motion and Motion for Summary Adjudication – Memorandum of Points and
10 Authorities in Support Thereof; Request for Judicial Notice in Support of Rice Ranch Defendant's
11 Motion for Summary Judgment or, in the Alternative, Summary Adjudication; Rice Ranch
12 Defendants' Notice of Motion and Motion for Summary Judgment or, in the Alternative, Summary
13 Adjudication; Declaration of Nicholas J. Biro in Support of Defendants' Motion for Summary
14 Judgment or, in the Alternative, Summary Adjudication; Declaration of Henry H. Oh in Support of
15 Defendants' Motion for Summary Judgment or, in the Alternative, Summary Adjudication;
16 Appendix of Evidence in Support of Defendants' Motion for Summary Adjudication, Volumes I and
17 II; Memorandum of Points and Authorities in Support of (1) Demurrer to Complaint and (2) Motion
18 to Strike Portions of Complaint; Request for Judicial Notice in Support of Defendants' Motion for
19 Summary Adjudication; Declaration of Ann E. Miller in Support of the Rice Ranch Defendants'
20 Motion for Summary Judgment or, in the Alternative, Summary Adjudication; Separate Statement
21 in Support of Rice Ranch Defendants' Motion for Summary Judgment or, in the Alternative,
22 Summary Adjudication; Separate Statement of Undisputed Material Facts in Support of Defendants
23 McCadden Development, LLC's and Randy Wheeler's Motion for Summary Adjudication.

24 7. Based on my review of relevant documents of record, site visits, independent
25 research and knowledge of County land use practices, I have arrived at the following conclusions:

26 a. Entitlement Process.

27 (1) Finding. The Specific Plan for Rice Ranch and resulting development
28 configuration were controlled by the Defendants and not by the County of Santa Barbara.

1 (2) Rationale and Evidence. Under State law, all California communities and
2 counties are required to prepare a comprehensive, long-term general plan for the physical
3 development of land within their respective jurisdiction.² Community plans (such as that which has
4 been prepared and adopted for Orcutt) serve to refine the policies of a particular geographic area and
5 are considered part of the general plan.³ A specific plan, on the other hand, is a discretionary tool
6 for implementing the general plan but is not part of the general plan.⁴ Given this planning hierarchy
7 and associated statutory responsibility, comprehensive and community plans are typically authored
8 by (or at the direction of) government agencies, while specific plans are driven by project
9 proponents. In the case of the Santa Barbara County, the Comprehensive and Orcutt Community
10 Plans were prepared under the direction of County staff.⁵ The Rice Ranch Specific Plan, on the
11 other hand, was prepared by the Defendants.⁶ As applicant and proponent, the Defendants had the
12 discretion to propose and actively promote specific development concepts for Parcel 1.
13 Alternatively, the Defendants could have excluded Parcel 1 from the Specific Plan and simply
14 designated the property as “Not a Part,” thereby preserving the status quo. Instead, the Defendants
15 officially designated Parcel 1 as “Natural Open Space,” while converting other open space and
16 resource areas on the Parent Property to residential home sites (see discussion in Finding #7.c.
17 below).⁷ In addition, the Defendants encumbered Parcel 1 with the requirements of an Open Space
18
19

20 ² California Government Code, Section 65300. (Attached as Exhibit 3 is a true and correct copy of the California
21 Government Code Section 65300).

22 ³ Governor’s Office of Planning and Research, General Plan Guidelines (2003), page 17. (Attached as Exhibit 4 is a
23 true and correct copy of the Governor’s Office of Planning and Research, General Plan Guidelines (2003), page 17).

24 ⁴ See Footnote 2. (Attached as Exhibit 5 is a true and correct copy of the California Government Code Section 65300).

25 ⁵ Santa Barbara County Comprehensive Plan, Introduction and Appendix, pages 1 – 8 and 201, and Orcutt Community
26 Plan, Introduction, pages 1 - 3 (Attached as Exhibit 6 is a true and correct copy of the Santa Barbara County
27 Comprehensive Plan).

