

TO: James L. App, City Manager
FROM: Ron Whisenand, Community Development Director
SUBJECT: Appeal of Planning Commission Approval of Tract 2772 (Erskine)
DATE: December 5, 2006

Needs: For the City Council to consider an appeal of Planning Commission approval of Tract 2772, an industrial subdivision involving 36 lots on 39 acres. The appeal is filed by Tom Erskine, a neighboring property owner.

Facts:

1. Tentative Tract 2772, was approved by the Planning Commission in a unanimous decision on October 10, 2006.
2. The Tract 2772 is located along Dry Creek Road, west of Airport Road (see attached vicinity map).
3. The subdivision was found consistent with the City's General Plan and development regulations. The subdivision was approved subject to various conditions of approval.
4. In a letter dated October 25, 2006, the appellant, Tom Erskine, takes exception to Condition 7 of Tentative Tract 2772. He cites concerns with traffic safety and with the use of private streets as related to access to his adjoining property.

**Analysis
and**

Conclusions: In his letter, the appellant considers Condition No. 7 of Tentative Tract 2772 inadequate to ensure that access is ultimately provided to his property from the westerly extension of Dry Creek Road. The applicant states that topographic constraints on the Remainder parcel are such that "C" Street is the only reasonable access to his property. "C" Street is proposed as a private street in Tentative Tract 2772.

A site visit to Tentative Tract 2772 reveals that there are other potential access routes from Dry Creek Road through the Remainder Parcel to the Erskine property. Condition No. 7 will establish, with a recorded document, a requirement that access to the Erskine property be considered with any development of the Remainder parcel. Condition 7, therefore adequately addresses the requirements of the Municipal Code.

It should be noted that the Erskine property has frontage on Airport Road. Due to topographic constraints, access from Airport Road could have negative environmental consequences. Finally, it is important to note that no subdivision of the Erskine property is allowable under its current Agriculture zoning.

The appellant's letter is not clear with respect to what intersection he has traffic concerns with. The appellant has since indicated that the concern is in regard to the proposed location of the intersection of Dry Creek Road and Airport Road. Dry Creek Road is proposed to be aligned south of its current intersection with Airport Road. This alignment will provide a more attractive gateway to properties to the west (more attractive than a road that is adjacent to the State Youth Authority). The proposed alignment is also consistent with goals of the City to enhance the attractiveness of the Airport as a viable business park.

Traffic safety along this corridor and the new Dry Creek Road intersection was addressed by staff in the review of the subdivision. Condition Number 20 of Tentative Tract 2772 addresses the appellant's concern by requiring the addition of a left turn access to Dry Creek Road from Airport Road.

The appellant states concerns with private streets proposed in Tract 2772. The City's history with issues regarding private streets has been specifically focused on residential properties. The design of public streets in industrial zones is limited to City Standard A-4. Standard A-4 provides for a 48-foot wide street in order to accommodate trucks. Sidewalks could be constructed with parkways or 10-foot wide with tree wells. Alternatively, private streets may be narrow so as not to include parking. They may not include sidewalks as well. Parking and sidewalks can be addressed by the Planning Commission through the planned development process. Rolled curbs may be used on private streets in order to provide flexibility of access to the individual parcels.

In this case, the subdivision could be designed with either public or private streets. The applicant has chosen private streets in order to provide greater flexibility in the development of the business park. The private streets in Tract 2772 do not provide connections to other properties. They are confined to the boundaries of the industrial park. These "streets" are essentially common access easements. It is not appropriate that they be maintained by the City. They may be developed in a manner consistent with the theme of the industrial park.

The private streets in Tentative Tract 2772 could be used for access to the Erskine property. However those access rights would have to be conveyed by private documents. Those documents would have to address the character of the access; agriculture or a more intense use. A public street would give Erskine access to the south boundary of the subdivision. It would also provide an expectation that the public street would eventually be extended.

Policy

Reference: Municipal Code 22.20.030(c).

Fiscal

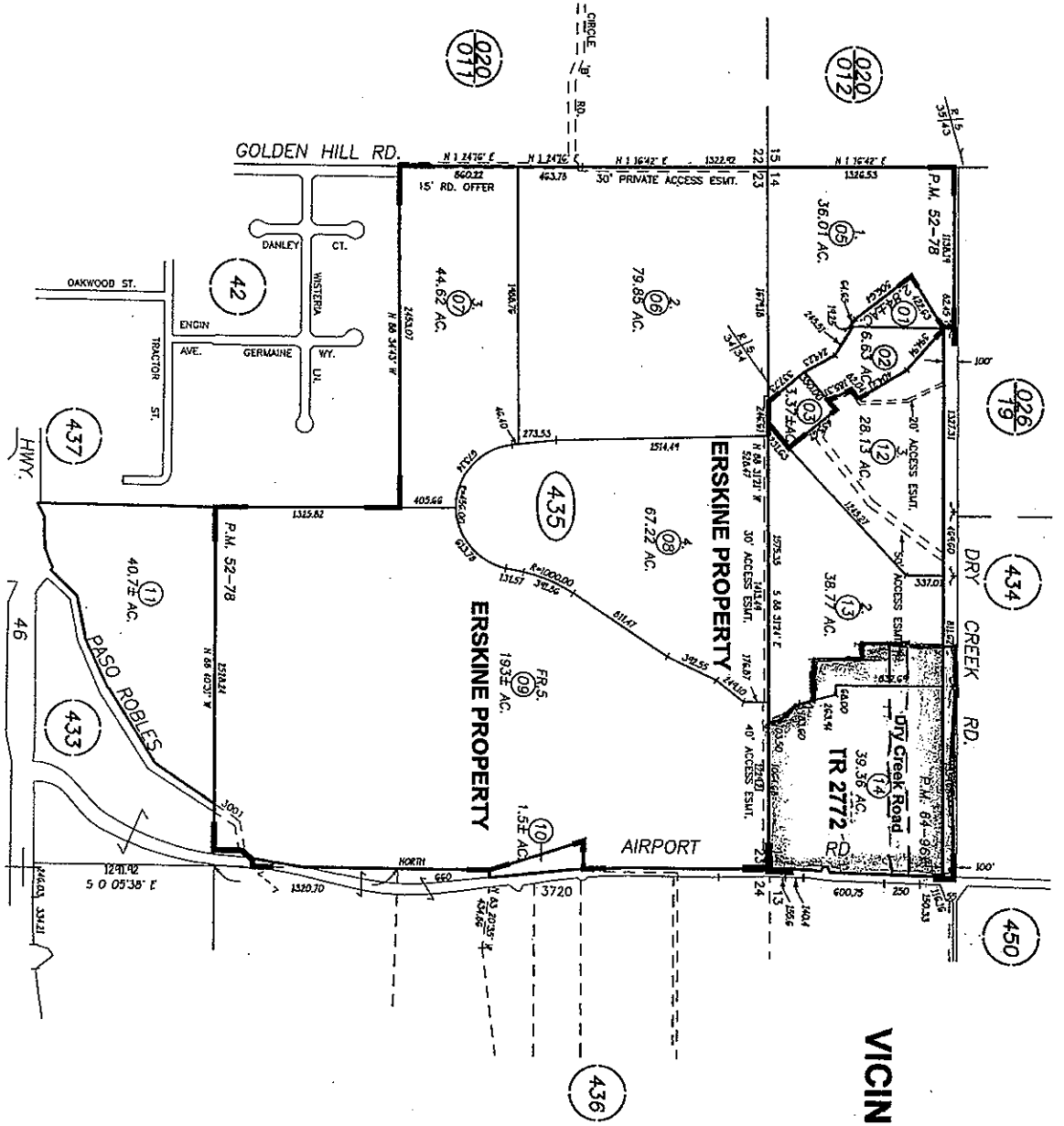
Impact: Additional street maintenance costs if the interior streets in Tract 2772 become public.

