

RESOLUTION NO.: 05-0036

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PASO ROBLES
ADOPTING MITIGATED NEGATIVE DECLARATION FOR
PLANNED DEVELOPMENT 05-001, NORTHEAST CORNER OF HWY. 46 AND AIRPORT ROAD
APN 025-433-003**

APPLICANT – ADAM FIRESTONE

WHEREAS, Planned Development 05-001 has been filed by Adam Firestone; and

WHEREAS, Planned Development 05-0001 is a proposal to construct a 10,000 s.f. winery and visitors center; and

WHEREAS, the project is consistent with the General Plan land use designation CS (Commercial Service) and the Zoning Ordinance district which is C2 PD (Highway Commercial); and

WHEREAS, pursuant to the Statutes and Guidelines of the California Environmental Quality Act (CEQA), and the City's Procedures for Implementing CEQA, an Initial Study and a Draft Mitigated Negative Declaration was prepared and circulated for public review and comment; and

WHEREAS, no public comments or responses were received in regard to the Draft Mitigated Negative Declaration and Initial Study; and

WHEREAS, Public Notice of the proposed Draft Mitigated Negative Declaration was posted as required by Section 21092 of the Public Resources Code; and

WHEREAS, a public hearing was conducted by the Planning Commission on April 26, 2005 to consider the Initial Study, the proposed Mitigated Negative Declaration prepared for the proposed project, and to accept public testimony on the Planned Development and environmental determination; and

WHEREAS, based on the information and analysis contained in the Initial Study prepared for this project and testimony received as a result of the public notice, the Planning Commission finds that there is no substantial evidence that there would be a significant impact on the environment as a result of the development and operation of the proposed project with mitigation measures incorporated as provided in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of El Paso de Robles, based on its independent judgment, that it does hereby adopt a Mitigated Negative Declaration for Planned

Development 05-001 in accordance with the Statutes and Guidelines of the California Environmental Quality Act (CEQA) and the City's Procedures for Implementing CEQA.

PASSED AND ADOPTED THIS 26th day of April, 2005, by the following roll call vote:

AYES: Commissioners – Flynn, Holstine, Mattke, Hamon, Johnson, Menath, and Chair Steinbeck
NOES: Commissioners – None
ABSENT: Commissioner –None
ABSTAIN: Commissioners – None



CHAIRMAN ED STEINBECK

ATTEST:



ROBERT A. LATA, PLANNING COMMISSION SECRETARY

Kit Fox Mitigation Measures

MM1 San Joaquin Kit Fox/Habitat Preservation:

Prior to the issuance of permits for grading/construction or prior to final inspection of any grading/construction permits, the applicant shall provide for habitat preservation, in a form acceptable to the CA Fish & Game Department, in an amount equal to three 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 an approved agency for a total replacement habitat of 1.35 acres based on the score from the Kit Fox Evaluation Form and Procedure and the CA Fish & Game replacement of 2-acres for each acre lost.

MM2 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 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.