28 ⁶ Rice Ranch Specific Plan, Title Page. (Attached as Exhibit 7 is a true and correct copy of the Rice Ranch Specific
Plan).

⁷ Rice Ranch Specific Plan, Paragraph 4.1.2 (Land Use Designations) and Figure 4.1-1, pages 4-2 and 4-3, respectively.
(Attached as Exhibit 8 is a true and correct copy of the Rice Ranch Specific Plan).

1 and Habitat Management Plan, multiple use trail and emergency vehicle access.⁸ In the end, the
2 Specific Plan designates approximately 65% of the entire 580-acre site for open space purposes,
3 compared to only 40% that is required by Ordinance.⁹ Had Parcel 1 been excluded from this total,
4 the percentage of open space would still comply with Ordinance requirements at 61% and exceed
5 the 57% amount promoted in the Orcutt Community Plan.¹⁰ In fact the Orcutt Community Plan
6 expressly states that all areas that have open space potential should be voluntarily dedicated or
7 purchased by the County. The Orcutt Community Plan states “Open Space areas will be handled in
8 one of three ways: dedication to the public (County or other agency), purchase by the Open Space
9 District, or held as private (or common) open space.” The County cannot force a land owner to
10 dedicate any land as open space.¹¹

11 b. Land Use Designation.

12 (1) Finding. At the time of the Initial Transaction in 1996, Parcel 1 was
13 designated for Planned Development and was not restricted exclusively to open space.

14 (2) Rationale and Evidence. The northerly 580 acres of Rice Ranch (inclusive of
15 Parcel 1) was designated as Planned Development under the Santa Barbara County Comprehensive
16 Plan at the time of the Initial Transaction in 1996, with a maximum build-out of 600 units.¹² The
17 Open Space Element of the Comprehensive Plan does *not* designate which lands are to remain open
18 and which can be considered for urbanization. Rather, the Element merely designates lands that
19 have open space *potential*. Moreover, such designation “...does *not* imply that the public interest

20 ⁸ Rice Ranch Specific Plan, Paragraph 1.2 (Land Use Concept) and Paragraph 4.1 (Comprehensive Land Use Plan),
21 pages 1-4 and 4-1; Paragraph 5.3 (Internal Circulation) and Figure 5.3-1, pages 5-4 and 5-4; and Paragraph 5.8 (Trails)
22 and Figure 5.8-1, pages 5-16 and 5-17. (Attached as Exhibit 9 is a true and correct copy of the Rice Ranch Specific
23 Plan).

24 ⁹ Rice Ranch Specific Plan, Paragraph 4.1.1 (Approach), page 4-1. (Attached as Exhibit 10 is a true and correct copy of
25 the Rice Ranch Specific Plan).

26 ¹⁰ Orcutt Community Plan Update Final EIR, Volume II, Paragraph A.3 (Potential Open Space Overlay), page 12-5.
27 (Attached as Exhibit 11 is a true and correct copy of the Orcutt Community Plan Update Final EIR).

28 ¹¹ Orcutt Community Plan pages 100-101. (Attached as Exhibit 12 is a true and correct copy of the Orcutt Community
Plan).

¹² Santa Barbara County Comprehensive Plan, Land Use Element, Page 126 and Board Agenda Letter for meeting of
December 9, 2003, Project History, page 3. (Attached as Exhibit 13 is a true and correct copy of the Santa Barbara
County Comprehensive Plan).

1 would best be served by preventing development of lands shown in the various open space
2 categories.”¹³ This policy was later reinforced in the Orcutt Community Plan which expressly
3 allows deviations in development standards where their application may preclude reasonable
4 development.¹⁴

5 c. Parcel 1 Development Potential.

6 (1) Finding. Parcel 1 has the potential of accommodating a density of
7 approximately 1.25 dwelling units per acre, or more, comparable to the Parent Property.