Options:

- a. Adopt Resolution No. 06-xxx upholding the Planning Commission's decision to approve Tentative Tract 2772.
- b. Adopt Resolution No. 06-xxx to approve the appellant's request to amend approval of Tentative Tract 2772 so that "C" Street becomes a public right-of-way.
- c. Amend, modify or reject one of the above options.

Attachments: (5)

1. Vicinity Map
2. Tentative Tract 2772 Map
3. Mail Notice Newspaper and Affidavits
4. Appellant Letter dated 10-25-06
5. Planning Commission Resolution 06-0085
6. Draft Resolution to deny Amendment (Option A)
7. Draft Resolution to approve Amendment (Option B)



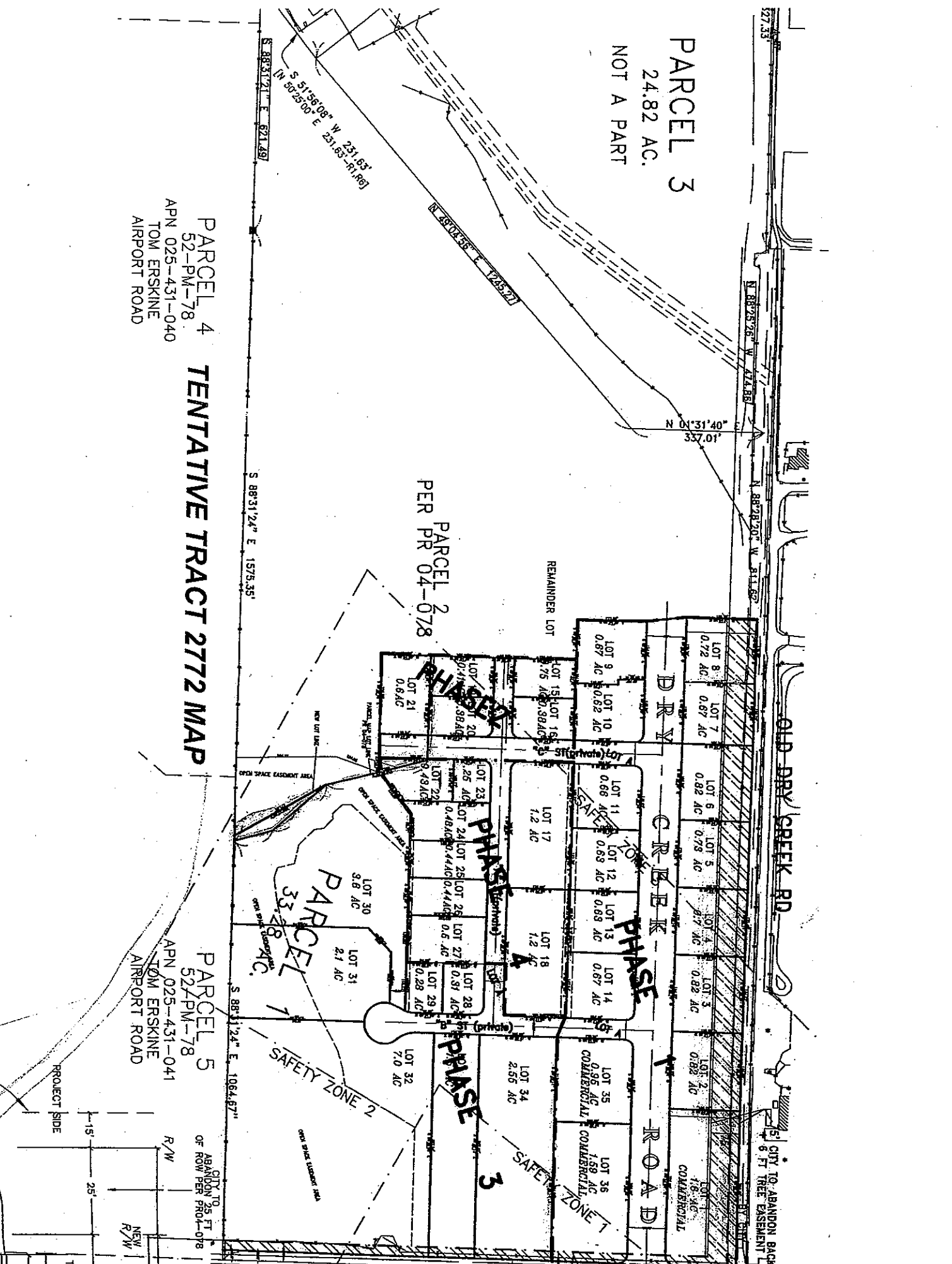
VICINITY MAP

PARCEL 3
24.82 AC.
NOT A PART

PARCEL 4
52-PM-78
APN 025-431-040
TOM ERSKINE
AIRPORT ROAD

TENTATIVE TRACT 2772 MAP

PARCEL 5
52ZPM-78
APN 025-431-041
TOM ERSKINE
AIRPORT ROAD



PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION/CITY COUNCIL
PROJECT NOTICING

