

Attachment 11:

Staff Memorandum dated August 2, 2010

ATTACHMENT 11
SANTA BARBARA COUNTY
PLANNING AND DEVELOPMENT
MEMORANDUM #8

TO: Planning Commission

FROM: John Zorovich (934-6297)
Development Review Division, North

DATE: August 2, 2010 for Planning Commission Hearing on September 8, 2010

RE: Northpoint Project Appeal; Case Number 06APL-00000-00039/98-DP-023

I. INTRODUCTION

At the October 11, 2006 hearing, the Planning Commission voted 5-0 to approve the last phase of the Northpoint project. The applicant subsequently appealed the Planning Commission's approval of the project. The appeal focuses on condition no. 13, which requires the applicant and the existing Northpoint Homeowners Association (HOA) to reach a mutual agreement regarding maintenance and repair cost of the shared common areas.

In January 2007, the Board of Supervisors considered the appeal and asked for further input from the Planning Commission relative to condition no. 13. The Planning Commission considered this item during three separate hearings in 2007. Ultimately, the Planning Commission voted unanimously to drop this item from the agenda, due to the uncertainty of whether a mutual agreement could be reached between the two parties. To date no agreement has been reached.

II. REQUEST

The applicant requests a modification to condition no. 13 to eliminate the requirement that his project either annex to the existing Northpoint HOA or enter into an agreement with the HOA regarding provisions for repair and maintenance of all open-space amenities. The modified condition wording is depicted below in underline format.

13. ~~Prior to issuance of any Land Use Permits, Owner shall provide Planning & Development with evidence of a written signed agreement between Owner and Village of Northpoint Homeowners' Association ("Association) providing for annexation of the project into the existing Association, or, alternatively evidence of an agreement between Owner and the Association which shall include, without limitation, the following:~~
- ~~a. Mutually acceptable provisions for temporary construction access across Association's private roadway (portions of Northpoint Circle) to Owner's contractors and suppliers during construction of the project.~~
 - ~~b. Mutually acceptable provisions for the future control, management, maintenance, and repair of all shared common areas and amenities between Owner and the future Project occupants and the Association, including, without limitation, the private roads and retention basin currently owned and maintained by the Association.~~

~~There shall be no deviation from the above stated conditions without Planning & Development approval.~~

Prior to land use clearance of the Development Plan, the applicant shall form a Homeowner's Association and record CC&R's that provide for shared maintenance responsibilities by parcels

107-560-001 through 107-560-032 for the private open space area (APN 107-560-033) appurtenant landscaping, subject to approvals from Flood Control, P&D and County Counsel. The CC&R's shall also include by reference responsibilities for all parcels to maintain property in compliance with all conditions of approval for the project. The Homeowner's Association shall pay the existing Northpoint HOA for its share of the repair and maintenance to Northpoint Circle and Parkview North (existing access roads) and the existing Northpoint retention basin used by Phases I-IV; the pro rata share shall be 23% of any such repairs and maintenance.

III. RECOMMENDATIONS AND PROCEDURES

The Planning Commission's motion should include the following:

The Planning Commission recommends that the Board of Supervisors:

1. Make the required findings for the project specified in Attachment A of this staff report, including CEQA findings;
2. Adopt the Environmental Impact Report 78-EIR-9 and Supplemental Document 92-SD-2 and Addendum and adopt the mitigation monitoring program contained in the conditions of approval;
3. Adopt 98-DP-023 subject to the Conditions included as Attachment B
4. Recommend that the Board of Supervisors uphold the appeal and approve the project with the recommended changes to Condition 13 as set forth above.

Refer back to staff if the County Planning Commission takes other than the recommended action for appropriate findings and conditions.

IV. BACKGROUND

A. Planning Commission Hearing – October 11, 2006

At the October 11, 2006 Planning Commission hearing, the applicant presented revised wording for condition of approval No. 13 to the Planning Commission to resolve the annexation issue with the existing Northpoint HOA (see ~~strikeout text~~ above). In summary, the revised wording gives the applicant an option of either annexing his project into the existing HOA or enter into a mutually acceptable agreement with the existing HOA for maintenance and repair of all shared common areas and amenities among the applicant, future project occupants and the existing HOA. Both the applicant and a Northpoint HOA representative stated their support for the new condition wording at the time of the Planning Commission's approval of the project.