8 (2) Rationale and Evidence. The land use and zoning designation for
9 Parcel 1 is Planned Development and Planned Development Residential, respectively.¹⁵ This allows
10 for a base density of 725 dwelling spread among the 580 acres comprising Key Site #12. While a
11 large portion of Key Site #12 is shown to be open space, the Community Plan expressly provides for
12 boundary adjustments during the Specific Plan process.¹⁶ Furthermore, Policy BIO-O-1 allows that
13 open space areas may be altered when preservation would prevent reasonable development of
14 property.¹⁷ In such event, Development Standard BIO-O-1.2 and BIO-O-1.8 allow that impacts to
15 important resources may be mitigated through a variety of possible means including on-site
16 restoration, off-site restoration and payment into a mitigation bank.¹⁸ These allowances are
17 internally consistent with the broad language of Policy LU-O-2 which authorize deviations in
18 development standards where their application may preclude reasonable development.¹⁹ A review
19 of the Specific Plan and companion EIR show that such adjustments were made for the Parent

20 ¹³ Santa Barbara County Comprehensive Plan, Open Space Element, page 4. (Attached as Exhibit 14 is a true and
21 correct copy of the Santa Barbara County Comprehensive Plan).

22 ¹⁴ Orcutt Community Plan, Policy LU-O-2, page 28. (Attached as Exhibit 15 is a true and correct copy of the Orcutt
23 Community Plan).

24 ¹⁵ Orcutt Community Plan, page KS12.3. (Attached as Exhibit 16 is a true and correct copy of the Orcutt Community
25 Plan).

26 ¹⁶ Orcutt Community Plan, Figure 12-2, page KS12-9. (Attached as Exhibit 17 is a true and correct copy of the Orcutt
27 Community Plan).

28 ¹⁷ Orcutt Community Plan, page 193. (Attached as Exhibit 18 is a true and correct copy of the Orcutt Community Plan).

¹⁸ Ibid. (Attached as Exhibit 19 is a true and correct copy of the Orcutt Community Plan).

¹⁹ Orcutt Community Plan, page 28. (Attached as Exhibit 20 is a true and correct copy of the Orcutt Community Plan).

1 Property, but not for Parcel 1: (i) a total of 30.9 acres of open space north of Parcel 1 were converted
2 to urban uses, 6% of which involved sensitive vegetation; (ii) 8.5 acres of open space were
3 converted to parkland; and (iii) 30.9 acres of disturbed habitat was restored onsite at a 1:1 ratio.²⁰
4 Had the Specific Plan given similar consideration to Parcel 1, and assuming a proportionate benefit
5 applied evenly throughout Key Site #12, 25 dwellings or more could have been assigned to this
6 property ([20 acres/580 acres] X 725 dwellings = 25 dwellings).

7 d. Parcel 2 Development Potential.

8 (1) Finding. The development potential of Parcel 2 is much greater than
9 its current agriculture (AG-II) designation and is not limited to a single-family residence.

10 (2) Rationale and Evidence. The Urban/Rural Boundary generally
11 defines the limit of urban development allowed within unincorporated areas of Santa Barbara
12 County.²¹ For Rice Ranch, Urban/Rural Boundary coincides with the line that separates Parcel 1
13 from Parcel 2.²² The Santa Barbara County Comprehensive Plan expressly provides that parcels
14 that are split by an urban limit line may be developed to the density that applies to that portion of the
15 property that is located within the urban area.²³ This translates to a density of roughly 1.25
16 dwellings per acre, or possibly more, which corresponds to the development allocated to Key Site
17 #12 (725 units/580 acres = 1.25 units per acre).²⁴ It is further noted that Policy LU-O-6 of the
18 Orcutt Community Plan expressly provides for adjustment of the Urban/Rural Boundary at such

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20 ²⁰ Rice Ranch Specific Plan, Figure 4.1-2, page 4-5 and Appendix C, Table 4-2, page 38. (Attached as Exhibit 21 is a true and correct copy of the Rice Ranch Specific Plan).