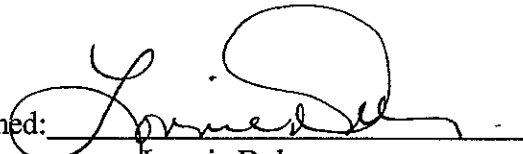
Newspaper: Tribune

Date of Publication: November 8, 2006

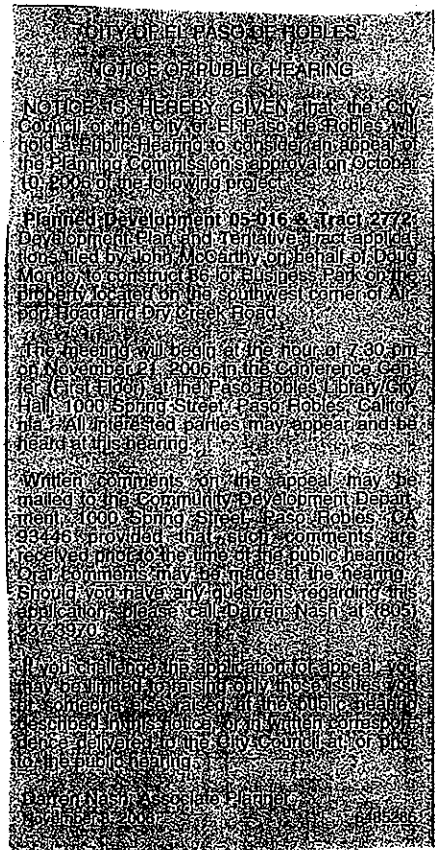
Meeting Date: November 21, 2006
(Planning Commission)

Project: Appeal Planned Development
05-016 & Tract 2772 (Mondo)

I, Lonnie Dolan, employee of the Community Development Department, Planning Division, of the City of El Paso de Robles, do hereby certify that this notice is a true copy of a published legal newspaper notice for the above named project.

Signed: 
Lonnie Dolan

forms/newsaffi.691



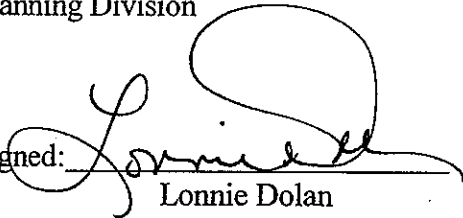
**AFFIDAVIT
OF MAIL NOTICES**

PLANNING COMMISSION/CITY COUNCIL PROJECT NOTICING

I, Lonnie Dolan, employee of the City of El Paso de Robles, California, do hereby certify that the mail notices have been processed as required for Appeal for Planned Development 05-016 and Tentative Tract 2772 (Mondo; Appellant: Erskine) on this 3rd day of November, 2006.

City of El Paso de Robles
Community Development Department
Planning Division

Signed:



Lonnie Dolan

forms\mailaffi.691

Applicant: Tom Erskine
Ranch & Coast Properties Inc

Planning Division

1. Future Connection: Item 7 of the Site Specific Conditions of Approval recommends a "constructive notice". We do not feel that this is an adequate condition to meet the City code 22.20.030(c) (Exhibit A) which states "Where necessary to give access to or permit it a satisfactory future subdivision of adjoining land, streets shall extend to the boundary of the property.." The memorandum from John Falkenstien to Darrin Nash dated October 10, 2006, (Exhibit B) states "A significant portion of the Erskine property south of Tract 2772 is bounded by the Huero Huero on the three sides and Parcel 2 of the Hogue map on the north. From a long range planning perspective, it appears that the area encompassed in the remainder parcel shown on the tentative map for Tract 2772 would provide the most reasonable and environmentally sensitive access to the Erskine property." Can the City enforce item #7 condition if the connection road is a Private Road?

Topo restraints will not allow a Dry Creek Road connection to the west of Lots 8 & 9 to parcel APN 025-431-040 (shown on developer's map as 025-431-041) (see yellow area on Exhibit C map). A future connection requirement for road and utilities should be made on "C" Street. (See red area on Exhibit C map.)

2. Intersection: Why are we creating a new road so close to an existing intersection? What will the traffic impacts be? Has traffic in all directions been looked at in relation to the large hillside at the entrance to Tract 2772?

3. Airport Road Left Turn Lane: Will the left turn onto the "new" Dry Creek Road create a site distance problem for vehicles traveling North on Airport Road? You need to consider what would happen if a car traveling 45-50 mph comes up the hill on Airport Road and encounters two stopped tractor trailers making a left onto the new Dry Creek Road.

4. Private Roads Inside City Limits: City has had a history of problems with private roads in the past. Is it good to have sub-standard roads with street parking in an Industrial Park that the City will have no ability to control the maintenance of? If project is built out and streets are not maintained, are we creating a potential for complaints from owners to the City of inadequate maintenance? How will the truck traffic flow with street parking on private streets? Will this impede truck traffic parking?

If you allow private roads, you will need to make specific requirements to allow the Erskine parcel to use the private road marked "C" on tract map for access to Dry Creek Road.

The street and highway design shall conform both in width and alignment to any master plan of streets and highways approved by the city council and right-of-way for any such street or highway indicated on said master plan shall be dedicated. (Ord. 164 N.S. § 5.11, 1951)

22.20.020 Streets--Conformance with conditions initiated by council.

The street and highway design shall conform to any proceedings affecting the subdivision, which may have been initiated by the city council or approved by said council upon initiation by other legally constituted bodies of the city, county or state. If a parcel of land to be subdivided includes a portion of the right-of-way to be acquired for a public freeway or parkway, and the city council shall determine the boundaries of the right-of-way to be acquired, the subdivider shall either dedicate or withhold from subdivision all the area included in said rights-of-way. (Ord. 164 N.S. § 5.12, 1951)

22.20.030 Streets--Design standards listed.

The following general conditions shall apply to street and highway design:

- (a) All streets shall, as far as practicable, be in alignment with existing adjacent streets by continuations of the center lines thereof or by adjustments by curves and shall be in general conformity with the plans of the planning commission for the most advantageous development of the area in which the subdivision lies.
- (b) Streets shall be required to intersect one another at an angle as near to a right angle as is practicable in each specific case.
- (c) Where necessary to give access to or permit it a satisfactory future subdivision of adjoining land, streets shall extend to the boundary of the property and the resulting dead-end streets may be approved without a turn-around. In all other cases a turn-around having a minimum radius of forty feet, shall be required.
- (d) Whenever a major street or state highway intersects any other street or highway, the property lines at each block corner shall be rounded with a curve or corner cutoff as specified by the city engineer. On all other street intersections the property line at each block corner shall be rounded with a curve having a radius of not less than twenty feet. In either case, a greater curve radius may be required if streets intersect other than at right angles.
- (e) The center line curve radius on all streets and highways shall conform to accepted engineering standards of design and shall be subject to approval by the city engineer.
- (f) No street or highway shall have a grade of more than ten per cent unless because of topographical conditions or other exceptional conditions, the city engineer determines that a grade in excess of ten per cent is necessary.
- (g) Reserved strips controlling the access to public ways of minimizing values for special improvement assessments will not be approved unless such strips are necessary for the protection of the public welfare or of substantial property rights, or both, and in no case, if placed definitely within the jurisdiction of the city under conditions approved by the planning commission. (Ord. 164 N.S. § 5.13, 1951)

22.20.040 Streets--Minimum widths.

Streets and highways not shown on any master street and highway plan or not affected by proceedings initiated by the city council or approved by the city council upon initiation by other legally constituted government bodies shall not be of less width than those set forth hereunder, except where it can be shown by the subdivider, to the satisfaction of the planning commission, that the topography of the small number of lots served and the probable future traffic development are such as to unquestionably justify a narrower width. Increased widths may be required where streets are to serve commercial property or where probable traffic conditions warrant such. Approval or determination of street or highway classification shall be made by the planning commission.

- (a) Major streets or highways--minimum right-of-way: Ninety feet in commercial areas and eighty feet in residential areas.
- (b) Secondary streets or highways--minimum right-of-way: Sixty feet. The planning commission may require up to eighty feet where street may become a major street at some future date.
- (c) Local streets--minimum right-of-way:
Sixty feet
- (d) Cul de sac streets and service roads when not over three hundred and fifty feet in length--minimum right-of-way of fifty feet. (Ord. 164 N.S. § 5.14, 1951)

EXHIBIT B

1 of 2

MEMORANDUM

TO: Darren Nash
FROM: John Falkenstien
SUBJECT: Tentative Tract 2772
DATE: October 10, 2006

I have reviewed the tentative tract map and supporting documentation submitted with this application. The following are my comments.

Streets and Traffic Impacts

Dry Creek Road is classified as an Arterial Street in the circulation element of the General Plan. In accordance with the Arterial Standard A-1, the right of way for Dry Creek Road shall be 100 feet and a center landscape median will be required.

The Hogue parcels are the underlying parcels involved in Tract 2772. As a condition of the Hogue Parcel Map a 75-foot offer of dedication was made along the north boundary adjacent to a more historical 25-foot offer. There is road within the 25-foot offer of dedication that currently serves properties to the west of the State facility. Tentative Tract 2772 proposes a realignment of Dry Creek Road away from the State property.

The alignment of Dry Creek Road proposed with Tract 2772 will provide a more attractive gateway to properties to the west. In accordance with the Circulation Element, Dry Creek Road will eventually be extended to the west to connect to Golden Hill Road, providing alternative access to the Airport. Furthermore, plans for the Airport include a roundabout intersection at Dry Creek-Airport Roads, east of the existing intersection, to provide a more attractive gateway to the Airport.

To accommodate the realignment of Dry Creek Road, abandonment of the Hogue dedication along with the historical 25-foot offer will be necessary.

With the development of Tract 2772, Dry Creek Road is proposed to be constructed with two lanes and turn pockets. Two lanes will adequately serve Dry Creek Road for the life of the current General Plan.

The ultimate alignment of Airport Road adjacent to Tract 2772 has not been determined. To serve Tract 2772, pavement widening on Airport Road will be needed to provide a turn pocket for left turn access to Dry Creek Road.

Interior streets in Tract 2772 are proposed to be private. Private streets are appropriate in an industrial subdivision.

A significant portion of the Erskine property, south of Tract 2772, is bounded by the Huer Huero on the three sides and Parcel 2 of the Hogue map on the north. From a long range planning perspective, it appears that the area encompassed in the remainder parcel shown on the tentative map for Tract 2772 would provide the most reasonable

EXHIBIT B

2 of 2

and environmentally sensitive access to the Erskine property. Remainder parcels, as defined in the Subdivision Map Act are not appropriate for offers of dedication and road improvement requirements. The intent of the remainder parcel is to set aside these issues until the remainder parcel is proposed for development. It would be appropriate to file a constructive notice on the remainder property that its development should include consideration of access to the property to the south.

The development of Tract 2772 will have impacts on Airport Road, the intersection of Airport Road and Highway 46 East, and the Highway 46 East corridor.

Sewer

Sewer is available to the project from the City's Airport trunk line located west of Tract 2772. A 12-inch sewer extension will be needed to serve the subdivision. This extension will be the beginning of a branch line that will serve all of the properties along Dry Creek Road east of Airport Road.

Water

Water is available to the property from a 16-inch water main in Airport Road.

Drainage

A storm drain is proposed for the project that will eventually discharge into Huer Huero Creek. The development of lots within the subdivision will require implementation of storm water quality devices. Erosion control measures must be installed in the subdivision to preclude silt from entering the storm drain. Additional erosion control measures must be in place downstream of the outlet of the storm drain.

A storm water infiltration basin will be required upstream of the discharge into the Huer Huero. The design of the basin will mitigate the impact of any dry season run-off from landscape irrigation in parkways and the lots themselves.