B. Appeal of Northpoint Project – October 20, 2006

The applicant, Mr. Leo Evans, appealed the Planning Commission's decision to approve the project. The appellant's letter, dated October 20, 2006 (Appendix C), outlines his concern with the findings

made by the Planning Commission to approve the project. In summary the appellant claimed that *“The financial condition of the homeowners association, with respect to upkeep and maintenance of the existing residences, is so bad that annexation would place a grossly unfair burden upon owners of the newly constructed units.”* As a result, the appellant has indicated a desire to: 1) form a separate HOA, and 2) pay the existing Northpoint HOA for its pro-rata share of the cost for repairing and maintaining Northpoint Circle and Parkview North (existing access roads) and the existing Northpoint retention basin.

C. Board of Supervisors Hearing and Subsequent Planning Commission Hearings

On January 16, 2007, the Board of Supervisor held a hearing to consider Mr. Evans’ appeal. A copy of the staff report is attached (Attachment D). At the hearing, the Board of Supervisors received public comments and at the Planning Commission’s request, asked for further input from the Planning Commission with concurrence from the appellant. Subsequently, the Planning Commission considered the matter at three separate hearings held on March 14, April 11, and June 12, 2007. At the June 12, 2007 hearing, the Planning Commission voted unanimously to drop this item from the agenda due to the uncertainty of whether a mutual agreement could be reached between the two parties. To date no agreement has been reached.

IV. ANALYSIS

The main point of disagreement between the applicant and Northpoint HOA during the past three years has been whether or not the new development would be required to contribute to the ongoing repair and maintenance costs of the Northpoint open space amenities, which include playground equipment, BBQ pits, picnic tables, open grass areas, pathways, curbs, flatwork etc. The Northpoint HOA has expressed concern that, once the applicant completes construction of his proposed development and the new residents move in, they will use the existing Northpoint amenities. As a result, the Northpoint HOA believes that the occupants of the new homes should be required to assist with the upkeep of the amenities either by joining their HOA or entering into a cost-sharing agreement. The applicant does not want to join the existing HOA. He believes that many of the costs that the HOA pays for are expenses unrelated to the amenities at issue and that requiring him to join would place an unfair burden on future residents of his project. The applicant, however, is willing to pay his pro rata share of the repair and maintenance costs of the project’s existing detention basin and roads that provide access to his project site. To ensure that future homeowners will not use the existing Northpoint amenities, the applicant has indicated that he will require all new homebuyers to sign a document at the point of sale informing them that they will be restricted to the use of only the amenities provided within their phase of development.

As reflected above, the applicant is willing to commit to requiring future homeowners to pay a proportionate share of roads and basins but not for the other amenities which are located outside of this phase of the development and which the new owners will not have a right to use unless such a right is granted by the existing homeowners. Staff, in consultation with County Counsel, is concerned that the County does not have a basis to require the future homeowners of this phase to pay for the operations and maintenance of those amenities.

Owners of houses in the existing phases of development have argued that the new homeowners will use their facilities, even if they commit not to. However, the residents of the earlier phases will clearly have the right to prohibit the new owners from using those facilities as the new owners will have no property interest in them or other contractual right to use them. If the new owners use the existing amenities, the existing owners have all of the legal remedies that are usually available to a property owner whose property is being trespassed upon.

Staff is additionally concerned that the current condition gives the existing homeowners a veto power over the proposed project. There is no guarantee that the existing owners will impose only reasonable conditions upon the applicant.

The project cannot move forward unless an agreement is reached between the two parties. At this time the parties are at an impasse. P&D routinely avoids involvement in private HOA matters. Nonetheless, the requested revision to condition no. 13 gives the applicant an opportunity to move his project forward.

ATTACHMENTS

- A. Findings
- B. Conditions of approval
- C. Mr. Evans appeal letter to the Board of Supervisors dated October 20, 2006

ATTACHMENT A: FINDINGS

1.0 CEQA FINDINGS

1.1 CONSIDERATION OF THE ADDENDUM AND FULL DISCLOSURE

The Planning Commission has considered the Addendum dated September 29, 2006 together with the previously certified EIR 78-EIR-9 for the Northpoint Village, Unit III, Phase IV, project. The Addendum reflects the independent judgment of the [review authority] and has been completed in compliance with CEQA. The Addendum, together with the EIR 78-EIR-9 and supplemental document 92-SD-2, is adequate for this proposal. On the basis of the whole record, including the Addendum, the previously certified CEQA documents, and any public comments received, the Planning Commission finds that the project changes described in the Addendum will not create any new significant effects or a substantial increase in the severity of previously identified significant effects on the environment.