21 ²¹ Santa Barbara County Comprehensive Plan, Land Use Element, page 81 (Policy #3) and 174-b. (Attached as Exhibit
22 22 is a true and correct copy of the Santa Barbara County Comprehensive Plan).

23 ²² Santa Barbara County Board of Supervisors, Minute Order (Ordinance No. 3406; November 14, 1983), Map #8 and
24 Orcutt Community Plan, Figure 2, page 6. (Attached as Exhibit 23 is a true and correct copy of the Santa Barbara
25 County Board of Supervisors, Minute Order (Ordinance No. 3406; November 14, 1983)).

26 ²³ Comprehensive Plan, Land Use Element, Development Policy #8, page 82-a. (Attached as Exhibit 24 is a true and
27 correct copy of the Comprehensive Plan).

28 ²⁴ Orcutt Community Plan, Key Site #12, page KS12.3. (Attached as Exhibit 25 is a true and correct copy of the Orcutt
Community Plan).

1 time as the inventories of vacant land with the urban area are nearing buildout.²⁵ Within the Santa
2 Maria-Orcutt Area, urban expansion onto depleted oil fields that lie close to existing communities is
3 viewed as a likely future scenario.²⁶ The Orcutt Community Plan further anticipates the phasing out
4 of grazing activities as these areas develop.²⁷ Parcel 2 is viable and indeed a good candidate for
5 urban expansion; the Community Plan acknowledges that Parcel 2 is not currently in agricultural
6 production, nor do the resource maps of Santa Barbara County show that any portion is designated
7 as Important Farmland.²⁸

8 e. Comprehensive Plan Consistency.

9 (1) Finding. Retention of Parcel 1 as designated open space is not
10 required to maintain consistency with the Santa Barbara County Comprehensive Plan.

11 (2) Rationale and Evidence. In the hierarchy of municipal planning,
12 Comprehensive (General) Plans serve as the constitution of land use policy from which all
13 subordinate actions must be consistent.²⁹ “An action, program or project is consistent with the
14 general plan if, *considering all its aspects*, it will further the objectives and policies of the general
15 plan and not obstruct their attainment.”³⁰ Comprehensive Plan policies specific to Rice Ranch limit
16 development to the northerly portion of the property.³¹ This restriction seeks to protect resource
17 values associated with agriculture, historic structures, archeological artifacts, aesthetics, biology
18

19 ²⁵ Orcutt Community Plan, Policy LU-O-6, page 29. (Attached as Exhibit 26 is a true and correct copy of the Orcutt
20 Community Plan).

21 ²⁶ Santa Barbara County Comprehensive Plan, Open Space Element, page 98. (Attached as Exhibit 27 is a true and
22 correct copy of the Santa Barbara County Comprehensive Plan).

23 ²⁷ Orcutt Community Plan, page 70. (Attached as Exhibit 28 is a true and correct copy of the Orcutt Community Plan).

24 ²⁸ Orcutt Community Plan, Figure 11. (Attached as Exhibit 29 is a true and correct copy of the Orcutt Community
25 Plan).

26 ²⁹ California Government Code, Sections 65359, 65454, 65860, 65867.5 and 66474(a). (Attached as Exhibit 30 is a true
27 and correct copy of the California Government Code, Sections 65359, 65454, 65860, 65867.5, and 66474(a)).

28 ³⁰ Governor’s Office of Planning and Research, General Plan Guidelines (2003), page 164. (Attached as Exhibit 31 is a
true and correct copy of the Governor’s Office of Planning and Research).

³¹ Santa Barbara County Comprehensive Plan, Land Use Element, Policy #1a, page 126-1 (Attached as Exhibit 32 is a
true and correct copy of the Santa Barbara County Comprehensive Plan).

