

## **RESOLUTION NO. 2019-**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ADOPTING FINDINGS THAT PLANNING APPLICATION NO. 2017-29 (SPECIFIC PLAN NO. 2018-01, SPECIFIC PLAN AMENDMENT NO. 2017-03, GENERAL PLAN AMENDMENT NO. 2018-01, ZONE CHANGE NO. 2018-01, AND TENTATIVE TRACT MAP NO. 37305) IS CONSISTENT WITH THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP)**

**Whereas**, Eric Werner, Nichols Road Partners, LLC, has filed an application with the City of Lake Elsinore (City) requesting approval of Planning Application No. 2017-29 (Specific Plan No. 2018-01, Specific Plan Amendment No. 2017-03, General Plan Amendment No. 2018-01, Zone Change No. 2018-01, and Tentative Tract Map No. 37305) to establish the Nichols Ranch Specific Plan (NRSP) over the 72.5-acre property that includes 168 residential homes on approximately 31.1 acres; 14.5 acres of commercial uses (130-room hotel, 6,000 Square Foot (SF) fast-food restaurant with a drive-through, 5,500 SF fast-food restaurant without a drive-through, 9,400 SF sit-down restaurant, 4,400 SF commercial retail uses, an 8,000 SF health and fitness club, a gas station (with market and car wash) with 16 fueling stations, and 43,000 SF office uses); 8.3 acres of recreation uses; drainage basins on 5.5 acres; 1.3 acres of open space; and roadways on 5.3 acres; and,

**Whereas**, Section 6.0 of the Multiple Species Habitat Conservation Plan (MSHCP) requires that all discretionary projects within a MSHCP Criteria Cell undergo the Lake Elsinore Acquisition Process (LEAP) and the Joint Project Review (JPR) to analyze the scope of the proposed development and establish a building envelope that is consistent with the MSHCP Criteria Cell; and,

**Whereas**, Section 6.0 of the MSHCP further requires that the City adopt consistency findings demonstrating that the proposed discretionary entitlement complies with the MSHCP Criteria Cell, and the MSHCP goals and objectives; and,

**Whereas**, the Project site is within the MSHCP Elsinore Area Plan, Subunit 3 (Elsinore). The proposed Project site lies within Criteria Cells #4166 and #4169 and off-site improvements to Nichols Road are located in Criteria Cells #4067 and #4070; and,

**Whereas**, pursuant to Government Code Section 65354 and pursuant to Chapter 17.204 (SPD Specific Plan District), Chapter 17.188 (Amendments), and Chapter 16.24 (Tentative Map) of the Lake Elsinore Municipal Code (LEMC), the Planning Commission (Commission) has been delegated with the responsibility of making recommendations to the City Council (Council) pertaining to general plan amendments, specific plans, specific plan amendments, and tentative maps; and,

**Whereas**, on May 21, 2019 at a duly noticed Public Hearing the Commission has considered evidence presented by the Community Development Department and other interested parties with respect to this item, and adopted a resolution recommending that the Council adopt Findings of Consistency with the MSHCP; and,

**Whereas**, on June 11, 2019 at a duly noticed Public Hearing, the Council has considered the recommendation of the Commission as well as evidence presented by the Community Development Department and other interested parties with respect to this item.

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

**Section 1:** The Council has considered the Project and its consistency with the MSHCP prior to adopting Findings of Consistency with the MSHCP.

**Section 2:** That in accordance with the MSHCP, the Council makes the following findings for MSHCP consistency:

1. The Project is a project under the City's MSHCP Resolution, and the City must make an MSHCP Consistency finding before approval.

*The Property is located within an MSHCP criteria cell. Pursuant to the City's MSHCP Resolution, the project has been reviewed for MSHCP consistency, including consistency with "Other Plan Requirements." These include the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pool Guidelines (MSHCP, § 6.1.2), Protection of Narrow Endemic Plant Species Guidelines (MSHCP, § 6.1.3), Additional Survey Needs and Procedures (MSHCP, § 6.3.2), Urban/Wildlands Interface Guidelines (MSHCP, § 6.1.4), Vegetation Mapping (MSHCP, § 6.3.1) requirements, Fuels Management Guidelines (MSHCP, § 6.4), and payment of the MSHCP Local Development Mitigation Fee (MSHCP Ordinance, § 4).*

