



CITY OF ATASCADERO PLANNING COMMISSION AGENDA

**REGULAR MEETING
Tuesday, March 7, 2023
6:00 P.M.**

**City Hall Council Chambers
6500 Palma Avenue, 4th Floor
Atascadero, California 93422**

CALL TO ORDER

Pledge of Allegiance

OATHS OF OFFICE Administration of Oath of Offices to returning Planning Commissioners Jeff Van den Eikhof, Tori Keen, Jason Anderson, Victoria Carranza, Greg Heath, Randy Hughes, and Dennis Schmidt by the City Clerk's Office.

ROLL CALL: Chairperson Jeff van den Eikhof
Vice Chairperson Tori Keen
Commissioner Jason Anderson
Commissioner Victoria Carranza
Commissioner Greg Heath
Commissioner Randy Hughes
Commissioner Dennis Schmidt

APPROVAL OF AGENDA

PUBLIC COMMENT (This portion of the meeting is reserved for persons wishing to address the Commission on any matter not on this agenda and over which the Commission has jurisdiction. Speakers are limited to three minutes. Please state your name for the record before making your presentation. The Commission may take action to direct the staff to place a matter of business on a future agenda.)

CONSENT CALENDAR (All items on the consent calendar are considered to be routine and non-controversial by City staff and will be approved by one motion if no member of the Commission or public wishes to comment or ask questions.)

1. APPROVAL OF THE DRAFT MINUTES OF FEBRUARY 21, 2023

- **Recommendation:** Commission approve the February 21, 2023 Minutes.

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PLANNING COMMISSION BUSINESS

COMMUNITY DEVELOPMENT STAFF REPORTS

2. ROAD ABANDONMENT FOR CONEJO ROAD ADJACENT TO 2470/2500 EL CAMINO REAL

- Recommendation: Commission recommend that the City Council summarily vacate an undeveloped portion of Conejo Road subject to findings.

PUBLIC HEARINGS

None

COMMISSIONER COMMENTS AND REPORTS

DIRECTOR'S REPORT

ADJOURNMENT

The next regular meeting will be held on March 21, 2023 at 6:00 p.m. at City Hall, Council Chambers, 6500 Palma Ave, Atascadero, CA.

Please note: Should anyone challenge in court any proposed development entitlement listed on this Agenda, that person may be limited to raising those issues addressed at the public hearing described in this notice or in written correspondence delivered to the Planning Commission at, or prior to, this public hearing.

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*City of Atascadero***WELCOME TO THE ATASCADERO PLANNING COMMISSION MEETING**

The Planning Commission meets in regular session on the first and third Tuesday of each month at 6:00 p.m. at City Hall, Council Chambers, 6500 Palma Avenue, Atascadero. Matters are considered by the Commission in the order of the printed Agenda.

Copies of the staff reports or other documentation relating to each item of business referred to on the Agenda are on file in the office of the Community Development Department and are available for public inspection during City Hall business hours at the Front Counter of City Hall, 6500 Palma Avenue, Atascadero, and on our website, www.atascadero.org. All documents submitted by the public during Commission meetings that are either read into the record or referred to in their statement will be noted in the minutes and available for review in the Community Development Department. Commission meetings are audio recorded, and may be reviewed by the public. Copies of meeting recordings are available for a fee. Contact the City Clerk for more information at (805) 470-3400.

In compliance with the Americans with Disabilities Act, **if you need special assistance to participate in a City meeting or other services offered by this City**, please contact the City Manager's Office or the City Clerk's Office, both at (805) 470-3400. Notification at least 48 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

TO SPEAK ON SUBJECTS NOT LISTED ON THE AGENDA

Under Agenda item, "PUBLIC COMMENT", the Chairperson will call for anyone from the audience having business with the Commission to approach the lectern and be recognized.

1. Give your name for the record (not required).
2. State the nature of your business.
3. All comments are limited to 3 minutes.
4. All comments should be made to the Chairperson and Commission.
5. No person shall be permitted to make slanderous, profane or negative personal remarks concerning any other individual, absent or present.

This is when items not on the Agenda may be brought to the Commission's attention. A maximum of 30 minutes will be allowed for Public Comment Portion (unless changed by the Commission).