1.2 FINDINGS ADDRESSING ADDENDUM ISSUE AREAS

Finding that Section 15183, 15162 and 15164 of the State CEQA Guidelines applies to the Northpoint Unit III, Phase IV, 98-DP-023. CEQA Section 15162 and 15164 allow the use of an addendum to a previously prepared EIR unless subsequent changes are proposed in the project which will require important revisions of the previous EIR due to the involvement of new significant environmental impacts, or there are substantial changes with respect to the circumstances under which the project is undertaken, or new information becomes available. The Addendum prepared for the project evaluated the applicant's proposal to replace the four bedroom units with two and three bedroom units and addressed the following issues: Transportation/Circulation, Air Quality, Aesthetics, Noise, Water Resources, Geology, and Public Services (schools). The analysis in the addendum concluded that there are no substantial changes to the proposed project and neither new significant environmental effects nor substantial increases in the severity of previously identified significant effects which would result from the proposed project. Moreover, the proposed reduction in bedrooms on several of the units, and the slight reduction in parking spaces, would not change the conclusions of the environmental documents. In addition, because there are no identified impacts peculiar to the project it is exempt pursuant to CEQA Guidelines section 15183.

1.3 LOCATION OF DOCUMENTS

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Secretary of the Planning Commission of the Planning and Development Department located at 123 East Anapamu Street, Santa Barbara, CA 93101/Clerk of the Board of Supervisors located at 105 East Anapamu Street, Santa Barbara, CA 93101.

1.4 ENVIRONMENTAL REPORTING AND MONITORING PROGRAM

Public Resources Code Section 21081.6 and CEQA Guidelines Section 15091(d) require the County to adopt a reporting or monitoring program for the changes to the project that it has adopted or made a condition of approval in order to avoid or substantially lessen significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby

adopted as the reporting and monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.

2.0 ADMINISTRATIVE FINDINGS

2.1 DEVELOPMENT PLAN FINDINGS

- A. Findings required for all Preliminary or Final Development Plans.** In compliance with Subsection 35.82.080.E.1 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Preliminary or Final Development Plan the review authority shall first make all of the following findings:

2.1.1 *The site for the subject project is adequate in terms of location, physical characteristics, shape, and size to accommodate the density and intensity of development proposed.*

The proposed project was originally evaluated under TM 12,414 and 82-DP-3 at which time a finding was made that the project was adequate in size, shape, location, and physical characteristics to accommodate the density and intensity of development proposed. In that the project involves the development of previously recorded parcels, a reduction in density is not feasible. Moreover, the site is presently located within a developed urban area of Orcutt. The site is adequate in size, shape, location, and physical characteristics to accommodate the density and intensity of the proposed development as evidenced by the following:

- a. The shape of the site is fairly regular, and is not a concern to development. No special setback requirement or modifications to building size or shape are required.
- b. The site is adjacent to three roadways (Foster, Hummel and Union Valley Parkway) which provide access for the site. Two new internal roadways would be added to existing internal roadways for circulation within the Northpoint development.
- c. The topography in the area of Phase IV is relatively flat, due to rough grading of the site during earlier phases of Northpoint and would accommodate the proposed development without major changes in the relationship of existing grade elevations to abutting properties.
- d. The current development conforms to the previous Phase IV of the original Northpoint development, approved as 82-DP-03 and 92-DP-017. All other phases of development have been constructed and occupied.

2.1.2 *Adverse impacts are mitigated to the maximum extent feasible.*

Adverse impacts are mitigated to the maximum extent feasible as indicated in the environmental documents. All impacts have been mitigated to insignificance with the exception of the school impacts. The County is preempted by State law from requiring mitigation of this impact beyond the developer fees (per § 65995), and the school district fees can not be assessed because the school districts waived the fees and the Tract Map was recorded prior to the implementation of the fee program.

Therefore, there is no feasible mitigation for the school impact and this finding can be made.