1 (sensitive habitats), geologic hazards and hydrocarbon exploration/production.³² As a refinement of
2 the Comprehensive Plan, the Orcutt Community Plan indicates that development may be
3 accommodated on 250 acres as compared to the 128 acres identified in the Comprehensive Plan.³³
4 The Rice Ranch Specific Plan settles on a figure of 192 acres and proposes development well into
5 the southerly half of Key Site #12.³⁴ These differences are not in conflict; rather, they represent a
6 refinement of land use based on more site-specific environmental studies, supplemental
7 policies/actions and development standards to implement the Comprehensive Plan (e.g., habitat
8 restoration requirements, etc.).³⁵ The County Board of Supervisors approved the Rice Ranch
9 Specific Plan with findings of consistency with the Comprehensive and Orcutt Community Plans,
10 inclusive of open space boundary adjustments.³⁶ There is no reason why Parcel 1 could not have
11 benefited from a similar policy refinement and boundary adjustment; had this occurred, a more
12 equitable and beneficial outcome could have been realized (see discussion in Finding #7.c. above).

13 f. Impairment of Use.

14 (1) Finding. Approval of the Rice Ranch Specific Plan and related land
15 use entitlements have impaired the economic use of Parcel 1.

16 (2) Rationale and Evidence. Defendants' Rice Ranch Specific Plan
17 expressly designates Parcel 1 as Natural Open Space and encumbers the property with the
18 requirements of an Open Space Habitat Management and Restoration Implementation Plan
19

20 ³² Ibid. (Attached as Exhibit 33 is a true and correct copy of the Santa Barbara County Comprehensive Plan).

21 ³³ Orcutt Community Plan Update Final EIR, Volume II, Footnote 3, page 12-4 and Orcutt Community Plan, page
22 KS12.3. (Attached as Exhibit 34 is a true and correct copy of the Orcutt Community Plan Update Final EIR, Volume
23 II).

24 ³⁴ Rice Ranch Specific Plan, Table 4-1 and Figure 4.1-2, page 4-4 and 4-5, respectively. (Attached as Exhibit 35 is a
25 true and correct copy of the Rice Ranch Specific Plan).

26 ³⁵ Rice Ranch Specific Plan, Paragraph 3.1 (Relationship of the Rice Ranch Specific Plan to the Orcutt Community
27 Plan and Comprehensive Plan), page 3-1. (Attached as Exhibit 36 is a true and correct copy of the Rice Ranch Specific
28 Plan).

29 ³⁶ Minute Order of the County of Santa Barbara Board of Supervisors (December 9, 2003), Administrative Findings --
30 Finding XIV.A.2., page A2-45; Rice Ranch Specific Plan Supplemental Final EIR, Finding for DevStd OS-O-4.1, page
31 5-21. (Attached as Exhibit 37 is a true and correct copy of the Minute Order of the County of Santa Barbara Board of
32 Supervisors (December 9, 2003) and the Rice Ranch Specific Plan Supplemental Final EIR).

1 (“OSHRIP”).³⁷ The OSHMRIP expressly provides that Parcel 1 “...will be rezoned Planned
2 Residential Development and designated as open space subject to all conditions of this Specific
3 Plan and the OSHMRIP.”³⁸ This obligation is then embodied in the Project Description and
4 Conditions of Approval that govern the Master Tract Map (TM 14,636).³⁹ Among other restrictions
5 and obligations, the OSHMRIP expressly prohibits agricultural use of the property or permanent
6 development of any kind, while allowing roads and trails.⁴⁰ Under the Conditions of Approval for
7 the Master Tract Map, these obligations will continue even after Parcel 1 is conveyed from the
8 Defendants to the Plaintiff.⁴¹ Furthermore, the findings of approval of the Specific Plan along with
9 the justification for overriding environmental consequences of project implementation expressly
10 anticipate the dedication of 375 acres of open space to the County.⁴² It is noted that the amount of
11 parkland and open space designated by the Defendants (i.e., 343 acres of open space and 32.7 acres
12 of parkland) is considerably more than what the County otherwise required under applicable rules
13 and regulations in effect at the time of project approval.⁴³ Parcel 1, as designed open space, is
14 expressly part of the project description for the Specific Plan, Master Tract Map (TM 14,636) and
15
16

17 ³⁷ Rice Ranch Specific Plan, Paragraph 1.2 (Scope and Land Use Concept) and Figure 4.1-1, pages 1-4 and 4-3.
18 (Attached as Exhibit 38 is a true and correct copy of the Rice Ranch Specific Plan).

