



Monterey Peninsula Airport District

March 21, 2006

Ron Langford, City Manager
City of Del Rey Oaks
650 Canyon Del Rey
Del Rey Oaks, CA 93940

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Re: Request by Monterey Peninsula Airport District for Amendment to Del Rey Oaks General Plan and for Grading Permit and Tree Removal Permit

Dear Mr. Langford:

I don't think that I can adequately convey to you the extent of the Monterey Peninsula Airport District's disappointment with the manner in which the Airport's request was presented to the Del Rey Oaks Planning Commission at its meeting, Wednesday, March 8. The first record that I have concerning our discussions is a memorandum from you dated June 10, 2003. The first point that you made is that the City and the Airport "...will negotiate in good faith for the proposed project [to build the road]..." We don't believe that the last-minute introduction of material that runs counter to the entire course of our discussions, without the courtesy of notice to us, meets the definition of "good faith".

The City seems to be acting under the impression that the proposed North Access Road is essential to the continued operation of the Airport. Although we believe that this new road would be of great benefit to both the Airport and the City in enhancing the ability of the two entities to share public safety resources, the Airport can get along without the road. Whether it will make sense to continue Public Safety coverage with a jurisdiction that has no direct route of access to Airport property is a question that the Airport will need to examine further. It remains our firm conviction, however, that both entities would be better served by cooperating with one another than by not. However, based on the presentation at last week's Planning Commission meeting, the Airport does not believe that it is getting the level of cooperation from the City that will allow us to reach a mutually-beneficial outcome.

Frankly, the last-minute suggestion that the use of the road and future development of Airport property be subject to the approval of the City was about as well received by the Airport Board as a requirement that any new development in Del Rey Oaks that is in the vicinity of our approach or air traffic pattern be approved by the Airport District would be renewed by the City. Neither entity should be willing or expected to cede the land-use development authority provided and reserved to it by law to the other. Rather, municipalities are expected to consult with each other concerning projects that may have an impact on the other through procedures such as the environmental review process. The Airport has pledged that it will consult with the City whenever significant development on the vacant parts of the airfield adjacent to the City is contemplated. The Airport remains willing to do so. It will not, however, agree to give the City control over the development of that land. That has continuously and conspicuously been made quite clear and explicit throughout the long course of our discussions.

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The Airport has already paid for a level of environmental analysis far in excess of what was contemplated when our "Agreement to Negotiate" was put together in July 2003. To date, well over \$200,000 has been billed to the Airport for charges by the City's consultants and representatives in this matter. At this stage, the Airport believes that all necessary environmental analysis and consulting work has been completed and accordingly, is not willing to pay for any further work. Similarly, the Airport is unwilling to pay for additional attorney fees.

Despite the expense and the time consumed in getting this project to its current stage, the Planning Commission presentation was handled without the level of coordination and advance preparation that we expected. The Airport was not provided with an advance copy of the proposed Staff Report, recommended findings, proposed mitigations and suggested conditions of approval, until just before the Planning Commission meeting. In fact, we were not shown the revised proposal for mitigations and conditions of approval until the Planning Commission meeting was already in progress. Furthermore, we did not receive copies of the three comment letters listed in Exhibit "C" to the Staff Report nor the numbered responses to any of those comment letters. Remarkably, the Airports response letter that was hand delivered to the consultant, is mysteriously still not included in the "comments received". We still do not have a copy of the mitigation monitoring and reporting program listed as Exhibit "D" to the Staff Report.

The Report, including mitigations and conditions of approval that were submitted to the Planning Commission on March 8th is fundamentally and absolutely unacceptable. We understand that even you and the City staff didn't know the contents of what was being presented that night.

The question now is; how can we go about getting this project back on track?

First of all, we need to address the General Plan amendment that was requested by the Airport.

As you are aware, the Airport's request with regard to policy C-17 in the City's General Plan was that it simply be deleted. That's the proposal which the initial study analyzed. In fact, at our mid-August 2005 meeting to run through the consultant's presentation, a PowerPoint slide suggested changing the policy to read, "Access from Highway 218 and Del Rey Gardens Drive to the north side of the airport is encouraged for future development adjacent to the airport" (copy enclosed). You can imagine our shock and dismay when the consultant made a radical about-face in her presentation to the Planning Commission.

Moreover, numerous other comments in the Staff Report misstate the nature of the project. While the road would initially, serve only emergency and service vehicles, eventually it will be used to serve future development as well. I want to emphasize at this point that the Airport doesn't want the general public to be using the new road as a through route any more than the City does. The Airport committed to installing gates and/or other measures to prevent such through use. The Airport never represented that the road would be used to serve only existing tenants or discrete areas. The City will need to either eliminate policy C-17, as requested by the Airport, or utilize the alternative language suggested by the City's consultant last August (i.e., "Access from Highway 218 and Del Rey Gardens Drive to the north side of the airport is encouraged for future development adjacent to the airport").

