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IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tues _____ day _____, 19____
October 11 94

PRESENT: Supervisors Harry L. Ovitt, Laurence L. Laurent, Ruth E. Brackett,
David Blakely and Chairperson Evelyn Delany

ABSENT: None

In the Matter of ORDINANCE NO. 2696:

Hearing to consider proposed Land Use Ordinance amendments to Title 22 is brought back on for hearing. Ms. Joy Fitzhugh, Farm Bureau, addresses Section 20 gatepost height; addresses the political sign section and the 48 hour. notice; refers to a letter from Luba Staller regarding adding related items to the roadside stand; suggest adding nature studies to Section 34. Mr. Pat Mackie addresses his concerns to products being sold at roadside stands; feels the Board should not be able to limit what is sold. Supervisor Blakely states he has concerns with the land use category regarding roadside stands; states he would be supportive of easing the requirements on the temporary and strengthening the requirements on the permanent facility; concerns with public noticing, with staff responding. Supervisor Blakely discusses road stands and their zoning. Supervisor Laurent discusses the origin of agricultural products that could be sold; feels there should be a limit to the sales of Agricultural products. Ms. Kami Griffin clarifies the percentage of what must be grown on-site. Mr. Bryce Tingle, Assistant Director of Planning and building, states the percentage of non-farm products is not defined because staff does not want to be accountable. Ms. Fitzhugh, indicates they are looking at things that compliment what the growers are producing. Chairperson Delany asks the Clerk for a list of the changes. Thereafter, on motion of Supervisor Blakely, seconded by Supervisor Ovitt and on the following roll call vote, to wit:

AYES: Supervisors Blakely, Ovitt, Laurent, Brackett, Chairperson Delany
NOES: None
ABSENT: None

the Board amends the following Sections: Section 7(b), words "fire equipment" are deleted from the first sentence; Section 16 language is added to read "not to be used as habitable living space" at the end of the first sentence under d. Porches; Section 20, d. Gateposts, is amended to read "14 feet 6 inches in height" instead of 13 feet 6 inches; Section 22 (12)vi is amended to read "Political signs attached or placed adjacent to any utility pole,

parking meter, traffic sign post, traffic signal, official traffic control device or within the right-of-way are prohibited. Signs placed in these locations will be removed immediately by County employees". Section 22. (12)vii is amended to add language to the beginning of the sentence and will read: "If a sign which does not meet the provisions of this section is not removed within 48 hours of receipt of written notice to the property owner, then the owner..."; Section 29 a. Limitation on use: (1) is amended to add the word "suburban" to the last sentence between the words "residential" and "category"; Section 29, a. Limitation on use: (2) the last sentence is amended to read "The sale of other than agricultural products is limited to agricultural related items and packaged food, which are not to exceed 10% of all products for sale."; Section 29, b. Permit requirement: (4) is amended to change the footage requirement in the first sentence from 100 feet to 300 feet; Section 29, e. Chart on Setbacks and Parking, is amended to add the word feet after each number; Section 34, c. Preschools and child day care. is deleted; Section 41, (1) Within the Residential Single-Family category ii and (2) Other allowed land use categories ii is amended to add the language "by a common wall" in the first line between the words "attached" and "to" and the second paragraph is amended to add to the second sentence between the words "larger" and "the secondary" the following residential categories"; Section 45, e. Design Standards (1) the word "staff" is deleted from the end of the first sentence; and, the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 2696, an ordinance amending Title 22 of the San Luis Obispo County Code, the Land Use Ordinance, Chapters 22.01, 22.02, 22.04, 22.05, 22.07, 22.08, and 22.11 Relating to Recycling Areas, Political Signs, Nursery Specialties, Driving Ranges, Mobilehome Park Condominiums, Secondary Dwellings, Surface Mining, Hotels and Motels, Setbacks and Other Miscellaneous Provisions, adopted, as amended. Matter is further discussed and thereafter, on motion of Supervisor Brackett, seconded by Supervisor Ovitt, and unanimously carried, the Board refers the Agricultural Commissioner's recommendation to revise the agriculture buffer policy to specify a difference between outdoor grown wholesale nurseries and greenhouse grown wholesale nurseries and to reduce the buffer to the Ag Liaison Committee for their review and input to the Board before final action taken on this policy.

cc: Planning 11/3/94
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STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO) ss

I, FRANCIS M. COONEY, County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors this 10 day of Nov 19 94

FRANCIS M. COONEY

County Clerk and Ex-Officio Clerk of the Board of Supervisors

By Cheri Agnew
Deputy Clerk

floor of the primary dwelling's detached garage and shall use the same design style except:

- (a) Where the site is two acres (net) or larger and the site is served by community water or sewer.
- (b) Where the site area is five acres (net) or larger and the site is served by on-site water supply and sewage disposal.