EXHIBIT C

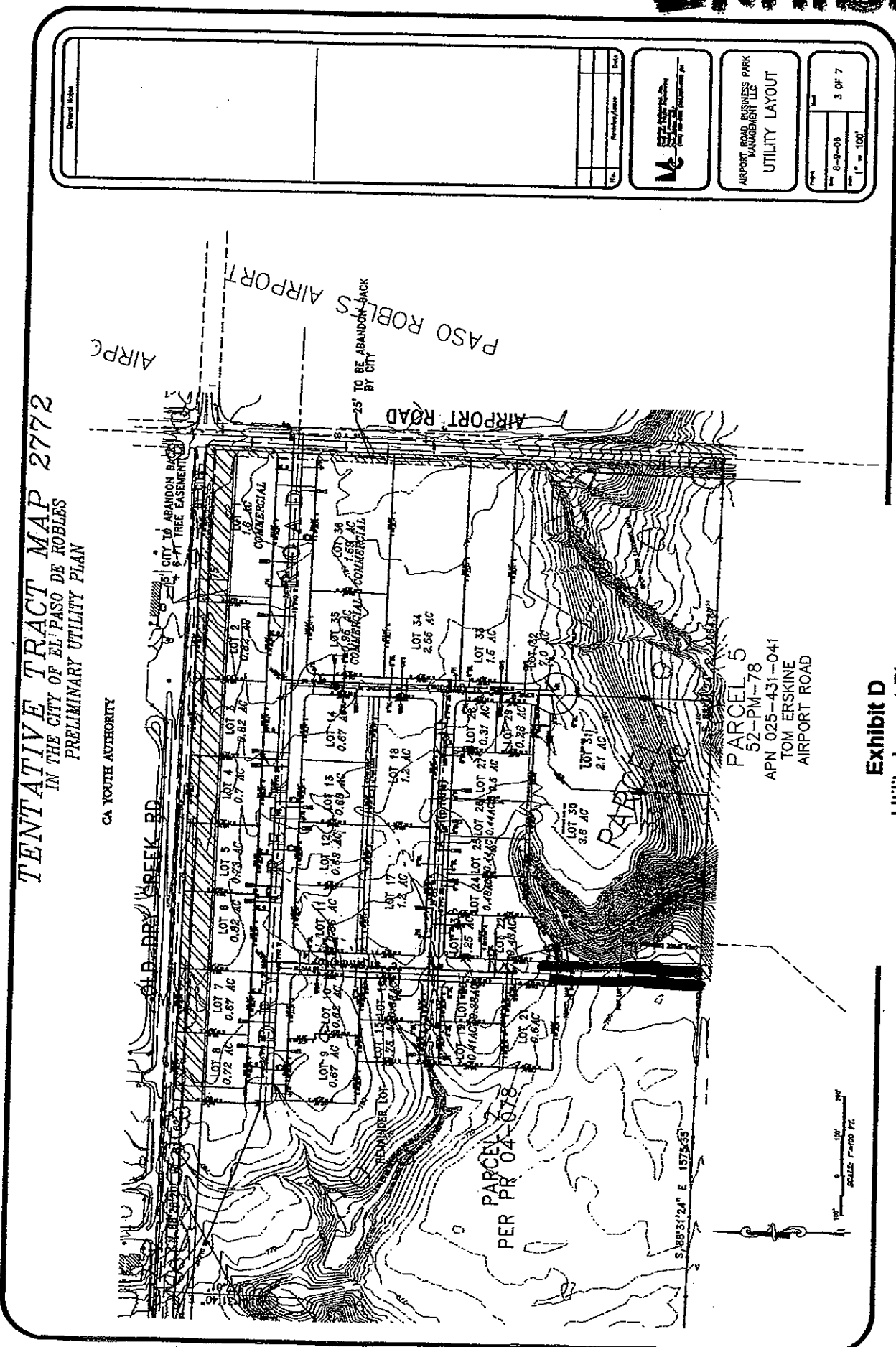


Exhibit D
 Utility Layout Plan
 Tract 2772 & PD 05-016
 (Mondo)

RESOLUTION NO.: 06-0085

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF EL PASO DE ROBLES
TO GRANT TENTATIVE MAP APPROVAL FOR TENTATIVE TRACT 2772
(AIRPORT RD. BUSINESS PARK - MONDO)

APN: 025-431-031

WHEREAS, Tract 2772 has been filed by McCarthy Engineering on behalf of Airport Road Business Park, LLC – Doug Mondo, to subdivide a 39-acre property into 36 lots ranging in size from .25-acre to 7-acre parcels, for business park development; and

WHEREAS, Tract 2772 is located on the southwest corner of Airport Road and Dry Creek Road; and

WHEREAS, in conjunction with the Tract 2772, Planned Development 05-016 has been submitted to establish development standards for the business park; and

WHEREAS, an Initial Study was prepared for this project in accordance with the California Environmental Quality Act (CEQA) and a Mitigated Negative Declaration was approved by the Planning Commission on October 10, 2006, and

WHEREAS, a public hearing was conducted by the Planning Commission on October 10, 2006 to consider facts as presented in the staff report prepared for the tentative tract map, and to accept public testimony regarding the application, and

WHEREAS, based upon the facts and analysis presented in the staff report, public testimony received and subject to the conditions listed below, the Planning Commission makes the following findings as required by Government Code Sections 66474 and 65457:

1. The proposed tentative tract map is consistent with the adopted General Plan and Zoning Code for the City of El Paso de Robles by providing the opportunity for clean attractive business to be located in the Business Park/Planned Industrial designated areas of the City;
2. The design of lots, streets, open space, drainage, sewers, water and other improvements is consistent with the General Plan and Zoning Ordinance;
3. The site is physically suitable for the type of development proposed;
4. The site is physically suitable for the proposed density of development;

5. The design of the land division is not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat;
6. The design of the land division and types of improvements proposed are not likely to cause serious public health problems;
7. The design of the land division and the type of improvements proposed will not conflict with easements acquired by the public at large, for access through or use of, property within the proposed subdivision;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of El Paso de Robles, does hereby grant tentative map approval for Tentative Tract 2772 subject to the following conditions of approval:

STANDARD CONDITIONS OF APPROVAL:

1. The applicant/developer shall comply with those standard conditions which are indicated as applicable in "Exhibit A" to this resolution.
2. The project shall comply with all conditions of approval in the resolution granting approval to Planned Development 05-016 and its exhibits. In the event that either the tract or development plan is not approved, the approval of one plan does not automatically grant approval of the other.

SITE SPECIFIC CONDITIONS OF APPROVAL:

NOTE: In the event of conflict or duplication between standard and site specific conditions, the site specific condition shall supersede the standard condition.