2.1.3 *Streets and highways will be adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.*

The project is expected to generate 18 PHT and 188 ADT (0.56 PHT/hr.; 5.86 ADT/unit; ITE). The Foster Road segment between Bradley Road and S.R. 135 currently operates at 8,800 ADT which is above the policy capacity (5000 ADT), but well below the design capacity of 11,800 ADT. Since there are no sharp curves, poor sight distance, or inadequate pavement structure, etc. (as described in the threshold manual), the project could exceed the policy capacity and not result in significant impact to the roadway. An alternate access route via Hummel and Union Valley Parkway is also available to bypass Foster Road during peak hours. Two new private internal roadways will be added to existing internal private roadways to allow access to the private driveways. Pursuant to the Supplemental Document, impacts to existing roadways would be considered less than significant.

2.1.4 *There will be adequate public services, including fire and police protection, sewage disposal, and water supply to serve the proposed project.*

The Golden State Water Company has issued a Can and Will Serve letter for the project. The district has determined that adequate water resources are available for the life of the project. Laguna County Sanitation District also has issued a Can and Will Serve letter for the project. Adequate capacity at the sewage treatment plant has been reserved for this project and others that have received the Can and Will Serve letter. With implementation of the County Fire Department's proposed conditions of approval, adequate services would be available. No additional services were deemed necessary for police protection.

2.1.5 *The proposed project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will not be incompatible with the surrounding area.*

The project would not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and would be compatible with surrounding areas as evidenced by the following:

- a. The project would be served by all public utilities.
- b. Environmental impacts would be mitigated to the maximum extent feasible as discussed above.
- c. The 32 units would be separated from the adjacent single family development by a solid block wall. The wall would be a continuation of the wall that separates prior phases of Northpoint from single family homes to the east. The 32 units would be compatible with development to the north and west which are prior phases of the Northpoint development. The height, scale, colors and character of the existing Northpoint units have been used in Phase IV as well.

2.1.6 The proposed project will comply with all applicable requirements of this Development Code and the Comprehensive Plan.

Although development of the 32 units within the 3.4 acre gross portion would result in a density of 9.4 units/acre, given the entire project, approved as a single project and found consistent with the density, 219 units on 80 acres, total project density is below the maximum density of 3.3 units/acre allowed [219 units/80 acres = 2.74 units/acre]. Since Phase IV is a portion of the overall Northpoint development, the project is in compliance with the density allowed by the DR-3.3 zone district. Based on provisions addressed in the Staff Report dated September 1, 2006, the project would be consistent with all Comprehensive Plan policies and Land Use Development Code. The project is consistent with the Circulation Element which was in effect at the time the project was deemed complete.

2.1.7 Within Rural areas as designated on the Comprehensive Plan maps, the use will be compatible with and subordinate to the agricultural, rural, and scenic character of the rural areas.

The proposed project is located within a designated urban area of the township of Orcutt, as such, this finding does not apply.

2.1.8 The project will not conflict with any easements required for public access through, or public use of a portion of the subject property.

There are no known public access easements that would be affected by this project. The map, recording the parcels, acknowledged applicable easements for utility and infrastructure purposes to serve this project.

B. Additional finding required for Final Development Plans. In compliance with Subsection 35.82.080.E.2 of the County Land Use and Development Code, prior to the approval or conditional approval of an application for a Final Development Plan the review authority shall first find that the plan is in substantial conformity with any previously approved Preliminary Development Plan except when the review authority considers a Final Development Plan for which there is no previously approved Preliminary Development Plan. In this case, the review authority may consider the Final Development Plan as both a Preliminary and Final Development Plan.

The project consists of a Final Development Plan, and does not involve a previously approved Preliminary Development Plan; therefore, this finding is not applicable.

ATTACHMENT B: CONDITIONS OF APPROVAL (98-DP-023)

I. Project Description:

1. This final development plan [98-DP-023] is based upon and limited to compliance with the project description, Planning Commission Exhibit 1 (Final Development Plan including grading plan, landscape plans, floor plans and elevations) and conditions of approval set forth below. Any deviations from the project description or the conditions must be reviewed and approved by the Director of P&D for conformity with this approval. Deviations may require modification to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

Hearing on the request of Mr. Leo Evans, to consider Case number 98-DP-023 [application filed August 25, 1998] for approval of a Final Development Plan under the provisions of Article III of the DR 3.3 Zone District, to construct 32 (2, 3 and 4 bedroom) townhouse condominiums on previously recorded lots (TM12,414) and one common lot.

