

TO: JAMES L. APP, CITY MANAGER

FROM: BOB LATA, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: APPEAL OF PLANNING COMMISSION APPROVAL OF
DEVELOPMENT PLAN 01-025 (BLACK RANCH RESORT PROJECT)

DATE: APRIL 6, 2004

Needs: For the City Council to consider an appeal filed by Matt Masia regarding the Planning Commission's approval of the Black Ranch Resort Project on February 24, 2004.

Facts:

1. The subject project is a Resort with 280 hotel rooms/cottages/casitas, conference facilities, and golf courses and other recreation facilities on approximately 386 acres.
2. The project as approved is consistent with the City's General Plan, Zoning, Zoning Code and the Airport Land Use Plan (the existing 1977 plan).
3. Attached is a letter from Fred Glick, Attorney at Law, outlining three topics that he identifies as Issues of Appeal:
 - o Confirmation of the applicability of the 1977 Airport Land Use Plan;
 - o The status of permitted land uses;
 - o Whether or not Agricultural wells can be used to irrigate golf courses.
4. The Council's consideration of this appeal is limited to evaluation of the project plans filed with the City, evaluated under the California Environmental Quality Act (CEQA) and considered by the Planning Commission at their noticed public hearing on February 24, 2004.

Analysis
and

Conclusion: It would appear that the issues raised by Mr. Glick have already been addressed by the City Council and/or are a part of established Council policy.

1. On March 16, 2004 the City Council approved forwarding a Draft Airport Land Use Plan to the County Airport Land Use Commission. In the process of that approval process, the City Council confirmed that any development project approved prior to the County's adoption of a new Airport Land Use Plan would be subject to the existing Airport Land Use Plan. Therefore, the Black Ranch Resort Project recently approved by the Planning Commission is subject to the 1977 Airport Land Use Plan. Implementation of the project can proceed as approved in spite of any new Airport Land Use Plan.

2. The City's adopted General Plan and Zoning / Zoning Code provides the land use policy under which the Black Ranch Resort Project was approved. As a part of the Planning Commission's approval of the project, the adopting resolution makes clear to the property owner, subsequent owners, and the general public what land uses are permitted (hotel, conference facilities, golf, etc.) and what is not provided for (e.g. residential land uses).

In the event that the property owner wishes to seek new / modified entitlements, he or she will be subject to whatever General Plan, Zoning, Zoning Code or Airport Land Use Plan provisions that are in effect at that time. Any changes to the project description that are beyond the Planning Commission's ability to make findings of "substantial compliance" would require a new Development Plan approval and the related CEQA documentation and findings.

Further, the property owner has the ability to seek an amendment to existing General Plan and other policy documents in the manner prescribed by the City codes. In conjunction with any such application(s), the City would undertake steps necessary to meet CEQA requirements.

3. At the March 16, 2004 City Council meeting the City Council approved use of existing Agricultural wells to irrigate proposed golf courses on the subject property. That approval was not limited as to ownership and would apply to any successor interest.

In conclusion, it would appear that the issues raised by Mr. Glick and which are the subject of the appeal by Matt Masia are addressed by recent City Council action and/or the City's General Plan, Zoning, Zoning Code, and the 1977 Airport Land Use Plan.

Policy

Reference:

General Plan, Zoning, Zoning Code, 1977 Airport Land Use Plan; actions by the City Council at the March 16, 2004 City Council meeting.

Fiscal
Impact: None

- Options:
- a. Based on the City Council having confirmed the applicability of the 1977 Airport Land Use Plan to the approved Black Ranch Resort Project, and based on the established requirements of the City's General Plan, Zoning, and Zoning Code, and based on the City Council's approval of the use of Agricultural wells to provide for irrigation of future golf courses on the subject property, that the City Council deny the appeal and uphold the Planning Commission's approval of the Black Ranch Resort Project subject to the conditions of approval contained in Planning Commission Resolution No.04-008.