COMMUNITY DEVELOPMENT SITE SPECIFIC CONDITIONS:

NOTE: In the event of conflict or duplication between standard and site specific conditions, the site specific condition shall supersede the standard condition.

3. The project shall be constructed so as to substantially conform with the following listed exhibits and conditions established by this resolution:

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	Standard Conditions
B	Tentative Tract Map
C	Preliminary Grading & Drainage Plan
D	Utility Layout Plan
E	Airport Overlay Zones

4. This Tentative Tract Map 2772 coincides with Planned Development 05-016 and authorizes the subdivision of a 39-acre parcel into a 36-lot Business Park, where the parcels would range in size from .25-acre to 6-acres.
5. The Final Subdivision Map shall be in substantial compliance with the tentative subdivision map and preliminary grading plan (Exhibits B & C, reductions attached; full size copies are on file in the Community Development Department) and as amended by site specific and standard conditions contained in this resolution.
6. Prior to the approval of the final map, in conjunction with the street improvement plans, the street tree plan shall be reviewed and accepted by the Public Works Department. All necessary irrigation shall be shown on the plan.
7. Prior to or in conjunction with the recordation of the final map, a constructive notice shall be recorded on each lot, to alert future owners that the development of each lot will need to go through the Planned Development (PD) process, where the project will need to go through a public hearing process to the Planning Commission.
8. In the event that buried or otherwise hidden resources are discovered during construction work in the area of the find, work should be temporarily suspended and the City of Paso Robles should be contacted immediately, and appropriate mitigations measures shall be developed by qualified archeologist or historian if necessary, at the developers expense.

Air Quality Conditions

9. The project shall be conditioned to comply with all applicable District regulations pertaining to the control of fugitive dust (PM-10) as contained in section 6.4 of the Air Quality Handbook. All site grading and demolition plans noted shall list the following regulations:
 - a. Reduce the amount of the disturbed area where possible.
 - b. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible.
 - c. All dirt stockpile areas should be sprayed daily as needed.
 - d. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities.
 - e. Exposed ground areas that are to be reworked at dates greater than one month after initial grading should be sown with a fast-germinating native grass seed and watered until vegetation is established.

- f. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD.
- g. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
- h. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.
- i. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114.
- j. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.
- k. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible

10. Standard Measures:

- a. Provide on-site bicycle parking. One bicycle parking place for every 10 car parking spaces is considered appropriate.
- b. Provide preferential carpool and vanpool parking spaces.
- c. Increase the building energy efficiency rating by 10-percent above what is required by Title 24 requirements. This can be accomplished in a number of ways (increasing attic, wall, or floor insulation, installing double pane windows, using efficient interior lighting, ect.).

11. Discretionary Measures (Site design mitigation for this commercial project):

- a. Implement on-site circulation design elements in parking lots to reduce vehicle queuing and improve the pedestrian environment with designated walkways.

12. Energy Efficiency Elements: Increasing the energy efficiency for these projects will decrease the demand on electrical supply, thus reducing emissions at the power plant source. Include the following Energy Efficiency measures as feasible:

- a. use built-in-energy efficient appliances, where applicable
- b. use double-paned windows
- c. use low energy efficient parking lot and street lights (e.g. sodium).
- d. install door sweeps or weather stripping if more energy efficient doors and windows are not available.

Biological Conditions

13. The following Biological mitigation measures shall be completed as indicated by Dan Meade in his Biological Rport dated June 2005 and his Kit Fox Evaluation dated March 20, 2006, revised September 26, 2006:

BR-1 Immediately prior to ground disturbance activities, if work occurs between March 1st and August 1st, nesting bird surveys shall be conducted. To avoid impacts to nesting birds, grading and construction activities that affect grassland habitats or trees shall not be conducted during the breeding season from March 1st to August 1st. If construction activities must be conducted during this period, nesting bird surveys shall take place within one week of ground disturbance. Ground nesting birds are possible in un-mowed fallow grasslands. If surveys do not locate nesting birds, construction activities may be conducted. If nesting birds are located, no construction activities shall occur within 100 feet of nests until chicks are fledged. Construction activities shall observe a 300 foot buffer for raptor nests.

BR-2 Prior to issuance of grading and/or construction permits, the applicant shall submit evidence to the City of Paso Robles (see contact information below) that states that one or a combination of the following four San Joaquin kit fox mitigation measures has been implemented:

- a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of **93.9** acres of suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the City.

This mitigation alternative (a.), requires that all aspects if this program must be in place before City permit issuance or initiation of any ground disturbing activities.

- b. Purchase **93.9** credits in a Department-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

At this time, there is no approved conservation bank that is operational in San Luis Obispo County. A conservation bank is expected to be operational in the near future. Purchase of credits must be completed prior to City permit issuance and initiation of any ground disturbing activities.

- c. If none of the above measures (a, b, or c) are available, the applicant may enter into a Mitigation Agreement with the Department, including depositing of funds into an

escrow account (or other means of securing funds acceptable to the Department) which would ensure the protection in perpetuity of **93.9** acres of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring in perpetuity. The Department can provide a draft agreement to review; a signed Mitigation Agreement shall be submitted to the City prior to City permit issuance and initiation of any ground disturbing activities.

BR-3 Prior to issuance of grading and/or construction permits, the applicant shall provide evidence that they have retained a qualified biologist acceptable to the City Planning Division. The retained biologist shall perform the following monitoring activities:

- a. **Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction**, the biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the City reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.
- b. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, diskings, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BR-3 through BR11. Site-disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason (see BR-2-c3). When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the City.
- c. **Prior to or during project activities**, if any observations are made of San Joaquin Kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to kit fox. At the time a den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, work shall stop until such time the U.S. Fish and Wildlife Service/Department determine it is appropriate to resume work.

If incidental take of kit fox during project activities is possible, **before project activities commence**, the applicant must consult with the U.S. Fish and Wildlife Service and the Department (see contact information below). The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.

In addition, the qualified biologist shall implement the following measures:

1. **Within 30 days prior to initiation of site disturbance and/or construction,** fenced exclusion zones shall be established around all known and potential kit fox dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:

- a) Potential kit fox den: 50 feet
- b) Known or active kit fox den: 100 feet
- c) Kit fox pupping den: 150 feet

2. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.

