

RESOLUTION NO.: 04-043  
A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF EL PASO DE ROBLES  
TO APPROVE PLANNED DEVELOPMENT 00-023  
(Ravine Water Park)

APN: 025-431-023

WHEREAS, Planned Development PD 00-023, the Ravine Waterpark has been filed by Brett Butterfield, John Pehl, and J. Walsh, for the development of a water park / amusement park situated on a 15 acre parcel located on the northwest corner of Highway 46 East and Airport Road, and

WHEREAS, the site is zoned C2,PD, according to Table 21.16.200 of the Zoning Code, amusement parks are permitted in the C2 zone subject to the approval of a Conditional Use Permit, and

WHEREAS, in conjunction with PD 00-023, the applicants have submitted an application for Conditional Use Permit 00-020, and

WHEREAS, this items is a continued open public hearing from the Planning Commission meeting on March 23, 2004, and

WHEREAS, a public hearing was conducted by the Planning Commission on April 13, 2004, to consider facts as presented in the staff report prepared for this project, and to accept public testimony regarding this proposed development plan, and

WHEREAS, a resolution was adopted by the Planning Commission approved a Mitigated Negative Declaration status for this project, and a Mitigated Negative Declaration was prepared for the proposed Planned Development application in accordance with the California Environmental Quality Act, and

WHEREAS, based upon the facts and analysis presented in the staff reports, public testimony received and subject to the conditions of approval listed below, the Planning Commission makes the following findings:

1. The proposed Planned Development is consistent with the purpose, intent and regulations set forth in Chapter 21.16A (Planned Development Overlay District Regulations) as follows:
  - a. The granting of this permit will not adversely affect the policies, spirit and intent on the general plan, applicable specific plans, the zoning code, policies and plans of the City;

- b. The proposed Ravine project is designed to be sensitive to, and blend in with, the character of the site and surrounding area;
- c. The proposed Ravine project's design and density of developed portion of the site is compatible with surrounding development and does not create a disharmonious or disruptive element to the surrounding area;
- d. The Ravine development would be consistent with the purpose and intent of this chapter and would not be contrary to the public health, safety and welfare;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of El Paso de Robles, does hereby approve Planned Development 00-023 subject to the following conditions:

STANDARD CONDITIONS:

- 1. The applicant shall comply with all those conditions which are indicated on "Exhibit A" to this Resolution.
- 2. 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	Title Sheet
C	Perspective Views
D	Site Plan
E	Preliminary Landscape Plan
F	Entry Building/Office – Exterior Elevations
G	Multi-use Building – Exterior Elevations
H	Restrooms – Exterior Elevations
I	Waterslide – Plan & Front Elevation
J	Grading and Drainage Plan
K	Site Cross Sections
L	Sewer Improvement Plan

\* Large Scale plans on file in the Community Development Department.

- 3. Any site specific condition imposed by the Planning Commission in approving this project may be modified or eliminated, or new conditions may be added, provided that the Planning Commission shall first conduct a public hearing in the same manner as required for the approval of this project. No such modification shall be made unless the Commission finds that such modification is necessary to protect the public interest and/or neighboring properties, or, in the case of deletion of an existing condition, that such action is necessary to permit reasonable operation and use for this approval.

**COMMUNITY DEVELOPMENT SITE SPECIFIC CONDITIONS:**

4. The approval of Planned Development PD 00-023 in conjunction with Conditional Use Permit 00-020 would allow the construction of a Water Park / Amusement Park on the 9 acre portion of the 15 acre parcel as shown in the above listed Exhibits B-I. The Ravine Water Park will consist of the following activities:
  - a. Four approximately 250-foot long “flume” slides
  - b. Approximate 700-foot “lazy river”
  - c. 8,000 square foot “kiddie pool”
  - d. Speed Slide
  - e. Batting Cages
  - f. 800-foot long Go-Kart track for gasoline powered go-karts
  - g. Open Space and Picnic Areas
  - h. Permanent Concession Stands
  - i. Concession trailer
5. Future signs shall be submitted to the Development Review Committee for review and approval.
6. The light fixtures shall be designed to be fully shielded and subject to planning staff review prior to issuance of construction permits.
7. Any equipment that makes continuous noise such as air compressors, shall be either located inside the building, or enclosed. The enclosure shall be compatible with colors and materials of main building.
8. Any roof mounted equipment shall be located behind the parapet of the building and not be seen from public views.
9. Prior to the issuance of a grading permit or any construction permits a final site plan shall be submitted for review by the DRC indicating how the project can be designed around the Airport Road offer of dedication area. The area may be used for parking and landscaping, as determined to be adequate by the City Attorney. No buildings are permitted within the offer of dedication area.
10. Prior to the issuance of a Building Permit, the final landscape and irrigation plans for the site shall be reviewed by the Development Review Committee and include the following:

- a. Site Landscaping
- b. Location and screening for transformers, PG&E vaults and any other equipment
- c. Detention basin
- d. Plans also need to include any details for site fencing.
- e. Any Oak Tree Mitigation
- f. Parking Lot Landscaping
- g. Entry Details/Landscaping

### **AIR POLLUTION CONTROL DISTRICT CONDITIONS**

11. The SLO County Air Pollution Control District (APCD) reviewed the Ravine project and requested that the following measures be added as conditions of approval for the project:

AQ-1 Naturally Occurring Asbestos: If during construction or grading naturally occurring asbestos is found at the site the applicant must comply with all requirements outlined in the Asbestos ATCM for Construction, Grading, Quarrying and Surface Mining Operations. These requirements may include but are not limited to:

- a. an Asbestos Dust Mitigation Plan which must be approved by the District before construction begins;
- b. an Asbestos Health and Safety Program will also be required for some projects.

AQ-2 Fugitive Dust Emissions: The project will exceed the APCD mitigation threshold for grading of 9.0 acres of continuously worked area. In order to minimize offsite dust transport and potential nuisance impacts, it will be essential that this project closely manage fugitive dust as defined by the APCD Dust Mitigation Measures is attached to this initial study.

AQ-3 Operation Phase Mitigation: By including the following mitigation measures into the project, the District will consider the operational impacts to be less than significant:

Site Design Measures:

- a. Provide bike parking at a ratio of one bike parking space for every 10 employee automobile spaces.
- b. Provide on-site eating, refrigeration, and food vending facilities to reduce lunch time trips.
- c. Increase trees in the parking lot landscaping to provide shade, reducing surface temperatures.

- d. Provide shower and locker facilities to encourage employees to bike and/or walk to work, typically one shower and three lockers for every 25 employees;
- e. If the project is located on an established transit route, establish a transit stop or if one is already present, make improvements to the stop, such as providing direct pedestrian access between the public transit stop and the project.
- f. Increase street tree planting and shade tree planting in parking lots.

Energy Efficiency Measures:

- g. Increase building energy efficiency by 10-percent above Title 24 requirements. This can be accomplished in number of ways (increasing attic, wall or floor insulation, etc.)
- h. Shade tree planting along southern exposures of buildings to reduce summer cooling needs.
- i. Use built-in energy efficient appliances, where applicable.
- j. Use double paned windows.
- k. Use low energy parking lot and street lights (i.e. sodium).
- l. Use energy efficient interior lighting.
- m. Install high efficiency or gas space heating.

**BIOLOGICAL CONDITIONS (KIT FOX MITIGATION)**

12. San Joaquin Kit Fox/Habitat Preservation:

KF-1 Prior to the issuance of permits for grading/construction of the Ravine Waterpark, the applicant shall provide for habitat preservation, in a form acceptable to the CA Fish & Game Department, in an amount equal to nine acres of habitat, or fraction thereof, for each acre of development, or fraction thereof. The applicant shall have the ability to enter into an agreement with CA Fish & Game Department for payment of an in-lieu fee of \$2500 per acre to The Nature Conservancy for a total replacement habitat of 18 acres based on the score from the Kit Fox Evaluation Form and Procedure and the CA Fish & Game replacement of 2-acres for each of the 9-acres lost.

KF-2 San Joaquin Kit Fox Protective Measures Before and During Construction:

- a: Within 30 days prior to initiation of construction, the applicant shall hire a qualified biologist acceptable to the U.S. Fish and Wildlife Service, CA Fish & Game Department, and the Community Development Director or his designee, to conduct a pre-construction survey for active kit fox dens
- b: Before any grading or construction activities for the Ravine Waterpark commence, all personnel associated with the project shall attend a worker education program regarding the sensitive biological resources potentially occurring in the project area (i.e., San Joaquin kit fox). This program is to include information on the kit fox, its life histories and careful review of the

mitigation measures to be implemented in order to avoid or reduce impacts. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction of the project. The Community Development Department shall be notified of the time that the applicant intends to hold this meeting.