A total of four buildings (one 8 unit, one 6 unit, and two 9 unit) would make up the total proposed structures. The size of the units would range from 1,671 sq. ft. (2 bedrooms) to 1,810 sq. ft. (3 bedrooms) and all units would have an attached two car garage. The maximum height of the two story buildings would be 30.5 feet. The structures would cover 25.2% (35,220 sq. ft.) of the total 3.21 acre site.

The proposed population of the project would be approximately 137 residents. A total of 82 parking spaces would be provided for a ratio of 2.56 spaces per unit.

Open space and landscaping on the property would cover 40.7% of the site for a total of 57,026 sq. ft. Amenities (barbecues, benches, picnic tables) would be provided in the common areas.

Water and sewer services are to be provided by the Golden State Water Company and Laguna County Sanitation District (LCSD), respectively. Fire protection service for the site would be provided by Santa Barbara County, Station #22.

Public roadway access would come from Hummel Road, to two proposed private drives (24 ft. wide) that provide access to the residential driveways. Drainage for the site would be directed toward an existing retention basin. The project corresponds to Phase IV of the original Northpoint Village Development.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the conditions of approval hereto. All plans submitted for review and approval shall be implemented as approved.

II. Mitigation Measures from Environmental Document

Air Quality:

2. Dust generated by the development activities shall be retained on site and kept to a minimum by following the dust control measures listed below.
 - a) During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.

- b) After clearing, grading, earth moving, or excavation is completed, the entire area of disturbed soil shall be treated immediately by watering or revegetating or spreading soil binders to prevent wind pickup of the soil until the area is paved or otherwise developed so that dust generation will not occur.
- c) During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
- d) All areas not proposed for immediate development (e.g. within two weeks) shall be seeded or treated with soil binders to prevent soil erosion or dust generation.
- e) Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation.
- f) Trucks transporting soil, sand, cut or fill materials to or from the site shall be tarped from the point of origin.
- g) The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering as necessary, to prevent transport of dust off-site. Their duties shall include holiday and weekend periods when work may not be in progress.

Plan Requirements: All requirements shall be shown on grading and building plans.
Timing: Condition shall be adhered to throughout all grading and construction periods.

MONITORING: P&D shall ensure measures are on plans. P&D grading and building inspectors shall spot check; Grading and Building shall ensure compliance onsite. APCD inspectors shall respond to nuisance complaints

Noise:

- 3. **Construction Hours.** The Owner /Applicant, all contractors and subcontractors shall limit construction activity, including equipment maintenance and site preparation, to the hours between 7:00 a.m. and 4:00 p.m., Monday through Friday. No construction shall occur on weekends or State holidays. Non-noise generating construction activities such as interior plumbing, electrical, drywall and painting (depending on compressor noise levels) are not subject to these restrictions. **Plan Requirements:** The applicant shall provide and post two signs stating these restrictions at construction site entries. **Timing:** Signs shall be posted prior to commencement of construction and maintained throughout construction. **Monitoring:** The applicant shall demonstrate that required signs are posted prior to grading/building permit issuance and pre-construction meeting. Building inspectors and permit compliance staff shall spot check and respond to complaints
- 4. Proposed construction methods and materials shall provide a noise reduction factor of not less than 20 dB (A) in all interior habitable living areas.

MONITORING: Construction plans shall be reviewed by the Building and Safety Division to determine that proposed construction methods and materials shall provide a noise reduction factor of not less than 20 dB(A) in all interior habitable areas.