3. If kit foxes or known or potential kit fox dens are found on site, daily monitoring during ground disturbing activities shall be required by a qualified biologist.

BR-4 Prior to issuance of grading and/or construction permits, the applicant shall clearly delineate as a note on the project plans, that: “*Speed signs of 25 mph (or lower) shall be posted for all construction traffic to minimize the probability of road mortality of the San Joaquin kit fox*”. Speed limit signs shall be installed on the project site **within 30 days prior to initiation of site disturbance and/or construction,**

In addition, **prior to permit issuance and initiation of any ground disturbing activities,** conditions BR-3 through BR-11 of the Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.

BR-5 During the site disturbance and/or construction phase, grading and construction activities after dusk shall be prohibited unless coordinated through the City, during which additional kit fox mitigation measures may be required.

BR-6 Prior to issuance of grading and/or construction permit and within 30 days prior to initiation of site disturbance and/or construction, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the City, as well as any related biological report(s) prepared for the project. The applicant shall notify the City shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the

training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.

BR-7 During the site-disturbance and/or construction phase, to prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume, or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.

BR-8 During the site-disturbance and/or construction phase, any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.

BR-9 During the site-disturbance and/or construction phase, all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.

BR-10 Prior to, during and after the site-disturbance and/or construction phase, use of pesticides or herbicides shall be in compliance with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.

BR-11 During the site-disturbance and/or construction phase, any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and City. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the Department by telephone (see contact information below). In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.

BR-12 Prior to final inspection, or occupancy, whichever comes first, should any long internal or perimeter fencing be proposed or installed, the applicant shall do the following to provide for kit fox passage:

- a. If a wire strand/pole design is used, the lowest strand shall be no closer to the ground than 12".
- b. If a more solid wire mesh fence is used, 8" x 12" openings near the ground shall be provided every 100 yards.

Upon fence installation, the applicant shall notify the City to verify proper installation. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

BR-13 Immediately prior to ground disturbance activities, if work occurs between March 1st and August 1st, nesting bird surveys shall be conducted. To avoid impacts to nesting birds, grading and construction activities that affect grassland habitats or trees shall not be conducted during breeding season from March 1st to August 1st. If construction activities must be conducted during this period, nesting bird surveys shall take place within one week of ground disturbance. Ground nesting birds are possible in un-mowed fallow grass lands. If nesting birds are located, no construction activities shall occur within 100 feet of nest until chicks are fledged. Construction activities shall observe a 300 foot buffer for raptor nests.

Contact Information

California Department of Fish and Game
Central Coast Region
P.O. Box 47
Yountville, CA 94599
(805) 528-8670

U.S. Fish and Wildlife Service
Ventura Field Office
2493 Portola Road, Suite B
Ventura, CA 93003
(805) 644-1766

City of Paso Robles
Planning Department
Darren Nash
1000 Spring Street
Paso Robles, CA 93446
(805) 237-3970

BR-13 A pre-construction survey shall be conducted within thirty days of beginning work on the site to identify if badgers are using the site. The results of the survey shall be sent to the project manager, CDFG, and the City of Paso Robles.

If the pre-construction survey finds potential badger dens, they shall be inspected to determine whether they are occupied. The survey shall cover the entire property, and shall examine both old and new dens. If potential badger dens are too long to completely inspect from the entrance, a fiber optic scope shall be used to examine the den to the end. Inactive dens may be excavated by hand with a shovel to prevent re-use of dens during construction. If badgers are found in dens on the property between February and July, nursing young may be present. To avoid disturbance and the possibility of direct take of adults and nursing young, and to prevent badgers from becoming trapped in burrows during construction activity, no grading shall occur within 100 feet of active badger dens between February and July. Between July 1st and February 1st all potential badger dens shall be inspected to determine if badgers are present. During the winter badgers do not truly hibernate, but are inactive and asleep in their dens for several days at a time. Because they can be torpid during the winter, they are vulnerable to disturbances that may collapse their dens before they rouse and emerge. Therefore, surveys shall be conducted for badger dens throughout the year. If badger dens are found on the property during the pre-construction survey, the CDFG wildlife biologist for the area shall be contacted to review current allowable management practices.

BR-14 Prior to removal of any trees over 20 inches dbh, a survey shall be conducted by a qualified biologist to determine if any of the trees proposed for removal harbor sensitive bat species or maternal bat colonies. Maternal bat colonies may not be disturbed.

BR-15 Immediately prior to ground disturbance activities, if work occurs between March 1st and August 1st, nesting bird surveys shall be conducted. To avoid impacts to nesting birds, grading and construction activities that affect grassland habitats or trees shall not be conducted during the breeding season from March 1st to August 1st. If construction activities must be conducted during this period, nesting bird surveys shall take place within one week of ground disturbance. Ground nesting birds are possible in un-mowed fallow grasslands. If surveys do not locate nesting birds, construction activities may be conducted. If nesting birds are located, no construction activities shall occur within 100 feet of nests until chicks are fledged.

BR-16 Prior to commencement of project grading, protocol level surveys shall be conducted by a qualified biologist to determine if any listed species of fairy shrimp occur in ephemeral pools on the property. If vernal pool fairy shrimp are discovered, consultation with the US Fish and Wildlife Service must occur.

BR-17 Prior to commencement of project grading, a survey shall be conducted by a qualified biologist to determine if spadefoot toads are breeding in ephemeral pools on the property. Surveys shall be conducted from January to April, as conditions permit. If Western spadefoot toad are discovered, consultation with CDFG shall occur.

BR-18 Minimize impacts to rare species habitat. If less than 10 percent of any one plant population is impacted, no effect on the viability of the population is expected.

BR-19 If 10 percent or more of any one population is impacted, replace impacted rare species habitat in kind elsewhere on the property. Prepare a mitigation and monitoring plan for rare species habitat replacement on site.

- Obispo Indian paintbrush is an annual wildflower, the seeds of which can be collected in early May and sowed in proposed open space areas.

Airport Related Conditions:

14. The specific boundaries of the Airport Zones shall be overlaid over the tract map and be recorded with the Tract Map. An exhibit along with Table 10 and associated notes from the Airport Land Use Plan shall be recorded against each parcel within the subdivision.
15. All development projects on all lots created by a subdivision will require constructive notice also known as a Disclosure Document to be recorded on each parcel notifying future property owners that each parcel will need to be developed in accordance with the Airport Land Use Plan and meet all requirements set by the ALUC.