- c:** To prevent entrapment of the kit fox during the construction phase of the project, 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.
- d:** During the construction phase, any pipes, culverts, or similar structures with a diameter of four inches or greater that are stored at the project site for one or more overnight periods 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 will be moved only once to remove it from the path of activity, until the kit fox has escaped.
- e:** All food-related trash items such as wrappers, cans, bottles, and food scraps generated during the construction phase shall be disposed of in closed containers only and regularly removed from the site. Food items may attract 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.
- f:** Use of pesticides shall be in compliance with all local, state and federal regulations. (This is necessary to prevent primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which kit foxes depend.)
- g:** Any contractor or employee that inadvertently kills or injures a kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to a supervisor overseeing the project. In the event that such observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the CA Fish & Game Department by telephone. Formal notification shall also 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 CA Fish & Game Department for care, analysis, or disposition.

- h:** So as not to attract red fox, coyotes, or domestic dogs to the area, all waste products shall be disposed of in a manner that would not attract these animals.
- i:** If any potential or known San Joaquin kit fox dens are subsequently observed during the required pre-construction survey, the following mitigation measures shall apply:
  - (i) Fenced exclusion zones shall be established by a qualified biologist around all kit fox dens that can be avoided but may be inadvertently impacted by project activities; 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:
    - Potential kit fox den: 50 feet
    - Known kit fox den: 100 feet
    - Kit fox pupping den: 150 feet
  - (ii) Only essential vehicle operation on existing roads (if the exclusion zone intersects a road) and simple foot traffic shall be permitted within these exclusion zones. Otherwise, all project activities such as vehicle operation, materials storage, etc., shall be prohibited. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed. If specified exclusion zones cannot be observed for any reason, the U.S. Fish and Wildlife Service and CA Fish & Game Department shall be contacted for guidance prior to ground disturbing activities on or near the subject den or burrow.
  - (iii) If any known or potential San Joaquin kit fox dens are discovered within the designated project area which shall be unavoidably destroyed by the proposed project, excavation of kit fox dens shall not proceed without authorization from the U.S. Fish and Wildlife Service and CA Fish & Game Department. A copy of any such authorization received shall be provided to the City for its records.

KF-3 The following mitigation measures are required as stated in the Biological Assessment by Althouse and Meade, Inc. dated November 2000:

Mitigation for impacts to San Joaquin kit fox habitat may include:

- a. Plant valley oaks (*Quercus lobata*) and cottonwood (*Populus fremontii*) along the east bank of the Huerhuero Creek in a band approximately 50-feet wide from the Highway 46 road bank north along the top of the bank for approximately 400-feet. Trees should be planted approximately 20-feet on center with cottonwoods closer to the edge of the bank than the oaks. Plantings do not need to extend further north where the steep bank approaches the sand bottom of the creek. Blue Oaks, willows and cottonwoods are not found along this bank.
- b. Hours of operation should be limited to allow 6-hours of quiet during the night. This should be a period of non-activity on the site and reduced lighting.
- c. Impacts to valley oak trees, valley oak woodland, and Fremont cottonwood riparian communities will be mitigated by the following recommended actions:

Plant both valley oak and Fremont cottonwood trees on the project site as part of the landscape plan, and plant valley oak and Fremont cottonwood trees on the east side of the Huerhuero Creek in flat flood plain locations along the top of bank.

### **BIOLOGICAL (OAK TREE MITIGATION)**

13. The following mitigation measures are related to the preservation of the existing oak trees on the Ravine project site:

- OAK-1     Damage: In the event that any damage happens to any oak tree during the construction or operation phases of the project, such damage shall be reported to the Planning or Engineering Divisions of the City of Paso Robles
- OAK-2     Construction waste & equipment storage: Any petroleum, chemicals, construction materials and equipment shall not be stored under the drip-line of any Oak trees. No paint thinner, paint, plaster or other liquid or solid excess or waste construction material or wastewater shall be dumped on the ground or into any grate between the drip-line and the base of the oak trees. Or uphill from any oak tree where such substance might reach the roots through a leaching process.
- OAK-3     Attachments: Wire, signs, nails and other similar attachments shall not be used on any oak trees.
- OAK-4     Protection Fencing: Tree protection fencing shall be installed at the critical root zone to prevent compaction and injury to any tree surface roots.



