

**RESOLUTION NO. 2017-\_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LAKE  
ELSINORE, CALIFORNIA, FINDING THAT PLANNING APPLICATION NO. 2017-49  
(VARIANCE NO. 2017-06) IS EXEMPT FROM THE WESTERN RIVERSIDE  
COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP)**

**Whereas**, Andrew Read, Voltage River has filed an application with the City of Lake Elsinore (City) requesting approval of Planning Application No. 2017-49 (Variance No. 2017-06) to encroach 4'-0" into the required 10'-0" rear yard setback for an existing detached approximately 363 sq. ft. solar integrated patio cover (Project). The Project is located northerly of Lost Road and easterly of Canyon Hills Drive within the Canyon Hills Specific Plan (CHSP) more specifically referred to as 32512 Sprucewood Way. (APN: 363-581-007); and,

**Whereas**, Section IV (D) of the City's MSHCP Implementing Resolution expressly exempts from the MSHCP: Any project for which and to the extent that vested rights to proceed with the project notwithstanding the enactment of this Resolution exist under the common laws of the State of California, a vesting tentative map pursuant to the Subdivision Map Act, a development agreement pursuant to Government Code section 65864 et seq., or other instrument, approved or executed by the City prior to adoption of this Resolution. Projects subject to this exemption must comply with all provisions of any applicable state and federal law; and,

**Whereas**, on October 3, 2017 at a duly noticed Public Hearing the Planning Commission (Commission) has considered evidence presented by the Community Development Department and other interested parties with respect to this item.

**NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LAKE ELSINORE  
DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1:** That in accordance with the Lake Elsinore Municipal Code and the MSHCP, the Planning Commission finds that:

*The Project is exempt from the City's MSHCP Resolution by virtue of vested rights. On July 9, 1990, the City and Pardee-Grossman/Cottonwood Canyon entered into that certain development agreement (the "Development Agreement"), which expressly exempted the Developer from responsibility for any new development impact fees. The Development Agreement was amended by Amendment No. 1 dated January 12, 2010, approved by Ordinance No. 1270, which extends the project's exemption from MSHCP requirements.*

*Even though the Project is exempt from the MSHCP, the Developer must comply with other state and federal laws. Consistent with federal law, the applicant had prepared a project-specific Habitat Conservation Plan and has a history of extensive coordination with the wildlife agencies. Where approved for development, the project site has already been graded, cleared, or developed in accordance with the Project HCP. Given the foregoing, no further action regarding the MSCHP is required.*

**Section 2:** This Resolution shall take effect immediately upon its adoption.

**Passed and Adopted** this 3<sup>rd</sup> day of October, 2017.

\_\_\_\_\_  
John Gray, Chairman

Attest:

\_\_\_\_\_  
Justin Kirk,  
Principal Planner

STATE OF CALIFORNIA            )  
COUNTY OF RIVERSIDE        ) ss.  
CITY OF LAKE ELSINORE        )

I, Justin Kirk, Principal Planner of the City of Lake Elsinore, California, hereby certify that Resolution No. 2017-\_\_ was adopted by the Planning Commission of the City of Lake Elsinore, California, at a regular meeting held on the 3<sup>rd</sup> day of October, 2017 and that the same was adopted by the following vote:

AYES

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Justin Kirk,  
Principal Planner