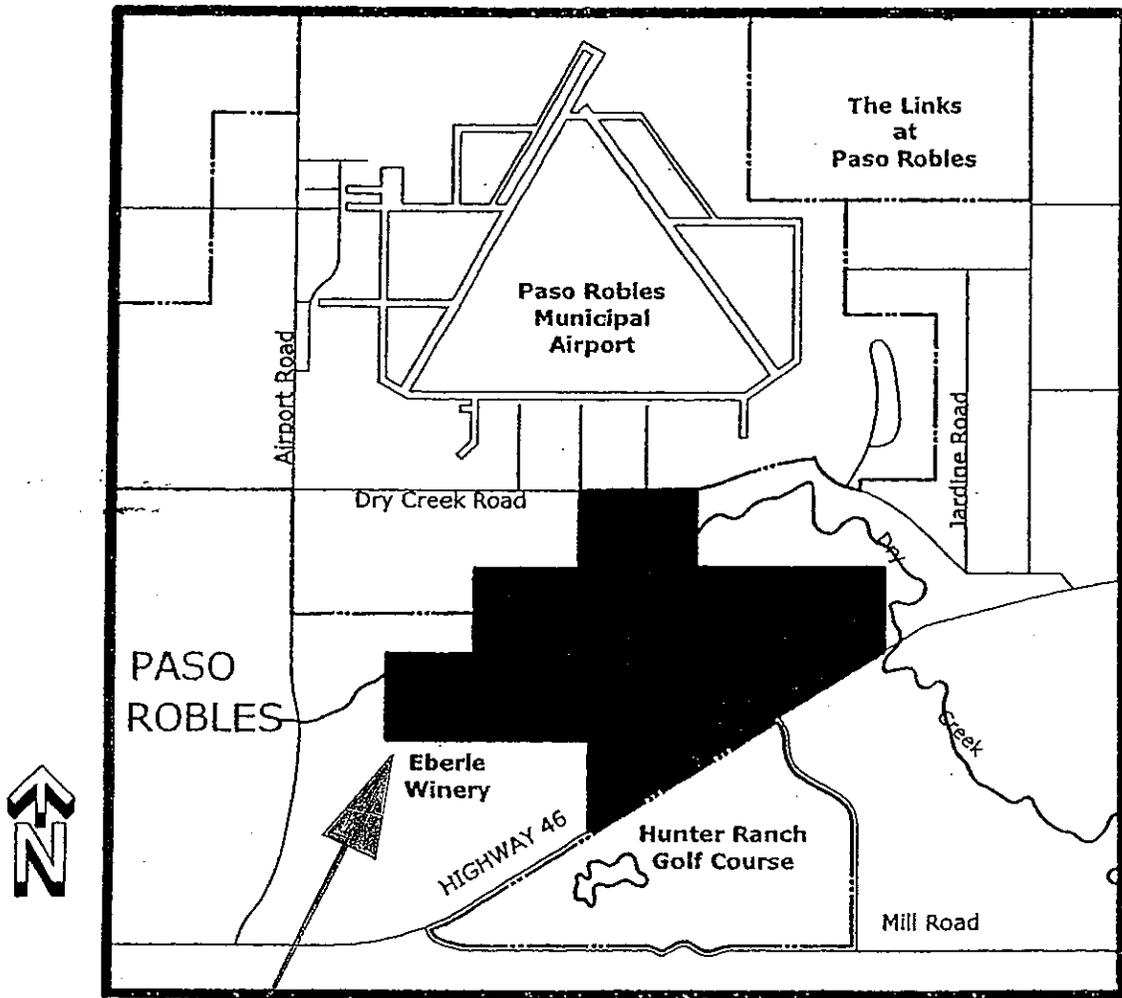
 - b. Amend, modify or reject the foregoing option.

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BLACK RANCH RESORT

VICINITY MAP

NOT TO SCALE



PROJECT SITE



**CITY OF EL PASO DE ROBLES
COMMUNITY DEVELOPMENT DEPARTMENT
DEVELOPMENT APPLICATION APPEAL**

RECEIVED
FEB 24 2004
(805) 237-3970
1000 Spring Street
Paso Robles, CA. 93446

GENERAL INFORMATION REQUIRED

Applicant Matt Masia Phone (805) 238-2770 Fax # (805) 238-3497
 Mailing/Billing Address 1215 Ysabel Avenue, Paso Robles, CA 93446 Email _____
 Representative Fredrick K. Glick, Esq. Phone (805) 544-2450 Fax (805) 544-3282
 Mailing Address 1315 Santa Rosa St., San Luis Obispo, CA 93401 Email _____
 Property Owner Mr. Matt Masia Phone (805)238-2770 Fax # (805)238-3497
 Owner's Address 1215 Ysabel Avenue, Paso Robles, CA 93446 Email _____

PROJECT DESCRIPTION (APPEAL)

Assessor's Parcel Number(s) 025-431-044, 025-431-045, 025-431-049
 Project Location: Bounded by Hwy 46 to south, Dry Creek Road and Paso Robles Airport to north
 Project Description: 386 +/- acre resort complex, consisting of 200 rooms, 80 casitas, 18 holes of golf, spa, tennis courts, restaurant, cafe, golf clubhouse, pool and conference facilities

OWNER / APPLICANT AUTHORIZATION

APPLICANT / REPRESENTATIVE: I have reviewed this completed application and the attached material. The information included with this application is true and correct to the best of my knowledge. I am submitting the project description, site plan, and elevations for this project on a 3.5 Inch disk or IBM compatible CD with all graphics/illustrations in PDF or JPEG format. I understand the city might not approve what I am applying for, or might set conditions of approval.

PROPERTY OWNER / AUTHORIZED AGENT:
 I certify that I am presently the legal owner of the above described property. Further, I acknowledge the filing of this application and certify that all of the above information is true and accurate. I understand that I am responsible for ensuring compliance with conditions of approval. (If the undersigned is different from the legal property owner, a letter of authorization must accompany this form). I hereby authorize the City of Paso Robles and/or its designated agent(s) to enter onto the subject property to confirm the location of existing conditions and proposed improvements, including compliance with applicable City code requirements.

