

RESOLUTION NO. 03-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES  
UPHOLDING THE DECISION OF THE PLANNING COMMISSION TO APPROVE  
PLANNED DEVELOPMENT 02-004 AND CONDITIONAL USE PERMIT 02-007  
APN: 025-391-040 (DAVID KUDIJA)

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WHEREAS, Sections 21.23B.030 and 21.23B.040 of the Municipal Code of the City of El Paso de Robles allocates authority to the Planning Commission for approval of all development within a planned development (overlay) district, and to require both onsite and offsite improvements as necessary; and

WHEREAS, on March 11, 2003, the Planning Commission granted approval of PD 02-004 and CUP 02-007 for construction and establishment of a gas station, mini-mart and ancillary uses, located on the northwest corner of Golden Hill Road and Highway 46 East, subject to standard and site specific conditions of approval; and

WHEREAS, on March 25, 2003, David Kudija, filed an appeal of the Planning Commission's approval of the Amendment; and

WHEREAS, the appeal is of the approval for placement of landscaping within the southern 30 feet of a 60-foot wide, private access easement adjacent to the Highway 46 right of way, as provided for in Site Specific Conditions of Approval No.'s 6 and 7 as written in Planning Commission Resolution 03-021; and

WHEREAS, Site Specific Condition of Approval No. 6 is necessary to ensure that the Applicant and the Easement Holder reach an agreement or the Applicant enters into an indemnification and hold harmless agreement protecting the City against potential lawsuits and ensuring adequate landscaping is provided in the event of a court order to remove the landscaping from the easement area; and

WHEREAS, Site Specific Condition of Approval No. 7 is necessary to ensure that any agreement reached by the Applicant and the Easement Holder is subject to review by the Community Development Department and/or the City Attorney and that any revisions to the landscaping placement are reviewed and approved by the Development Review Committee; and

WHEREAS, the City Council conducted a public hearing on April 15, 2003, to open the matter of the appeal for public hearing and to consider the facts as presented in the staff report, and

WHEREAS, based upon the facts and analysis presented in the staff report and public testimony received, the City Council finds:

1. The decisions of the Planning Commission granting approval of Planned Development 02-004 and Conditional Use Permit 02-007 are consistent with the General Plan, the Municipal Code and the Borkey Area Specific Plan of the City of El Paso de Robles.
2. Project Design Standard SE-7 of the Borkey area Specific Plan requires a thirty (30) foot landscaped setback along the Highway 46 right of way.
3. All development proposed within Subarea E of the Borkey Area Specific Plan is subject to Project Design Standard SE-7, including the development of an access road. Hence, the 30 feet of landscaping would be required where the Planning Commission has required it, whether the property is developed by the property owner or the easement holder.

4. Site Specific Condition of Approval No. 6 as written in Planning Commission Resolution 03-021 is necessary to ensure that the Applicant and the Easement Holder reach an agreement or the Applicant enters into an indemnification and hold harmless agreement protecting the City against potential lawsuits and ensuring adequate landscaping is provided in the event of a court order to remove the landscaping from the easement area.
5. Site Specific Condition of Approval No. 7 as written in Planning Commission Resolution 03-021 is necessary to ensure that any agreement reached by the Applicant and the Easement Holder is subject to review by the Community Development Department and/or the City Attorney and that any revisions to the landscaping placement are reviewed and approved by the Development Review Committee.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of El Paso de Robles:

SECTION 1: The City Council hereby upholds the decisions of the Planning Commission granting approval to PD 02-004 and CUP 02-007 and affirms the necessity of Site Specific Conditions No. 6 and No. 7 as written in Planning Commission Resolution 03-021.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 15th day of April 2003 by the following vote:

AYES:	Finigan, Heggarty, Nemeth, Picanco and Mecham
NOES:	None
ABSTAIN:	None
ABSENT:	None

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Frank R. Mecham, Mayor

ATTEST:

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Sharilyn M. Ryan, Deputy City Clerk