19 ³⁸ Rice Ranch Specific Plan Paragraph 1.0 of the Open Space Habitat Management & Restoration Implementation Plan
20 pages (Attached as Exhibit 39 is a true and correct copy of the Rice Ranch Specific Plan).

21 ³⁹ Minute Order of the County of Santa Barbara Board of Supervisors (December 9, 2003), Project Description and,
22 Attachment B, Condition 32M pages A4-1 and A4-9, respectively. (Attached as Exhibit 40 is a true and correct copy of
23 the Minute Order of the County of Santa Barbara Board of Supervisors (December 9, 2003)).

24 ⁴⁰ Rice Ranch Specific Plan, Appendix C, Paragraph 14.1 (General Restrictions), page 101. (Attached as Exhibit 41 is a
25 true and correct copy of the Rice Ranch Specific Plan).

26 ⁴¹ Minute Order of the County of Santa Barbara Board of Supervisors (December 9, 2003), Project Description and
27 Attachment B, Condition 32M, pages A4-1 and A4-9, respectively. (Attached as Exhibit 42 is a true and correct copy of
28 the Minute Order of the County of Santa Barbara Board of Supervisors (December 9, 2003)).

⁴² Minute Order of the County of Santa Barbara Board of Supervisors (December 9, 2003), Findings of Approval for the
Rice Ranch Specific Plan, page A2-7 (Finding “g”) and page A2-44 (Finding “f”). (Attached as Exhibit 43 is a true and
correct copy of the Minute Order of the County of Santa Barbara Board of Supervisors (December 9, 2003)).

⁴³ Rice Ranch Development Agreement, Paragraphs 2.1.3, 3.2.2 and 3.2.5, pages 2, 3 and 4, respectively. (Attached as
Exhibit 44 is a true and correct copy of the Rice Ranch Development Agreement).

1 individual Development Plans.⁴⁴ The release of Parcel 1 from the provisions of the Development
2 Agreement does not change the conditions that encumber Parcel 1 nor the premise on which
3 entitlements were granted for the Parent Property.).⁴⁵ In addition, the Defendants encumbered
4 Parcel 1 with a multiple use trail and emergency vehicle access; provisions that were later converted
5 to conditions of approval.⁴⁶ In conclusion, the Specific Plan and Tentative Map Conditions of
6 Approval impose restrictions that: (i) exceed those which existed at the time of Initial Conveyance;
7 (ii) effectively render the property with no economically viable use; and (iii) benefit the Parent
8 Property to the detriment of Parcel 1.

9 g. Highest and Best Use.

10 (1) Finding. The development potential of Parcels 1 and 2 can best be
11 maximized through an integrated master plan process with staged implementation.

12 (2) Rationale and Evidence. Parcel 1 is designated Planned Residential
13 Development.⁴⁷ The Santa Barbara County Comprehensive Plan expressly provides that areas
14 designated for Planned Development be planned as a unit.⁴⁸ As noted in Finding #7.d. above, the
15 Comprehensive Plan also the provides that property (such as Parcels 1 and 2) that are split by an
16 urban limit line may be developed to the density that applies to that portion of the property that is

17
18 ⁴⁴ Minute Order of the County of Santa Barbara Board of Supervisors (December 9, 2003), Findings of Approval for the
19 Rice Ranch Specific Plan (page A2-6), Conditions of Approval for the Master Tract Map (Case No. TM 14,636; page
20 A4-1), Conditions of Approval for Tract Map (Case No. TM 14,430; page A5-1) and Conditions of Approval for Final
Development Plans (page A6-1). (Attached as Exhibit 45 is a true and correct copy of the Minute Order of the County of
Santa Barbara Board of Supervisors (December 9, 2003)).