TO SPEAK ON AGENDA ITEMS (from Title 2, Chapter 1 of the Atascadero Municipal Code)

Members of the audience may speak on any item on the agenda. The Chairperson will identify the subject, staff will give their report, and the Commission will ask questions of staff. The Chairperson will announce when the public comment period is open and will request anyone interested to address the Commission regarding the matter being considered to step up to the lectern. If you wish to speak for, against or comment in any way:

1. You must approach the lectern and be recognized by the Chairperson.
2. Give your name (not required).
3. Make your statement.
4. All comments should be made to the Chairperson and Commission.
5. No person shall be permitted to make slanderous, profane or negative personal remarks concerning any other individual, absent or present.
6. All comments limited to 3 minutes.

If you wish to use a computer presentation to support your comments, you must notify the Community Development Department at (805) 461-5035 at least 24 hours prior to the meeting. Digital presentations brought to the meeting should be on a USB drive or CD. You are required to submit to the Recording Secretary a printed copy of your presentation for the record. Please check in with the Recording Secretary before the meeting begins to announce your presence and turn in the printed copy.

The Chairperson will announce when the public comment period is closed, and thereafter, no further public comments will be heard by the Commission.

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CITY OF ATASCADERO PLANNING COMMISSION

DRAFT MINUTES

Regular Meeting – Tuesday, February 21, 2023 – 6:00 P.M.
City Hall (Teleconference)
6500 Palma Avenue, Atascadero, California

CALL TO ORDER - 6:00 p.m.

Chairperson van den Eikhof called the meeting to order at 6:00 p.m. and Commissioner Schmidt led the Pledge of Allegiance.

ROLL CALL

Present: **By Teleconference** – Commissioners Anderson, Heath, Hughes, Schmidt, and Vice Chairperson Keen and Chairperson van den Eikhof

Absent: Commissioner Carranza (excused absence)

Vacant: None

Others Present: **By Teleconference** –
Annette Manier, Recording Secretary

Staff Present: **By Teleconference** –
Community Development Director, Phil Dunsmore
Senior Planner, Kelly Gleason
Associate Planner, Mariah Gasch

APPROVAL OF AGENDA

MOTION: **By Commissioner Anderson and seconded by Commissioner Hughes to approve the Agenda.**

Motion passed 5:0 by a roll-call vote.

(Carranza absent) (Vice Chairperson Keen abstained) Keen could not participate in the vote due to technical difficulties.

PUBLIC COMMENT

None.

Chairperson van den Eikhof closed the Public Comment period.

CONSENT CALENDAR**1. APPROVAL OF THE DRAFT MINUTES OF FEBRUARY 7, 2023**

- Recommendation: Commission approve the February 7, 2023 Minutes.

MOTION: By Commissioner Heath and seconded by Commissioner Hughes to approve the Consent Calendar.

*Motion passed 6:0 by a roll-call vote.
(Carranza absent)*

PLANNING COMMISSION BUSINESS**PLANNING COMMISSION REORGANIZATION:****A. Election of Chairperson and Vice Chairperson**

The Commission will select a Chairperson and Vice Chairperson.

Chairperson van den Eikhof accepted nominations for Chairperson.

MOTION: By Commissioner Hughes and seconded by Commissioner Heath to nominate Chairperson van den Eikhof as Chairperson. Chairperson van den Eikhof accepted the nomination.
(Carranza absent)

Chairperson van den Eikhof accepted nominations for Vice Chairperson.

MOTION: By Commissioner Schmidt and seconded by Commissioner Heath to nominate Vice Chairperson Keen as Vice Chairperson. Vice Chairperson Keen accepted the nomination.

*Motions passed 6:0 by a roll-call vote.
(Carranza absent)*

COMMUNITY DEVELOPMENT STAFF REPORTS

None.

PUBLIC HEARINGS**2. 10850 LLC VESTING TENTATIVE TRACT MAP FOR 10850 EL CAMINO REAL (CONTINUED FROM 2/7/23)**

The 10850 El Camino Real project was originally submitted and approved in 2017 establishing a Planned Development Overlay Zone (#34) on the site. The original Tentative Tract Map expired in 2019. The applicant applied to revive the original Tract Map in 2020. However, in 2022, the applicant modified their map to include 43 condominiums units. This alteration to the map necessitates approval of a new Tentative Tract Map. (SBDV22-0085)

Recommendation: Staff's recommendation is for the Planning Commission adopt draft PC Resolution, approving Vesting Tentative Tract Map (TR 3187), approving a 31-lot subdivision and 43-residential airspace condominium units on resulting Lot 31 based on findings and subject to conditions of approval.