In such cases the secondary dwelling may be detached from the primary dwelling but shall be of a design style compatible with the existing primary dwelling. For sites of 20 acres or larger in residential categories, the secondary dwelling shall be located within 500 feet of the primary dwelling. For sites less than 20 acres, the secondary dwelling shall be located within 250 feet of the primary dwelling. An attached secondary dwelling shall comply with the design provisions of subsection g(1)(iii) of this section.

SECTION 42: Sections 22.08.180, 22.08.181, 22.08.182, 22.08.183, 22.08.184, 22.08.186 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, are hereby amended to read as follows:

22.08.180 - Surface Mining and Reclamation: Surface mining operations include the processes of removing overburden and mining directly from mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. In addition, surface mining operations include, but are not limited to: Inplace distillation, retorting or leaching; the production and disposal of mining waste; prospecting and exploratory activities; borrow pitting, streambed skimming, segregation, recovery, and stockpiling of mined materials; and extractions of natural materials for building, construction.

- a. Purpose and intent. These sections are adopted as required by the California Surface Mining and Reclamation Act of 1975 (SMARA) (Section 2207 and 2710 et seq. of the Public Resources Code and Chapter 8, Title 14, California Code of Regulations, Section 3500 et seq.). The purpose of these sections is the regulation of surface mining and related mineral extraction operations within the county. The intent is to provide for reclamation of mined lands, prevent or minimize adverse environmental effects and safety hazards, and provide for the protection and subsequent beneficial use of mined and reclaimed lands. Because surface mining occurs in areas diverse in environmental and social conditions, reclamation operations and specifications may vary accordingly.
- b. Surface mining operations - permit and reclamation plan required. No person shall conduct surface mining operations unless a permit, financial assurances, and reclamation plan have first been approved by the county for such operations, except as otherwise provided here.
- c. Exceptions: The provisions of Sections 22.08.181 through 22.08.192 are not applicable to:

- (1) Excavations or grading conducted for farming or on-site construction, or to restore land following a flood or natural disaster when the excavation is conducted only on the land directly affected by disaster.
 - (2) Prospecting and exploration for minerals of commercial value where less than 1,000 cubic yards of overburden is removed in any one site of one acre or less, provided:
 - (i) A grading permit is required for such exploration pursuant to Section 22.05.020 (Grading); and
 - (ii) Each such site is restored to a natural appearing or otherwise usable condition to the approval of the Director of Planning and Building upon completion of exploration.
 - (3) Any surface mining operation that does not involve either the removal of a total of more than 1,000 cubic yards of minerals, ores, and overburden, or cover more than one acre in any one site. (This does not exempt the owner from obtaining a Grading Permit if required by Section 22.05.020 (Grading)).
 - (4) The solar evaporation of sea water or bay water for the production of salt and related minerals.
 - (5) Other mining operations categorically identified by the State Board pursuant to Sections 2714(d) and 2758(c), California Surface Mining and Reclamation Act of 1975.
- d. Conflicting provisions. Where any conflicts arise as to materials, methods, requirements, and interpretation of different sections between this chapter, and Section 22.05.020 (Grading), the most restrictive shall govern.

22.08.181 - Surface Mining Practices: The state guidelines for surface mining and reclamation practices contained in the Surface Mining and Reclamation Act of 1975 (SMARA) Section 2207 and 2710 et seq. of the Public Resources Code and Chapter 8, Title 14, California Code of Regulations, Section 3500 et seq. are incorporated into this chapter as though they were set fully forth here, excepting that when the provisions of this chapter are more restrictive than conflicting state sections, this chapter shall prevail, and are the minimum acceptable practices to be followed in surface mining operations.

22.08.182 - Permit Requirements for Surface Mining:

- a. New surface mining operations. Development Plan approval shall be obtained before starting any surface mining operations as defined in this chapter, except as provided in subsection b of this section. New mines shall be limited to a maximum of one operator per site, and such operator shall take full responsibility for reclamation per Section 22.08.184.
- b. Existing surface mining operations. A person who has obtained a vested right to conduct

a surface mining operation before January 1, 1976, need not secure a permit as required by subsection a, as long as the vested right continues and there are no substantial changes. All operations are required to have an approved Reclamation Plan and Financial Assurances per Sections 22.08.183 and 22.08.184. Provided, however, that Development Plan approval is also required if an existing mine is changed by increasing the on-site processing capabilities of the operation or by changing the method of mining (i.e. from mechanical to hydraulic technology), or the mine is expanded beyond the external boundaries of the original surface mining site.