21 ⁴⁵ Rice Ranch Specific Plan, Paragraph 4.1.2 (Land Use Designations) and Figure 4.1-1, pages 4-2 and 4-3,
22 respectively. (Attached as Exhibit 46 is a true and correct copy of the Rice Ranch Specific Plan).

23 ⁴⁶ Rice Ranch Specific Plan, Paragraph 5.3 (Internal Circulation) and Figure 5.3-1, pages 5-4 and 5-4; Rice Ranch
24 Specific Plan, Paragraph 5.8 (Trails) and Figure 5.8-1, pages 5-16 and 5-17; Minute Order of the County of Santa
25 Barbara Board of Supervisors (December 9, 2003), Conditions of Approval for the Master Tract Map (Case No. TM
14,636; Conditions 15M and 26M), pages A4-5 and A4-8. (Attached as Exhibit 47 is a true and correct copy of the Rice
Ranch specific plan and the Minute Order of the County of Santa Barbara Board of Supervisors (December 9, 2003)).

26 ⁴⁷ Orcutt Community Plan, Project Description (Residential Development) and Policy 12-1, pages KS 12.3 and 12.4,
27 respectively; Rice Ranch Specific Plan, Par. 4.1.1 (Approach), page 4-1. (Attached as Exhibit 48 is a true and correct
copy of the Rice Ranch Specific Plan).

28 ⁴⁸ Comprehensive Plan, Land Use Element, page 83. (Attached as Exhibit 49 is a true and correct copy of the
Comprehensive Plan).

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1 located within the urban area.⁴⁹ As further noted in Finding #7.d., Policy LU-O-6 of the Orcutt
2 Community Plan expressly provides for adjustment of the Urban/Rural Boundary at such time as the
3 inventories of vacant land with the urban area are nearing buildout. This indicates that Parcels 1 and
4 2 should be planned as a "unit," even if relevant policies promote a staggered timeframe of
5 development in relation to the Urban/Rural Boundary. The First Amendment dated September 25,
6 1996, reflects this unified approach by broadening the Initial Transaction and subsequent repurchase
7 to encompass Parcel 1 as well as Parcel 2. As noted in Finding #7.d, a density of 1.25 dwellings per
8 acre would be consistent with the buildout of Key Site #12. To maximize the development of Parcel
9 1, off-site habitat restoration would be necessary (see discussion for Finding #7.c). Parcel 2 could
10 serve as a receiver site for such restoration in conjunction with hydrocarbon remediation. These
11 complimentary environmental activities would require lead-time, resulting a phased master plan
12 with the development of Parcel 1 proceeding in advance of Parcel 2. In keeping with the design
13 principles embodied in the Rice Ranch Specific Plan (an integrated community of eclectic
14 architectural styles clustered in separate neighborhoods), a distinctively unique collection of high-
15 end customized homes sites is envisioned for Parcels 1 and 2; a neighborhood uniquely suited to the
16 elevated topography (affording panoramic views) while nestling the homesites into the vegetative
17 habitat that predominates the area. The entitlements needed to accomplish this vision would entail
18 the same basic package of governmental approvals as those which apply to the Rice Ranch project,
19 along with an amendment to the Orcutt Community Plan to modify the Urban/Rural Boundary
20 (should the County of Santa Barbara deem this necessary).

21 Executed this 19th day of December, 2006 at Port Hueneme, California.

22
23 
24 THOMAS FIGG

27 _____
28 ⁴⁹ Comprehensive Plan, Land Use Element, Development Policy #8, page 82-a. (Attached as Exhibit 50 is a true and correct copy of the Comprehensive Plan)