EX PARTE COMMUNICATIONS

None

Director Dunsmore announced that he had a discussion with the team in regards to the project. There is a claim on this project with the City. Director Dunsmore asked the Commission to focus solely on the map. Planner Gasch gave the staff report and shared the updated conditions of approval. Staff answered questions from the Commission.

PUBLIC COMMENT

The following members of the public spoke: John Carnesale (developer), and John Belsher (Belsher Law, PC).

Chairperson van den Eikhof closed the Public Comment period.

MOTION: By Commissioner Schmidt and seconded by Commissioner Hughes to adopt draft PC Resolution, approving Vesting Tentative Tract Map (TR3187), approving a 31-lot subdivision and 43-residential airspace condominium units on resulting Lot 31 based on findings and subject to conditions of approval as presented tonight.

***Motion passed 6:0 by a roll-call vote.
(Carranza absent)***

COMMISSIONER COMMENTS AND REPORTS

Vice Chairperson Keen stated that the new Taco Bell is now open.

Commissioner Hughes stated that he appreciates the leadership from the Chair and Vice Chair during this process.

DIRECTOR'S REPORT

Director Dunsmore stated that this is our last virtual hearing, and there will be a presentation soon on the General Plan Update.

Director Dunsmore stated that all ten Open House workshops are completed for the Downtown Enhancement Plan.

ADJOURNMENT – 6:35 p.m.

The next regular meeting is scheduled for March 7, 2023, at City Hall, 6500 Palma Avenue, Atascadero.

MINUTES PREPARED BY:

Annette Manier, Recording Secretary
Administrative Assistant



Atascadero Planning Commission

Staff Report - Public Works Department

Road Abandonment to Summarily Vacate an Undeveloped Portion of Conejo Road Right-of-Way

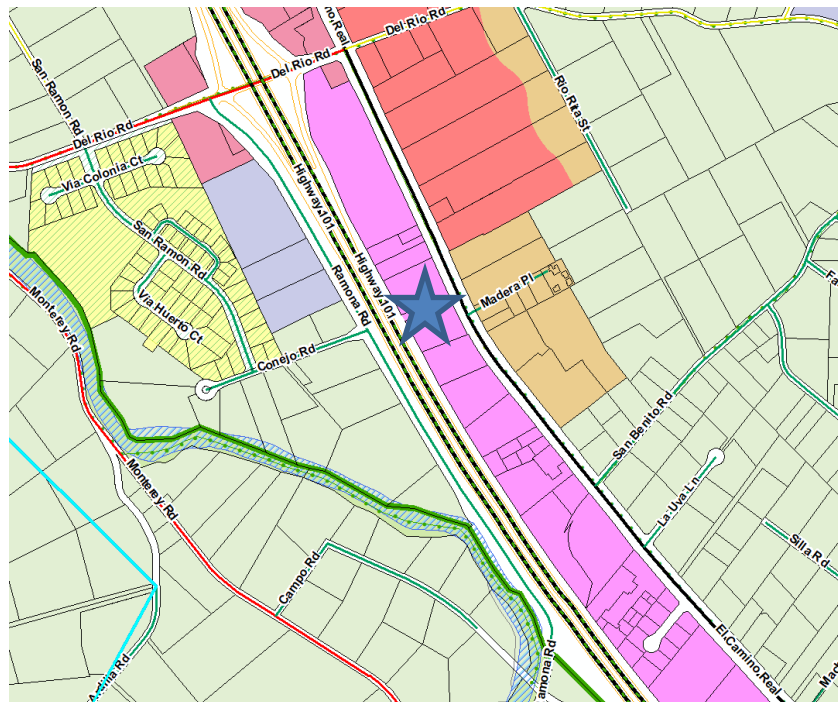
RECOMMENDATION:

Planning Commission adopt Draft Resolution recommending the City Council make findings to summarily vacate an unconstructed portion of right-of-way of Conejo Road based on findings consistent with the State of California Streets and Highways Code and the City's General Plan.