- OAK-5 Root Exposure: Where cuts are made in the ground near the roots of any oak tree, appropriate measures shall be taken to prevent exposed roots and soil from drying out and causing damage thereto, all cuts within the drip-line of all oak trees are to be made by hand and with sharp tools and be overseen by the project Arborist.
- OAK-6 Maintenance of oak trees: shall comply with the provisions of the City's Oak Tree Preservation Ordinance No. 835 N.S.
- OAK-7 The following additional conditions shall apply as stated in the supplemental tree protection report # 2 by Steve Alvarez on December 11, 2003:
- a. Note No. 1, trees 17-27 "no grading or fill dirt."
  - b. Note No. 2, tree 14 "no grading within oak tree canopy."
  - c. Note No. 3, trees 12&13 "use of raised pier system no grading within canopy."
  - d. Note No. 4, trees 1,2,7,8,9 "no grading within tree canopy."
  - e. Note No. 5, trees 10 & 11 "permeable paving system in oak canopy, no grading." Please note that the North West side of the trees drip lines has an old access service road, the developers have planned to use the existing road for a walkway this accounts for 55-percent drip-line impact on the initial tree protection plan spread sheet. The old service road has not impacted the oak trees to date. Therefore it is the Arborist's opinion that the proposed permeable paving system within the drip-line will not negatively impact the oak trees.
  - f. Note No.6, maintains that the cut/fill and impermeable surfaces shall be outside of the oak tree canopies.
- OAK-8 Prior to the final approval of the septic leach field plan, the Arborist shall review the plan and determine that location of leach fields and any plumbing related shall be fields do not significantly impact the oak trees.

### **ENGINEERING SITE SPECIFIC CONDITIONS**

#### Notice of Violation of Grading Ordinance

The applicants are currently in violation of our grading ordinance. They have complied with all items requested in my letter to them, dated 1-23-04. In the process of compliance with the issues brought forth in my letter, they have demonstrated that they have disturbed in excess of 70,000 square feet. Planning Commission approval is required for any grading in excess of 20,000 square feet. Therefore, in order to resolve the violation, the Planning Commission will have to acknowledge their acceptance of the grading that has been completed to date.

#### Conditions of Approval of Permits to Resume Grading

Resolution of the grading violation does not permit the applicants to resume grading on the property. In order to proceed with additional grading on the property the applicants must submit plans and an application for a grading permit. Prior to issuance of that permit the following conditions of approval must be addressed. These are in addition to conditions of approval for grading that are listed in other areas of this resolution.

14. Prior to issuance of grading permits for the Ravine Waterpark, the applicant shall enter into an agreement not to protest the formation of an assessment district to participate in the future realignment of Airport Road and improvement of its intersection with State Highway 46, and enter into an agreement in a form to be approved by the City Attorney to participate in the cost of a Project Study Report and related environmental documentation and studies.
15. Prior to issuance of grading permits for the Ravine Waterpark, the applicant shall enter into a license agreement and retain an encroachment permit with the City to allow the applicant's use of the land within the Airport Road offer of dedication for parking. The agreement shall be subject to review and approval by the City Attorney. All buildings and other physical features other than parking and landscaping shall be located out of Airport Road offer of dedication area. If at some point in the future the City Council abandons the subject area of Airport Road offer of dedication the applicants may submit a plan to the City proposing development within the area.
16. Prior to occupancy, the applicant shall construct improvements to Airport Road, including a left turn pocket, in accordance with plans approved by the City Engineer. The main entrance to the site shall be located as approved by the City Engineer. The improvement plans shall include signs for "No Parking" on Airport Road along the frontage of the project.
17. Prior to occupancy, the project shall include storm water retention basins for the purposes of improving the quality of storm water discharging into the Huerhuero.
18. Prior to issuance of building permits, the applicants shall extend an 8-inch water main and place fire hydrants as necessary to provide fire protection as approved by the Director of Emergency Services.
19. The applicant shall enter into an agreement not to protest the formation of an assessment district to participate in the future extension of sanitary sewer to the area.
20. Prior to issuance of a building permit for any structures or installation of any equipment on the subject property, the applicant shall submit all plans and specifications applicable to equipment or structures proposed to be installed to the Building Official for review of all adopted codes by the City of Paso Robles.
21. Prior to the issuance of a Building Permit, the applicants shall provide the City with a letter from the Regional Water Quality Control Board, acknowledging that all necessary

permits have been issued or that the necessary information has been provided, and that the Board acknowledges that construction of the Ravine project can commence.

PASSED AND ADOPTED THIS 13<sup>th</sup> day of April 2004, by the following Roll Call Vote:

AYES: Mattke, Steinbeck, Flynn, Johnson, Ferravanti, Hamon

NOES: None

ABSENT: Kemper

ABSTAIN: None

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CHAIRMAN TOM FLYNN

ATTEST:

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ROBERT A. LATA, PLANNING COMMISSION SECRETARY

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