2. The Project is subject to the City's LEAP and the County's Joint Project Review (JPR) processes.

*The Project site is within the MSHCP Lake Elsinore Area Plan. The 27.0-acre portion of the project site subject to the MSHCP is located in Criteria Cells #4166 (0.05 acres) and #4169 (26.95 acres) within the MSHCP Elsinore Area Plan, Subunit 3 (Elsinore). The off-site improvements to Nichols Road (7.78 acres) are located in Criteria Cells 4067 (1.1 acres) and 4070 (6.34 acres) within Cell Group W in the MSHCP Elsinore Area Plan, Subunit 2 (Alberhill), with a portion (0.34 acres) not located within a criteria cell. Therefore, a formal and complete LEAP application, LEAP 2018-04 was submitted to the City on December 11, 2018.*

*The 45.5-acre portion of the project site that is exempt from the MSHCP is located in Criteria Cells #4166 (0.06 acres) and #4169 (2.1 acres) within the MSHCP Elsinore Area Plan, Subunit 3 (Elsinore) and within Criteria Cells #4067 (1.6 acres) and 4070 (41.74 acres) within Cell Group W in the MSHCP Elsinore Area Plan, Subunit 2 (Alberhill).*

3. The Project is consistent with the Riparian/Riverine Areas and Vernal Pools Guidelines.

*The property was assessed for the presence of Riparian/Riverine Areas and Vernal Pools through a site visit where the entire site was walked and through a review of historical aerial imagery. Based on the collective results of these investigations, it was determined that approximately 2.26 acres of riparian/riverine areas are located within the MSHCP Project Area. No riparian/riverine areas are located within the Offsite Improvements area. No vernal pools or seasonal depressions were observed within the Project Site or Offsite Improvements area.*

*There was no evidence of ponding water, such as visible surface water, cracked soils, or hydric soils, and no features were identified where water might collect, like road ruts or*

*other depressions. The soil on the Project site and Off-site Improvements area is generally classified as well draining. Additionally, no vegetation typical of vernal pools or seasonal depressions was observed. Furthermore, based on the lack of typical features that could collect water (e.g. road ruts, depression, vernal pools), lack of ponding water evidence, and presence of well-draining soils, that are not likely to support retention of water, suitable conditions for fairy shrimp are also not considered present onsite.*

*Waters of the U.S. under the jurisdiction of the United States Army Corps of Engineers (USACE) and Regional Water Quality Control Board (RWQCB), Waters of the State under the jurisdiction of California Department of Fish and Wildlife (CDFW) and RWQCB were found within the Project Site. A majority of the onsite jurisdictional waters will be avoided, no dredge or fill will occur within Waters of the U.S. and impacts to jurisdictional areas are limited to Waters of the State within that portion of the Project Site that is exempt from the MSHCP. Impacts to Waters of the State within the Project Site include 0.42 acres of permanent impacts. The riparian/riverine areas within that portion of the Project site will be avoided by Project development.*

*As required by Section 6.1.2 of the MSHCP, "measures shall be incorporated into the project design to ensure the long-term conservation of the area to be avoided, and associated functions and values." To ensure protection of the avoided Riparian/Riverine resources, the Project proposes the following:*

- fencing and signs, identifying the area as restricted, will be placed between the development and the Riparian/Riverine area to prevent unauthorized access;*
- a deed restriction will be recorded over the area containing the avoided Riparian/Riverine resources; and,*
- the Tract 37305 Homeowner's Association (HOA) [future owner of the restricted Riparian/Riverine area] will conduct routine maintenance of the protective, surrounding fencing and signs, and will remove trash from the restricted area on an annual basis.*

*Alternatively, the Project may also elect to protect the avoided Riparian/Riverine resources by deeding the land in fee title to the RCA. In this case, the Project proponent would still provide fencing and directional signage surrounding the restricted area to prevent unauthorized entry; the HOA would be responsible for long-term maintenance of the fencing and signage.*

*The Project is therefore consistent with the Riparian/Riverine Areas and Vernal Pool Guidelines set forth in Section 6.1.2 of the MSHCP. No further action regarding this section of the MSHCP is required.*

4. The Project is consistent with the Protection of Narrow Endemic Plant Species Guidelines.

*The property is not in a Narrow Endemic Plant Species Survey Area (NEPSSA) for any narrow endemic species, and no NEPSSA surveys are required. The proposed project is therefore consistent with the Protection of Narrow Endemic Plant Species Guidelines.*