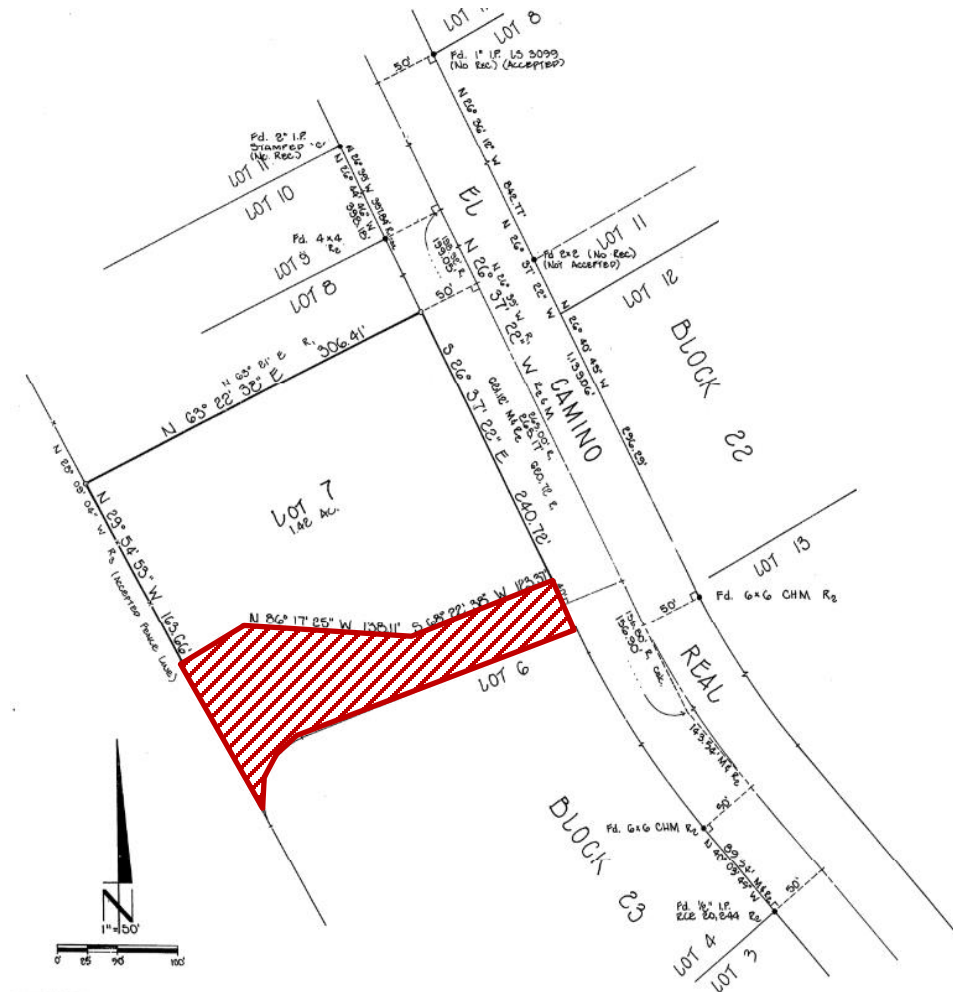
DISCUSSION:

Background

The City, in conjunction with adjacent property owners, has initiated a request to vacate an unconstructed portion of Conejo Road right-of-way between El Camino Real and Highway 101. The portion of right-of-way borders 2500 El Camino Real (Bay Laurel Nursery) and 2470 El Camino Real (approved Edge Development). A vicinity map of this site is shown below.



The abandonment includes the 40-foot wide Conejo Road right-of-way and a supplemental area acquired by Caltrans during construction of the freeway for equipment staging. Conejo Road is an original Colony right-of-way that was bisected by construction of the freeway in the 1950's. The easement area is currently used as a private driveway for the adjacent Bay Laurel Nursery and is not constructed as a City standard road or intended for public use. The portion proposed to be abandoned is shown below in the hatched areas.



There are no properties that require the use of this right-of-way for access, nor does the City plan to utilize this portion of right-of-way for roadway purposes. Bay Laurel and the adjacent undeveloped property retain access rights from El Camino Real, although the abandonment is also conditioned to provide a private access easement over the existing Conejo Road ROW area to allow for driveway consolidation. No public utilities are currently located within the right-of-way however a PUE will be retained over the Conejo Road ROW area for future utility use. PG&E does intend to use this area in the near future to serve development along El Camino Real in the vicinity of the site. Atascadero Mutual Water Company was contacted and has no objection to the abandonment. Furthermore, the Fire Department has no objection to the right-of-way abandonment and does not consider this right-of-way to be necessary for current or future evacuation needs.

History

The Conejo Road right-of-way was assumed to be abandoned based on a City resolution for abandonment filed in 1981. However, while the County showed the right-of-way as abandoned on the assessment record, title documents continued to list documents that called into question whether the abandonment had been duly processed. City staff has worked with the County Public Works and Assessors office in addition to City and County Counsel to determine the appropriate path forward. Based on the ambiguity of the right-of-way status, the City is reinitiating the abandonment process.