- c. New operations on a reclaimed site. The resumption of surface mining operations on a site where reclamation was previously completed shall only occur pursuant to the approval of a new Development Plan and Reclamation Plan.
- d. Vested right defined. For the purposes of surface mining operations only, a person is deemed to have a vested right if, prior to January 1, 1976, he has in good faith and in reliance upon a permit or other authorization, if a permit or other authorization was required, diligently commenced surface mining operations and incurred substantial costs for work and materials necessary therefor. Expenses incurred in obtaining an amendment to the Land Use Element, or the issuance of a permit to establish or expand a mine, are not deemed costs for work or materials.
- e. Surface mining permit review procedure. The Department of Planning and Building will review the permit application and the reclamation plan for accuracy and completeness, and coordinate review of the application and plan with the State Department of Conservation and other agencies. A public hearing will be scheduled after the filing of both the permit application and the reclamation plan. The hearing will be held pursuant to Section 22.01.060. The purpose of the hearing will be to consider the applicant's request and to approve, conditionally approve or disapprove the issuance of a permit and reclamation plan for the proposed surface mining operation. Approval or conditional approval may be granted only upon making the findings that the application and reclamation plan or amendments to reclamation plan and reports submitted:
 - (1) Adequately describe the proposed operation in sufficient detail and comply with applicable state mandated requirements of SMARA;
 - (2) Incorporate adequate measures to mitigate the probable significant adverse environmental effects and operational visual effects of the proposed operation;
 - (3) Incorporate adequate measures to restore the site to a natural appearing or otherwise usable condition compatible with adjacent areas;
 - (4) Show proposed uses which are consistent with the county general plan; and
 - (5) Demonstrate that the uses proposed are not likely to cause public health or safety problems.

In addition, when any significant environmental impact has been identified, the findings mandated by the Public Resources Code shall be made.

22.08.183 - Reclamation Plan:

a. When required.

- (1) Proposed surface mining operations. Approval of a reclamation plan shall be obtained before starting any proposed surface mining operation for which a permit is required by Section 22.08.182.
- (2) Active surface mining operations.
 - (i) No later than July 5, 1980, any person who is presently conducting surface mining operations under a vested right obtained before January 1, 1976, shall file with the Planning Department a reclamation plan for all operations conducted and planned after January 1, 1976. Provided, however, that a reclamation plan need not be filed if:
 - (a) A reclamation plan was approved by the county before January 1, 1976, and the person submitting that plan has accepted responsibility for reclaiming the mined lands in accordance with that plan; or
 - (b) The owner/operator files a letter with the Planning Department stating that the mine is being temporarily deactivated, and agreeing to file a reclamation plan as set forth in subsection a(3) of this section before resuming operations; or
 - (c) Surface mining operations were completed before January 1, 1976.
 - (ii) In the case of surface mining operations physically conducted and operated by San Luis Obispo County agencies in support of county projects, the county agency shall file the required reclamation plan, which shall be reviewed as described below in 22.08.183 (b,c & d), subject to the other provisions of this chapter.
- (3) Temporarily deactivated surface mining operations:
 - (i) Within 90 days of a surface mining operation becoming idle, the operator shall submit an interim management plan to the department. "Idle" is defined as curtailing for a period of one year or more surface mining operations by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date. The interim management plan shall be processed as an amendment to the Reclamation Plan, but shall not be considered a project for the purposes of environmental review. The plan shall provide measures which the operator will implement to maintain the site in compliance with this ordinance, SMARA, and all conditions of the Development Plan and/or Reclamation Plan.
 - (ii) Within 60 days of receipt of the interim management plan, or a longer period mutually agreed upon by the Department of Planning and Building and the operator, the plan shall be reviewed by the department. During this time period, the plan will either be approved by the Review Authority or the operator shall be notified in writing of any deficiencies in the plan

or additional information needed to review the submittal. The operator shall have 30 days, or a longer period if mutually agreed upon, to submit the revised plan or additional information. The Review Authority shall approve or deny the revised interim management plan within 60 days of receipt of a plan that has been determined to be complete by the department. If the plan is denied by the Review Authority, it may be appealed as described in 22.01.042.