Water Resources:

- 5. Landscaping with low water-use, drought tolerant plants, shall comprise at least 75% of all new landscaping and lawn areas shall be minimized. Drought tolerant natives and/or Mediterranean type landscape screening, with sufficient trees as determined by Planning and Development staff, shall be included in the landscape plan and planted on the site. The

vegetation shall be staggered and shall be situated to blend with natural habitats and to screen the effects of grading and paving. The applicant shall submit three copies of a final landscape plan for all 32 units to P&D for review and stamped approval prior to issuance of a Zoning Clearance for residential construction. Performance security shall be posted with the County, for plant installation, water-conserving irrigation, and 3-year maintenance prior to issuance of a land use permit for residential construction. However, if the development is phased, the applicant shall post sureties for the balance of the units prior to issuance of building permits. The surety shall guarantee compliance with the provisions below:

- a. Installation of landscaping, irrigation, timers, walls, fencing and amenities in accordance with the approved landscape plan prior to occupancy clearance; and
- b. Two performance securities shall be provided by the applicant prior to land use clearance for residential construction, one equal to the value of installation and/or replacement of all items listed in section a. above (labor and materials) and one equal to the value of maintenance of the items listed in section a. for three years. These amounts shall be agreed to by P&D. Changes to approved landscape plans may require a substantial conformity determination or a modification to the plan. The installation security shall be released upon satisfactory installation of all items in section a. If plants and irrigation (and/or any items listed in section a. above) have been established and maintained, P&D may release the maintenance security 3 years after installation. If applicant fails to either install or maintain according to plan, P&D may collect security and complete work on property.

MONITORING: P&D shall review and approve landscape plans. Bonds shall be reviewed by P&D and approved as to form by County Counsel, if necessary. Prior to occupancy, landscaping and irrigation shall be installed and inspected by P&D compliance staff. P&D shall inspect plantings prior to release of both installation and maintenance sureties.

6. Prior to Zoning Clearance for residential construction, the applicant shall provide evidence that an avigation easement has been recorded over each lot in Phase IV.

MONITORING: P&D Compliance staff shall verify that the document has been recorded before any permits for structures are issued by this department.

III. Project Specific Conditions

7. **Erosion and Sediment Control Plan.** Grading and erosion and sediment control plans shall be designed to minimize erosion during construction and shall be implemented for the duration of the grading period and until regraded areas have been stabilized by structures, long-term erosion control measures or permanent landscaping. The applicant shall submit an Erosion and Sediment Control Plan (ESCP) using Best Management Practices (BMP) designed to stabilize the site, protect natural watercourses/creeks, prevent erosion, convey storm water runoff to existing drainage systems keeping contaminants and sediments onsite. The Erosion and Sediment control plan shall be a part of the Grading Plan submittal and will be reviewed for its technical merits by P&D. Information on Erosion Control requirements can be found on the County web site re: Grading Ordinance Chapter 14 (www.countysb.org/government/county_ordinance_code Chapter 14 14-9 and 14-29 – refer to Erosion and Sediment Control Plan Requirements.) **Plan Requirements:** The grading and erosion and sediment control plan(s) shall be submitted for review and approved by P&D prior to approval of Land Use Permits. The plan shall be designed to address erosion and sediment control during all phases of development of the site until all disturbed areas are permanently stabilized. **Timing:** The plan shall be implemented prior to the commencement of and throughout grading/construction.