Conejo Road is an original Colony road that continues on the westside of the City. To facilitate construction of the highway in the 1950's, Caltrans acquired rights to the unbuilt portion of Conejo Road in addition to a portion of Lot 7 (Edge development parcel) for construction staging. In 1962, the County entered into a freeway agreement with the State, in which it agreed to accept title, as well as the maintenance obligation, over the relocated and reconstructed roads upon relinquishment. In 1967, the State relinquished the Conejo Road right-of-way and supplemental piece on Lot 7 to the County under Streets and Highways Code section 73. At that time, Section 73 provided that upon recordation of the resolution of relinquishment, "all right, title, and interest of the State in and to such portion of any state highway shall vest in the county and such highway or portion thereof shall thereupon constitute a county road...." Accordingly, this right-of-way, in its entirety, became a county road in 1967.

In 1979, the City of Atascadero incorporated. At that time, all county highways within the City's jurisdiction transferred to the City under Streets and Highways Code section 989. Section 989 (at that time) provided that "[u]pon the incorporation of a city ... all right, title, and interest of the county in and to any county highway within the territory involved shall vest with the city and shall thereupon constitute a city street." The definition of a county highway includes any public highway or road. Accordingly, the right-of-way, including the additional portion on Lot 7 transferred to the City of Atascadero automatically upon incorporation.

The Edge Project

The Edge project, located on Lot 7 and the adjacent property to the north, was submitted in 2020 and the road was assumed to be abandoned based on the assessment records and 1981 City resolution of abandonment. The project was designed to utilize the Conejo Road area and adjoining supplemental Caltrans staging area. The design included a shared accessway and parking improvements within this area and plans included improved access for Bay Laurel Nursery to the south. Easements were anticipated to be recorded for shared access prior to issuance of building permits. As the project was designed to provide shared access to the adjacent Bay Laurel property, no modifications to the plans are required to accommodate the abandonment or conditions of abandonment. Building permit for the project were submitted in October of 2021 and are currently under review.

Analysis

State Requirements - Requirements for summarily vacating a road are found in the Streets and Highways Code, Section 8331, which provides:

8331. *The legislative body of a local agency may summarily vacate a street or highway if both of the following conditions exist:*

- (a) *For a period of five consecutive years, the street or highway has been impassable for vehicular travel.*
- (b) *No public money was expended for maintenance on the street or highway during such period.*

City Requirements - California Government Code Section 65402 requires that all abandonments be consistent with the legislative bodies General Plan, as follows:

“If a general plan or part thereof has been adopted...no real property shall be...vacated or abandoned...until the location, purpose and extent of such...street vacation or abandonment...has been submitted to and reported upon by the planning agency as to the conformity with said general plan or part thereof.”

The right-of-way under consideration was created by the Map of Atascadero Colony (circa 1915). The subject portion of right-of-way has never been constructed as a public road and has been used as unimproved access to a private unimproved parking area for five or more years.

Additionally, the proposed right-of-way to be abandoned does not appear in the City's General Plan Circulation Element (Figure III-2: General Plan Circulation Diagram). The abandonment would not conflict with Policy 2.1 of the City's Circulation Element as the abandonment would not be applicable as a potential trail location. The location is a small stretch between El Camino Real and Highway 101 that does not, or will not in the future, connect to any other City streets.

The City also has a practice of evaluating existing unbuilt right of way from Fire safety standpoint in order to ensure that all potential evacuation routes are retained. The proposed right-of way was evaluated by the Fire department. Because the road is a dead-end road terminating at Highway 101 just south of the Del Rio interchange, there is no potential for a future evacuation route.

Conclusion

The Planning must find that the right-of-way to be abandoned is not necessary for present or future public street purposes and is consistent with the General Plan. This segment of Conejo Road terminates at Highway 101 and does not provide opportunities for vehicular or pedestrian connection to adjacent neighborhoods or parcels.

ALTERNATIVES:

1. The Planning Commission may recommend modifications to the proposed amendments and/or conditions of approval for the project.

2. The Planning Commission may determine more information is needed on some aspect of the amendments and may refer the item back to the applicant and staff to provide the additional information. The Commission should clearly state the type of information required and move to continue the item to a future date.
3. The Planning Commission may recommend denial to the City Council. The Commission should specify the reasons for recommendation of the denial of the project amendments.