- (iii) The interim management plan may remain in effect for a period not to exceed five years, at which time the operator may apply to renew the plan for one more period not to exceed five years. The renewal shall be processed as an amendment to the Reclamation Plan and, prior to approval, the Review Authority must find that the operator has complied with the previously approved plan. The Review Authority may then either approve the renewal or require the operator to commence reclamation in accordance with its approved Reclamation Plan. In any event, the required financial assurances, sufficient to reclaim a mine in accordance with the Reclamation Plan, shall remain in effect during the period the surface mining operation is idle. If the surface mining operation is still idle after expiration of its interim management plan, reclamation shall commence in accordance with its approved Reclamation Plan.
- (iv) The owner/operator of a surface mining operation for which a vested right was obtained before January 1, 1976, and which is temporarily deactivated on the effective date of this Title shall, prior to reactivation, receive approval of a Reclamation Plan for operations to be conducted after January 1, 1976. Failure to receive approval of a reclamation plan before reactivating a temporarily deactivated operation shall create a presumption of termination of the vested right and surface mining operations shall be prohibited unless a new Surface Mining Permit is approved.

b. Reclamation plan filing and content. The filing and content of all reclamation plans shall be in accordance with the provisions of this chapter and as further provided in Section 2770 et seq. of the Public Resources Code. All applications for a reclamation plan shall be made on forms provided by the county Department of Planning and Building, and as called for by the Public Resources Code. The plan shall be prepared by a registered civil engineer, licensed landscape architect, state-registered geologist or forester, or other qualified professional approved by the Director of Planning and Building.

(1) Reclamation Standards: The proposed plan shall include detailed and verifiable provisions adequate to determine compliance with the minimum SMARA performance standards for reclamation as described in Section 3500 et seq. of the California Code of Regulations. The plan shall include provisions for, but shall not be limited to, the following:

- (i) wildlife habitat;
- (ii) backfilling, regrading, slope stability, and recontouring;
- (iii) revegetation;

- (iv) drainage, diversion structures, waterways, and erosion control;
- (v) agricultural land reclamation;
- (vi) building, structure, and equipment removal;
- (vii) stream protection, including surface and groundwater;
- (viii) topsoil salvage, maintenance, and redistribution;
- (ix) tailing and mine waste management.

(2) Phasing of Reclamation: Proposed plans shall include a reclamation phasing schedule where appropriate, which is consistent with the phasing of the mining operation. Reclamation shall be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance. Interim reclamation measures may also be required for areas that have been disturbed and will be disturbed again in future operations. The phasing schedule shall include the following minimum components:

- (i) the beginning and expected ending dates for each phase;
- (ii) a clear description of all reclamation activities;
- (iii) criteria for measuring completion of each specific activity;
- (iv) estimated costs for each phase of reclamation as described in Section 22.08.184.

(3) Visual Resources. The reclamation plan shall, to the extent feasible, provide for the protection and reclamation of the visual resources of the area affected by the mining operation. Measures may include, but not be limited to, resoiling, recontouring of the land to be compatible with the surrounding natural topography, and revegetation and the end use or uses specified by the landowner. Where the mining operation requires the leveling, cutting, removal, or other alteration of ridgelines on slopes of twenty percent or more, the reclamation plan shall ensure that such mined areas are found compatible with the surrounding natural topography and other resources of the site.

- c. Notification of Department of Conservation (state). The state will be notified within 30 days of the filing of all permit applications and reclamation plans. The state shall have 45 days to prepare written comments prior to any final action taken by the Review Authority. Any comments provided will be evaluated and a written response describing the disposition of the major issues will be included in the staff report. When the Review Authority's position is different from the recommendations and/or objections raised in the state's comments, the staff report shall describe in detail why specific comments and suggestions were not accepted.
- d. Reclamation plan review procedure. The Department of Planning and Building will review the reclamation plan for accuracy and completeness, and coordinate review of the

plan by other agencies. It will be processed following the procedure as described in Section 22.02.033 (Minor Use Permit), including the environmental review process and a subsequent public hearing. A reclamation plan will be accepted for review only when the Director of Planning and Building has determined that the surface mining operation was established in accordance with legal requirements applicable at the time of its establishment. Such determination shall be based upon information submitted by the applicant, relevant county records, or a Certification of Vested Right previously issued by the county. Approval or conditional approval of a reclamation plan may be granted only upon making the finding that the reclamation plan or amendments thereto:

- (1) Adequately describes the proposed operation in sufficient detail and complies with applicable requirements of SMARA;
- (2) Incorporates adequate measures to mitigate the probable significant adverse environmental effects of the proposed operation;
- (3) Incorporates adequate measures to restore the site to a natural appearing or otherwise usable condition compatible with adjacent areas, and to a use consistent with the General Plan. Where a significant environmental impact has been identified, all findings mandated by the Public Resources Code shall be made.

e. Amendments: Amendments to an approved reclamation plan can be submitted to the county at any time, detailing proposed changes from the original plan. Such amendments are to be filed with, and approved by the county using the same procedure required for approval of a reclamation plan by subsection d of this section.