8. **Drainage Control.** Drainage shall be consistent with approved drainage plans. Runoff from roof drains and gutter downspouts shall be collected and conveyed to the street or nearest catch basin. **Plan Requirements and Timing:** A drainage plan which incorporates the above and includes a maintenance and inspection program to ensure proper functioning shall be submitted prior to approval of Land Use Permit for site grading by the applicant to P&D and the Flood Control District for review and approval. The plan shall include the location(s) of all proposed pipelines, the entire length of all proposed pipelines, trees located within fifteen feet of the pipeline, pipe diameters, and locations where the pipe(s) would surface in the creek, and amount of water that would flow from each pipeline. The components of the drainage plan shall be implemented as part of the project site grading. Grading inspectors shall monitor technical aspects of grading activities.
9. **Grading in dry season:** The applicant shall limit excavation and grading to the dry season of the year (i.e. April 15 to November 1) unless a Building & Safety approved erosion and sediment control plan is in place and all measures therein are in effect. All exposed graded surfaces shall be reseeded with ground cover vegetation to minimize erosion. **Plan Requirements:** This requirement shall be noted on all grading and building plans. **Timing:** Graded surfaces shall be reseeded within 4 weeks of grading completion, with the exception of surfaces graded for the placement of structures. These surfaces shall be reseeded if construction of structures does not commence within 4 weeks of grading completion. P&D shall site inspect during grading to monitor dust generation and 4 weeks after grading to verify reseeded and to verify the construction has commenced in areas graded for placement of structures.
10. **Seismic Standards.** Structures shall be designed to earthquake standards of the Uniform Building Code Seismic Zone IV. **Plan Requirements and Timing:** Prior to plan check, the applicant shall submit building plans indicating standards to the satisfaction of Building and Safety Division. Building inspectors shall site inspect prior to occupancy clearance.
11. **Archaeological/Cultural Resources Discovery.** In the event that archaeological or palaeontological remains or historical artifacts are uncovered during grading, work shall be stopped immediately or redirected until a County-qualified archaeologist and, as applicable, a Native American representative or historian, are retained by the applicant to evaluate the find pursuant to the County Archeological Guidelines. If a cultural resources site is found, Orcutt Community Plan 95-EIR-01 Mitigation Measures ARCH-1 through ARCH-9 shall apply. **Plan Requirements and Timing:** The developer shall fund all mitigation of resource impacts. This measure shall be printed on all grading and building plans. This measure shall be in effect throughout grading and building.
12. **Trash Storage Area.** A trash storage area shall be installed which is architecturally compatible with the project design. The storage area shall be enclosed with a solid wall of sufficient height to screen the area and shall include a solid gate. All trash bins shall be covered. The trash storage area shall be maintained in good repair. **Plan Requirement:** Location and design of trash storage area shall be denoted on project plans. **Timing:** Trash storage area shall be installed prior to Final Building Inspection Clearance.
13. Prior to Zoning Clearance for the Development Plan, the applicant shall form a Homeowner's Association and record CC&R's that provide for shared maintenance responsibilities by parcels 107-560-001 through 107-560-032 for the private open space area (APN 107-560-033) appurtenant landscaping, subject to approvals from Flood Control, P&D and County Counsel. The CC&R's shall also include by reference

responsibilities for all parcels to maintain property in compliance with all conditions of approval for the project. The Homeowner's Association shall pay the existing Northpoint HOA for its share of the repair and maintenance to Northpoint Circle and Parkview North (existing access roads) and the existing Northpoint retention basin used by Phases I-IV; the pro rata share shall be 23% of any such repairs and maintenance.

14. Project grading shall not exceed the limits shown on the preliminary grading and drainage plan. Staff may determine substantial conformity if the final grading plan shows grading volumes that exceed original estimates. **Plan Requirements:** The requirement shall be printed on the grading and construction plan. P&D to review and approve final grading and drainage plans. Grading/Building Inspectors shall monitor technical aspects of the grading activities.
15. Demolition and/or excess construction materials shall be separated onsite for reuse/recycling or proper disposal (e.g., concrete asphalt). During grading and construction, separate bins for recycling of construction materials and brush shall be provided onsite. **Plan Requirements:** This requirement shall be printed on the grading and construction plan. Permittee shall provide P&D with receipts for recycled materials or for separate bins. **Timing:** Materials shall be recycled as necessary throughout construction. All materials shall be recycled prior to occupancy clearance. P&D shall review receipts prior to occupancy clearance.
16. **Equipment Washout-Construction.** The Owner/Applicant shall designate a washout area(s) for the washing of concrete trucks, paint, equipment, or similar activities to prevent wash water from discharging to the storm drains, street, drainage ditches, creeks, or wetlands. Note that polluted water and materials shall be contained in this area and removed from the site bi-monthly. The area shall be located at least 100 feet from any storm drain, waterbody or sensitive biological resources. **Plan Requirements:** The applicant shall designate the P&D approved location on all Land Use and Grading and Building permits.
17. Electrical utilities shall be installed underground.
18. **Orcutt Community Facilities District.** Consistent with the project description and to provide consistency with Orcutt Community Plan Fiscal Policy FSCL-O-2 and Development Standards DevStd FSCL-O-2.2 (new development is required to pay its fair share of the cost of operation and maintenance of public facilities), DevStd FLD-O-4.2(regional retention basins), DevStd OS-O-7.3 (recreation facilities, landscape medians, open space, trails), and DevStd LIB-O-1.4 (library), and to provide revenue for operations and maintenance of such regional public facilities shown in the Orcutt Community Plan Public Infrastructure Finance Program, prior to land use clearance for grading the permittee shall complete annexation to the existing Community Facilities District unless the Board of Supervisors determines there is an alternative funding mechanism.
19. **Lighting.** The applicant shall ensure any exterior night lighting installed on the project site is of low intensity, low glare design, minimum height, and shall be hooded to direct light downward onto the subject lot and prevent spill-over onto adjacent lots. The applicant shall install timers or otherwise ensure lights are dimmed after 10 p.m. **Plan Requirements:** The applicant shall develop a Lighting Plan for Permit Compliance staff approval incorporating these requirements and showing locations and height of all exterior lighting fixtures with

arrows showing the direction of light being cast by each fixture. **Timing:** Lighting shall be installed in compliance with this measure prior to Final Building Inspection Clearance.