ATTACHMENT:

Draft Resolution

DRAFT RESOLUTION

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ATASCADERO, CALIFORNIA, RECOMMENDING THAT THE CITY COUCNIL FIND AND DETERMINE THAT A PORTION OF CONEJO ROAD RIGHT-OF-WAY AND ADJACENT CALTRANS STAGING EASEMENT (IDENTIFIED AS ROAD RIGHT-OF-WAY) IS UNNECESSARY FOR PRESENT OR PROSPECTIVE PUBLIC STREET PURPOSES AND ORDER ITS SUMMARY VACATION PURSUANT TO SECTION 8331 OF THE STREETS AND HIGHWAYS CODE

**City of Atascadero
APN 049-141-058, 049-141-057**

WHEREAS, the City has initiated a request, in conjunction with adjacent property owners, to consider vacating an undeveloped portion of right-of-way of Conejo Road that is located adjacent to 2500 El Camino Real (APN 049-141-058) and 2470 El Camino Real (APN 049-141-057) and supplemental Caltrans right-of-way located entirely on 2470 El Camino Real (049-141-059) and supplemental Caltrans right-of-way located entirely on 2500 El Camino Real (049-141-060); and

WHEREAS, to facilitate construction of the highway in the 1950’s, Caltrans acquired rights to the unbuilt portion of Conejo Road in addition to a portion of Lot 7 (Edge development parcel) for construction staging; and

WHEREAS, in 1962, the County entered into a freeway agreement with the State, in which it agreed to accept title, as well as the maintenance obligation, over the relocated and reconstructed roads upon relinquishment; and,

WHEREAS, in 1967, the State relinquished the Conejo Road right-of-way and supplemental piece on Lot 7 to the County under Streets and Highways Code section 73.

WHEREAS, in 1967, Section 73 provided that upon recordation of the resolution of relinquishment, “all right, title, and interest of the State in and to such portion of any state highway shall vest in the county and such highway or portion thereof shall thereupon constitute a county road....”

WHEREAS, based on the relinquishment in 1967 and the governing Section 73, this right-of-way, in its entirety, became a county road in 1967; and

WHEREAS, the portion of Conejo Road right-of-way, in its entirety, requested to be vacated is the full Conejo Road right-of way and is undeveloped and is unnecessary for present or prospective public street purposes; and

WHEREAS, Atascadero Mutual Water Company takes no exception to the said abandonment; and

WHEREAS, the Atascadero Fire Department takes no exception to the said abandonment;
and

NOW, THEREFORE BE IT RESOLVED, by the Planning Commission of the City of Atascadero:

SECTION 1. The Planning Commission hereby finds determines the above recitals to be true and correct.

SECTION 2. Meeting Date. The Planning Commission, at a regularly scheduled meeting on March 7, 2023, considered testimony prior to considering summarily vacating a portion of Conejo Road right-of-way.

SECTION 3. CEQA. The proposed right-of-way vacation is exempt from environmental review in accordance with Section 15301 (Existing Facilities) and Section 15304 (Minor Alterations to Land) of the California Environmental Quality Act (CEQA) and the City of Atascadero’s Local Procedures for implementing CEQA

SECTION 4. Finding. The proposed right-of-way to be abandoned does not appear in the City’s General Plan Circulation Element (Figure III-2: General Plan Circulation Diagram). The abandonment would not conflict with Policy 2.1 of the City’s Circulation Element as the abandonment would not be applicable as a potential trail location.

SECTION 5. Recommendation. The Planning Commission recommends that the City Council find and determine that a portion of Conejo Road, as shown on the Map of Atascadero Colony, in the City of Atascadero, County of San Luis Obispo, State of California as recorded in Book 3 of Maps, Page 26, in the Office of the County Recorder of said County, and shown in Exhibit A attached hereto and incorporated herein by this reference, is not necessary for present or future public street purposes.

SECTION 6. Conditions: The following conditions shall be completed prior to recordation of the abandonment:

1. A shared access easement shall be recorded in the area of the original 40-foot Conejo Road right-of-way to allow joint access to Lot 6 and Lot 7.
2. A public utility easement shall be reserved in the location of the original 40-foot Conejo Road right-of-way.

ITEM NUMBER: 2

DATE: 3/07/23

On motion by Commissioner _____ and seconded by Commissioner _____, the foregoing resolution is hereby adopted in its entirety by the following roll call vote:

AYES: ()

NOES: ()

ABSTAIN: ()

ABSENT: ()

ADOPTED: March 7, 2023

CITY OF ATASCADERO, CA

Jeff van den Eikhof
Planning Commission Chairperson

Attest:

Phil Dunsmore
Planning Commission Secretary