[Signature] 2/24/04
Signed Date

[Signature] 2/24/04
Signed Date

BELOW AREA FOR OFFICE USE ONLY

Notes to File / Staff Notes:	Action / Body / Date:
<u>Appeal - cvp 02-007 / Amend PD 01-025</u>	

THIS AREA FOR OFFICE USE ONLY

DEPOSIT APPLICATIONS	APPLICATION NO.	FEES APPLICATIONS	APPLICATION NO.
<input type="checkbox"/> General Plan Amend		<input type="checkbox"/> Site Plan Rev. Major (\$600)	
<input type="checkbox"/> Rezoning		<input type="checkbox"/> Plat Plan Rev. Major (\$200)	
<input type="checkbox"/> Conditional Use Permit		<input type="checkbox"/> Sign Review (\$20)	
<input type="checkbox"/> Development Plan			
<input type="checkbox"/> Tentative Tract Map			
<input type="checkbox"/> Tentative Parcel Map			
<input type="checkbox"/> Lot Line Adjustment			
<input type="checkbox"/> Other			
Total Deposit Paid: \$1,000		Total Fees Paid: \$100,000-4200	
(City of El Paso 2304-200)			
Application Received By: <i>[Signature]</i>			Date: 2-24-04

AGREEMENT TO PAY ALL DEVELOPMENT APPLICATION FEES

In accordance with City Council Resolution 96-75, the City collects fees based on the actual cost of providing service. The application deposit for this project (as indicated below) may not cover the total cost of processing this application. I am aware that if greater than 75 percent of the application deposit amount is depleted prior to completion of the project, staff will notify the undersigned, in writing, of the amount of additional deposit required to complete processing of the application, based on staff's reasonable estimate of the hours remaining to complete this application process.

Further, I understand that if I do not submit the required additional deposit to the City within 15 days from the date of the letter, staff may stop processing of the application and/or not schedule the project for action by the Planning Commission or City Council. Any remaining deposit will be refunded to me at the time of closeout after I have submitted the approved project plans and forms electronically, or upon my written request to formally withdraw the application.

As the applicant, I understand that I am responsible for the cost of processing this application and I agree that the actual time spent processing this application will be paid to the City of El Paso de Robles.

Deposit Paid: \$ _____

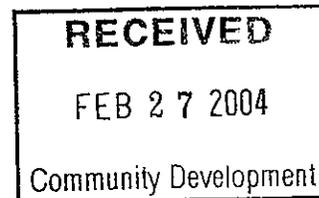
Applicant's Signature *[Signature]* Date: 2/24/04

Applicant's Name MATT MASTIA
(Please Print)

FREDERICK K. GLICK
ATTORNEY AT LAW
1315 SANTA ROSA STREET
SAN LUIS OBISPO, CALIFORNIA 93401
TELEPHONE (805) 544-2430
FACSIMILE (805) 544-3284 · EMAIL: fkglick@mbn.com

February 26, 2004

Mr. Darren Nash
CITY OF PASO ROBLES
Planning Department
1000 Spring Street
Paso Robles, California 93446



RE: Issues of Appeal Filed 2/24/04/Matt Masia

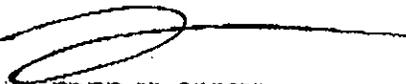
Dear Mr. Nash:

This letter is to supplement the Appeal Application by identifying the specific areas of concern that are being appealed. We are appealing those portions of the Resolution of the Planning Commission approving the Black Ranch Resort Project Planned Development 01-025; specifically:

1. We want to make clear that not only is the project subject to and consistent with the 1977 Airport Land Use Plan, said project will continue to be subject to the 1977 Airport Land Use Plan regardless of whether the 1977 Airport Land Use Plan is amended and updated in the future. The purpose for this request is that we have been informed that a draft update could well be approved in the future with highly restrictive language pertaining to persons allowed per building footprint (not per acre). If a new update with such stringent restrictions is approved and applicable to the Black Ranch Resort project, it could well render said project as being economically impossible. With the forgoing in mind, we would like to see language added to the "Whereas the proposes project and proposes uses are consistent with the 1977 Airport Land Use Plan" that makes it clear the project would be built and operated under the 1977 Airport Land Use Plan.
2. Item 6D entitled "Prohibited Land Uses for Black Ranch" incorporates language that I have not seen in 20 years of practice that appears to restrict the property to non-residential use despite future changes to the General Plan and zoning. The only thing that is being requested here is that language be added that indicates that in the event that General Plan and zoning designations as well as General Plan Land Use Policy LU-1B or any other ordinance which affects or influences the subject property should be amended in the future to allow residential land use, then the residential restriction would no longer be applicable.
3. We would like to include language in the Engineering Site Specific Condition to make it clear that the applicant or their successor will be able to use well water for golf course irrigation. This is critical due to the fact that this is the only economic way of irrigating the golf courses.

I hope this provides ample clarity with respect to the reason behind the above-referenced Appeal. Should you have any questions or comments, please do not hesitate to contact me.

Very truly yours,



FRED K. GLICK

FKG:plc
cc: Client