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Second, any restriction on access that is not necessary to mitigate an environmental impact needs to be eliminated.

It was apparent from the initial stages of the Traffic Study that the use of the proposed road in the near-term will not generate traffic levels having any measurable impact on any City streets. Regardless, the Airport subsequently ended up footing the bill for a traffic study of nearly the entire City. Justification for such a broad scope of study was that both agencies wanted to identify at the outset all of the mitigation measures that could possibly be required if the Airport's vacant land was developed and served by the new road. Both implicit in the conduct of the expansive Traffic Study and explicitly discussed at our meetings was the premise that the general plan amendment, grading permit and tree removal permit pertaining to the half acre site were to be the only approvals needed from the City for the construction and use of the road. The Airport insists on getting all required approvals now. Obtaining additional approvals in the future is simply unacceptable.

The Staff Report summarizes the Traffic Study by stating that "A traffic report was completed for the project and no project specific impacts were identified, therefore no traffic related mitigation measures are required...." As cited in proposed finding #1, even under the maximum credible development scenario for the Airport's vacant land "It was found that the proposed project would not require any mitigation measures or exceed acceptable levels of service". This clearly demonstrates that there is no need or justification for any "special permit", much less making its issuance subject to yet more environmental review, mitigation measures and conditions.

Similarly, there is no basis for the City to require that the Airport submit any access control plan or obtain the City's blessing of the access control measures that the Airport implements. The subject of controlling access to an airport is one which airport operators universally consider to involve sensitive security information not to be disclosed to outside persons or entities. The Airport has committed that the access control measures that it will put into place shall be effective to prevent through travel by the general public. That is all that is required in order to assure that no significant adverse environmental impact will result. The Airport will not agree to make its access control plans subject to the review or approval of the City or make any commitment beyond that described above.

The project before the City involves but a short segment of road on a half acre parcel. That's all that lies within the City's jurisdiction. While the Airport is willing to assure that this segment of road doesn't become a thoroughfare for the general public, control of what happens within the Airport's jurisdiction, including the specifics of how access is controlled, rightfully belongs with the Airport, not the City.

Third, the delays we have been experiencing must come to an end.

Our discussion started in earnest in June 2003. Our Agreement to Negotiate contemplated that we'd be done within six months. The process has now dragged out for over two and one half years. The Airport is not willing to endure further delay.

The Airport does not view the police services contracts as payment for the road approval. However, given that the Airport has already paid the City over \$200,000 for police services and

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in order to avoid any further delay, the Airport will require that the commencement of the term of any long-term police services agreement be the date upon which service began being rendered under the short-term agreement. Our records show that as being November, 2003.

Fourth and perhaps most important, the erroneous impression that the Airport is paying the City for the use of the road must be immediately corrected.

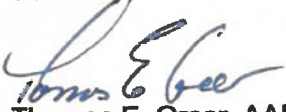
At the outset of our discussions and continuously throughout the course of our many meetings, we have made it abundantly clear that the Airport cannot and will not pay the City for the use of the road. Any attempt to do so would constitute illegal "revenue diversion" in contravention of federal law. The wording of the revised mitigations and conditions of approval # 17, particularly with reference to conditioning approval of a new special permit on entry into a written agreement pertaining to "financial issues" has greatly complicated matters. It needs to be made very clear that any payment is for police services and that the payment will not exceed the true market value of the services being provided.

Moreover, now that these issues have been covered in the press, it has drawn considerable attention from the local aviation community, which is well aware of the prohibitions against revenue diversion. This in turn increases the likelihood of intensified scrutiny by Federal Agencies which regulate the Airport and monitor its financial operations. Therefore, we do not believe that it would be prudent for the Airport to engage in any advance payment of charges for police services, even if a long-term agreement is ultimately entered into between the Airport and the City. Accordingly, you should anticipate that any payments made for police services, whether under the existing temporary agreement or under a follow-on long-term arrangement will remain on a strictly monthly schedule.

To sum matters up, in order to be acceptable to the Airport, the entire Staff Report, including Exhibits "B" and "C" must be revised. For your convenience, enclosed please find an edited version of the Staff Report and Exhibits "B" and "C" with the corrections which the Airport believes need to be made. If the City has any desire to move forward with this road project, it should do so without any further delay. If impediments to moving forward with the road project aren't quickly removed, the Airport will be turning its attention to other options for its half acre parcel.

We look forward to your timely response in anticipation of a mutually acceptable presentation to the Planning Commission on April 12.

Sincerely,


Thomas E. Greer, AAE
General Manager

Attachments (3)

Land Use and Planning

- **Conflict with Del Rey Oaks Master Plan Policy C-17**

- **The City will not support the potential north side access from Highway 218 and Del Rey Gardens Drive or any airport access road through the City of Del Rey Oaks.**

- **Alternative Language**

- **Access from Highway 218 and Del Rey Gardens Drive to the north side of the airport is encouraged for future development adjacent to the airport**