IV. Standard Conditions

20. **Final DVP Expiration.** Final Development Plans shall expire five years after the effective date unless substantial physical construction has been completed on the development or unless a time extension is approved in compliance with County rules and regulations..
21. **DP Conformance.** No permits for development, including grading, shall be issued except in conformance with an approved Final Development Plan. The size, shape, arrangement, use, and location of structures, walkways, parking areas, and landscaped areas shall be developed in conformity with the approved development plan marked Exhibit 1, dated July 14, 2010.
22. If the applicant requests a time extension for this project, the project may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts. Mitigation fees shall be those in effect at the time of Zoning Clearance approval.

V. County Rules and Regulations:

23. **Additional Permits Required.** The use and/or construction of any structures or improvements authorized by this approval shall not commence until the all necessary planning and building permits are obtained. Before any Permit will be issued by Planning and Development, the applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.
24. **Acceptance of Conditions.** The applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the applicant.
25. Compliance with Departmental letters required as follows:
 - a. Air Pollution Control District dated August 25, 2006.
 - b. Environmental Health Services dated July 31, 1992.
 - c. Fire Department dated September 12, 2006.
 - d. Flood Control dated October 10, 2006 subject to the revisions made by the Planning Commission to item no. 3 at the October 11, 2006 hearing as follows:
Repairs and maintenance of the existing Northpoint retardation basin shall be consistent with the required agreement between the applicant and the existing Northpoint HOA.
 - e. Roads Division (Public Works) dated July 22, 1992
 - f. Park Department dated October 21, 1998 (no conditions).
 - g. Santa Maria Airport District dated June 24, 1992.
26. **Plans Requirements.** The applicant shall ensure all applicable final conditions of approval are printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.

27. **Mitigation Monitoring Required.** The applicant shall ensure that the project complies with all approved plans and all project conditions including those which must be monitored after the project is built and occupied. To accomplish this, the applicant shall:
1. Contact P&D compliance staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities;
 2. Pay fees prior to approval of Land Use Permit as authorized by ordinance and fee schedules to cover full costs of monitoring as described above, including costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g. non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute;
 3. Note the following on each page of grading and building plans "This project is subject to Mitigation Compliance Monitoring and Reporting. All aspects of project construction shall adhere to the approved plans, notes, and conditions of approval, and Mitigation Measures from the Environmental Impact Report 78-EIR-9;
 4. Contact P&D compliance staff at least two weeks prior to commencement of construction activities to schedule an on-site pre-construction meeting to be led by P&D Compliance Monitoring staff and attended by all parties deemed necessary by P&D, including the permit issuing planner, grading and/or building inspectors, other agency staff, and key construction personnel: contractors, sub-contractors and contracted monitors among others.
28. **Fees Required:** Prior to recordation of the map, the applicant shall pay all applicable P&D permit processing fees in full.
29. All applicable Orcutt Community Plan fees shall be paid prior to Zoning Clearance.
30. **Indemnity and Separation.** The applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Final Development Plan. In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect .
31. **Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought in the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the review authority and no approval shall be issued unless substitute feasible conditions/measures are imposed.
32. Title to the Open Space shall be held by a non-profit association of property owners in the subdivision, or to any other individual or entity upon such reasonable times and conditions as the Planning Commission may prescribe, subject to the rights to the develop such

property to any other use than Open Space or non-commercial recreation uses shall be conveyed to the County of Santa Barbara.

33. **Contractor and Subcontractor Notification.** The applicant shall ensure that potential contractors are aware of County requirements. Applicant shall notify all contractors and subcontractors in writing of the site rules, restrictions, and Conditions of Approval and submit a copy of the notice to P&D compliance monitoring staff.