The maximum non-residential density allowed per acre on each parcel shall conform to the recommended densities of the APLUP. A Disclosure Document will ensure that all owners, potential purchasers, occupants (whether as owners or renters) receive full and accurate disclosure concerning the noise, safety, or overflight impacts associated with airport operations prior to entering any contractual obligation to purchase, lease, rent, or otherwise occupy any property or properties within the airport area.

16. Avigation easements shall be recorded for all properties created by any associated subdivision of the subject parcel. If no subdivision takes place any future development will be required to obtain and record the appropriate avigation easements.
17. Uses listed as noise sensitive uses by the ALUP will be prohibited.

Engineering Site Specific Conditions

18. Dry Creek Road shall be constructed in accordance with the typical cross-section shown on the Tentative Map with a center median and one lane in each direction, within the boundaries of the subdivision in accordance with plans approved by the City Engineer.

19. A temporary extension of Dry Creek Road must be completed in accordance with plans approved by the City Engineer in the remainder parcel from the west boundary of Phase I to tie to the existing alignment of Dry Creek Road in order to maintain access to properties to the west. The alternate Dry Creek Road section shown on the tentative tract map will be appropriate for this section of roadway.
20. Airport Road must be improved to provide a left turn pocket for access to Dry Creek Road in accordance with plans approved by the City Engineer.
21. With each building permit, each development within Tract 2772 will provide its share of the cost of the dual left turn project at the intersection of Highways 101 and 46 East.
22. With each building permit, each development within Tract 2772 will provide its share of the cost of improvements to Airport Road from Dry Creek Road to Highway 46 E.
23. With each building permit, each development within Tract 2772 will provide its share of the cost on intersection improvements at Airport Road and Highway 46 East.
24. Constructive notice shall be filed on the Remainder Parcel that consideration of access to properties to the south must be included in any development application.
25. A sewer main shall be extended from the Airport trunk line to the east boundary of Tract 2772 generally in accordance with the master plan of the Dry Creek Road sewer main on file in the City Public Works Department and in accordance with plans approved by the City Engineer.
26. A storm water quality and erosion control basin shall be designed and constructed to serve Tract 2772 in accordance with plans approved by the City Engineer to collect all dry season run-off from landscape irrigation in parkways and the developed lots.
27. A parkway and median planting master plan shall be provided with improvement plans for Tract 2772. All irrigation and related infrastructure shall be placed with the construction of improvements in Tract 2772. Landscape planting shall be installed with the development of each lot.

Emergency Services Conditions

28. Provide fire sprinkler systems for residential, commercial, and industrial buildings.
29. Provide secondary emergency vehicle access sufficient to support the City's fire apparatus (HS-20 Truck Loading). Secondary vehicle access to be at least twenty (20) feet wide with no less than thirteen feet, six inches vertical clearance. All secondary emergency vehicle access surfaces shall provide all weather driving capabilities and conform to the requirements of City Zoning Codes.

30. Prior to the start of construction, documentation shall be submitted to Emergency Services showing that required fire flows can be provided to meet all project demands.

PASSED AND ADOPTED THIS 10th day of October, 2006 by the following Roll Call Vote:

AYES: Johnson, Steinbeck, Holstine, Flynn, Withers, Hamon

NOES: None

ABSENT: Menath

ABSTAIN: None

CHAIRMAN, JOHN HAMON

ATTEST:

RON WHISENAND, SECRETARY OF THE PLANNING COMMISSION

H:\darren\PD\Mondo\Tract Map Reso

RESOLUTION NO. 06-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
DENYING AN APPEAL OF PLANNING COMMISSION APPROVAL OF
TENTATIVE TRACT 2772
(OWNER: MONDO; APPELLANT: ERSKINE)

WHEREAS, Tentative Tract 2772, located at the southwest corner of Airport and Dry Creek Roads, was approved by Planning Commission Resolution No. 06-085 on October 10, 2006; and

WHEREAS, the Planning Commission found Tentative Tract 2772 to be consistent with the City's General Plan and development regulations. The subdivision was approved subject to various conditions of approval; and

WHEREAS, in a letter dated October 25, 2006, the appellant, Tom Erskine, cited concerns with traffic safety and with the use of private streets as related to access to his adjoining property; and

WHEREAS, the City Council finds that Tentative Tract 2772 is consistent with the City's General Plan and development regulations and that the conditions of approval as adopted in Planning Commission Resolution No. 06-0085 adequately address the appellant's concerns.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of El Paso de Robles does hereby deny the appeal and does uphold the Planning Commission approval of Tentative Tract 2772, subject to the conditions outlined in Planning Commission Resolution No. 06-0085.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 5th day of December, 2006 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah D. Robinson, Deputy City Clerk

RESOLUTION NO. 06-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
APPROVING AN APPEAL AND AMENDING PLANNING COMMISSION APPROVAL OF
TENTATIVE TRACT 2772
(OWNER: MONDO; APPELLANT: ERSKINE)

WHEREAS, Tentative Tract 2772, located at the southwest corner of Airport and Dry Creek Roads, was approved by Planning Commission Resolution No. 06-0085 on October 10, 2006; and

WHEREAS, the Planning Commission found Tentative Tract 2772 to be consistent with the City's General Plan and development regulations. The subdivision was approved subject to various conditions of approval; and

WHEREAS, in a letter dated October 25, 2006, the appellant, Tom Erskine, cited concerns with traffic safety and with the use of private streets as related to access to his adjoining property; and

WHEREAS, the City Council finds that the conditions of approval as adopted in Planning Commission Resolution No. 06-0085 do not adequately address the appellant's concerns regarding access to his property.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of El Paso de Robles does hereby uphold the appeal and amends the Planning Commission approval of Tentative Tract 2772, subject to the following:

SECTION 1: All conditions as outlined in Planning Commission Resolution No. 06-0085 with the exception of Condition No. 24 regarding access to the adjacent property shall remain in effect, and

SECTION 2: "C" Street as indicated on the tentative tract map shall be a public street and shall be dedicated and constructed in accordance with City Standard A-4. The public street right-of-way shall be extended through the remainder property to provide public access to the adjacent property to the south.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 5th day of December, 2006 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah D. Robinson, Deputy City Clerk