22.08.184 - Financial Assurances for Guarantee of Reclamation: Appropriate security or guarantees shall be provided by the applicant to ensure proper implementation of the reclamation plan as required by the Public Resources Code, as a condition of issuance of a permit and/or approval of a reclamation plan. The guarantee may be in the form of a surety bond, trust fund, irrevocable letter of credit, or other financial assurance mechanisms acceptable and payable to the county and the State Department of Conservation (beneficiaries must be stated as "County of San Luis Obispo or Department of Conservation") and consistent with the procedure described in Section 22.02.060 . The amount of financial assurances shall be determined and processed as follows:

- (1) The applicant shall provide estimated total costs of reclamation and maintenance for each year or phase as approved in the Reclamation Plan. Cost estimates shall be prepared by a licensed civil engineer, licensed landscape architect, state-registered forester, mining operator, or other qualified professionals retained by the operator and approved by the Director of Planning and Building. In estimating the costs, it shall be assumed without prejudice or insinuation that the operation could be abandoned by the operator and, consequently, the county or state may need to contract with a third party to complete reclamation of the site. Cost estimates shall include, but not be limited to, labor, equipment, materials, mobilization of equipment, administration, and reasonable profit by a third party.
- (2) Two copies of the cost estimates, including documentation of the calculations, shall be submitted to the Director of Planning and Building for concurrent review by the county and the state. One copy will be transmitted to the State Department

of Conservation for their review. The state shall have 45 days to prepare written comments regarding consistency with statutory requirements prior to any final action taken by the county. When the director's position is different from the recommendations and/or objections raised in the state's comments, the county will prepare a written response describing in detail why specific comments and suggestions were not accepted. Upon notification of approval of the financial assurances, the applicant will have 30 days to return a completed performance agreement and valid financial assurance mechanism to the Director of Planning and Building.

- (3) The amount of the financial assurance will be reviewed as part of the annual review of the operation by the county to determine if any changes are necessary. Where reclamation is phased in annual increments, the amount shall be adjusted annually to cover the full estimated costs for reclamation of any land projected to be in a disturbed condition from mining operations by the end of the following year. The estimated costs shall be the amount required to complete the reclamation on all areas that will not be subject to further disturbance, and to provide interim reclamation, as necessary, for any partially excavated areas in accordance with the approved Reclamation Plan. Financial assurances for each year shall be reviewed upon successful completion of reclamation (including maintenance) of all areas that will not be subject to further disturbance and adjusted as necessary to provide adequate assurances for the following year. Prior to county approval, any amendments or changes to an existing financial assurance will be submitted to the state for its review.
- (4) If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the lead agency until new financial assurances are secured from the new owner and have been approved by the lead agency. Financial assurances shall no longer be required of a surface mining operation, and shall be released, upon written notification by the lead agency, which shall be forwarded to the operator and the state, that reclamation has been completed in accordance with the approved reclamation plan.

22.08.186 - Annual Review: An annual inspection shall be conducted by the county for all active surface mining operations within six months of receipt of the operator's annual report filed with the State Department of Conservation and upon payment of the inspection fee to the county. The purpose of the inspection is to evaluate continuing compliance with the permit and reclamation plan. A fee for such inspections is established by the county fee resolution. All inspections will be conducted using a form provided by the State Mining and Geology Board. An inspector shall not be used who has been employed by the mining operation in any capacity during the previous 12 months. The county will notify the operator and the state within 30 days of completion of the inspection and forward copies of the inspection form and any supporting documentation. Any surface mine subject to this inspection requirement for which the inspection fee remains unpaid 30 days or more from the time it becomes due constitutes grounds for revocation of such permit or plan. Surface mining operations which are determined to be in violation by the county or the state may be subject to administrative penalties not to exceed five thousand dollars (\$5,000) per day, assessed from the original date of noncompliance, pursuant to Section 2774 of the Public Resources Code and as described in Section 22.10.022 of this title.

AYES: Supervisos Blakely, Ovitt, Laurent, Brackett, Chairperson Delany

NOES: None

ABSENT: None

ABSTAINING: None

Evelyn Delany

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

Francis M. Cooney

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo,
State of California

BY: CHERIE AISPURO Deputy Clerk

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

JAMES B. LINDHOLM, JR.
County Counsel

By: _____
Deputy County Counsel

Dated: _____