5. The Project is consistent with the Additional Survey Needs and Procedures.

*The MSHCP requires additional surveys for certain species if the project is located in certain locations. Pursuant to MSHCP Figure 6-2 (Criteria Area Species Survey Area), Figure 6-3 (Amphibian Species Survey Areas with Criteria Area), Figure 6-4 (Burrowing Owl Survey Areas with Criteria Area), Figure 6-5 (Mammal Species Survey Areas With Criteria Area), burrowing owl surveys are required for the subject property prior to approval of a development proposal.*

*The property is not within a Criteria Area Species Survey Area (CASSA), and CASSA surveys are not required. The property is not located within survey areas for amphibian species (MSHCP Figure 6-3), or mammal species (MSHCP Figure 6-5) and surveys for those species are not required.*

*A burrowing owl (Athene cunicularia) habitat assessment was performed during the general biological surveys on June 1, 2017 and December 8, 2017 by VCS Environmental to assess whether potentially suitable habitat for burrowing owl (BUOW) was present within the MSHCP-Excluded Survey Area, the MSHCP Project Area, and the Offsite Improvements area, and a 500-foot buffer surrounding those areas. It was determined that the entire area surveyed hosted suitable habitat for BUOW. (See Figure 3, BUOW Survey Area) For this reason, focused Burrowing owl (Athene cunicularia) surveys were conducted by VCS Environmental on May 22, June 26, July 12, and July 26, 2018 in accordance with the survey requirements established for the MSHCP (MSHCP Burrowing Owl Survey Instructions, 2006).*

*No BUOW or active signs thereof were observed during the four surveys within the Study Area. Suitable burrows were observed within the Study Area during the surveys. The burrows are considered potentially suitable for burrowing owls. Parts of the MSHCP Project Area and MSHCP-excluded Project Area were either recently graded or disked and contained few suitable burrows, as the soil was too friable. The section of the Study Area north of Nichols Road was generally steeply sloped and rocky where cavities were too small or were surrounded by vegetation creating an unsuitable environment for BUOW burrows. Most burrows potentially suitable for BUOW occurred along the drainage feature and along the western border of the MSHCP-excluded Project Area. Additionally, suitable foraging and nesting habitat was observed within the Study Area; however, no burrowing owls, or signs of burrowing owl were observed during the surveys.*

*As a mitigation measure for the proposed Project, the City of Lake Elsinore will require a pre-construction presence/absence survey for burrowing owl to be conducted within 30 days of the commencement of project-related grading or other land disturbance activities to ensure that the species has not moved onto the site since completion of the surveys. The pre-construction survey should occur within 30 days prior to ground disturbing activity. Owls located as a result of survey efforts will be relocated. If burrowing owl have colonized the project site or the offsite improvements area prior to the initiation of construction, the project proponent should immediately inform the City, RCA and the Wildlife Agencies, and coordinate on the potential need for preparation, review and approval of a Burrowing Owl Protection and Relocation Plan, prior to any ground disturbance.*

*Therefore, the subject project is consistent with the Additional Survey Needs and Procedures of the MSHCP.*

6. The Project is consistent with the Urban/Wildlands Interface Guidelines.

Section 6.1.4 of the MSHCP sets forth Urban/Wildlands Interface Guidelines (UWIG) that are intended to address indirect effects associated with locating development in proximity to the MSHCP Conservation Area, where applicable. The MSHCP Project Area and Offsite Improvements Area are located within Criteria Cells 4166, 4169, 4070 and 4067, in the vicinity of proposed Core 1 and Proposed Linkage 2 (Alberhill Creek). For the purposes of this analysis, proximity to an MSHCP Conservation Area is generally considered to be within 1,000 feet unless other circumstances exist that would warrant considering distances further than 1,000 feet as proximate, such as connection via a drainage course.

While the Offsite Improvements Area is not located adjacent to a MSHCP Conservation Area the MSHCP Project Area is located adjacent to an avoided Riparian/Riverine resource (Stovepipe Creek). Furthermore, while the MSHCP Project Area is located approximately 1,300 feet away from proposed Linkage 2 (Alberhill Creek) and separated from proposed Linkage 2 by the I-15, Stovepipe Creek on the Project Site drains into Alberhill Creek (downstream); therefore, there are potential indirect effects via this connection to the Alberhill Creek area that is targeted for conservation. Therefore, to address potential indirect impacts to Alberhill Creek and impacts to Stovepipe Creek, the Project proposes to comply with the UWIG to minimize indirect impacts to the avoided Riparian/Riverine resource and Proposed Linkage 2.

7. The Project is consistent with the Vegetation Mapping requirements.

The vegetation communities and habitat conditions were inspected to confirm presence and habitat quality of the vegetation found within the Project Site and Offsite Improvements area. Plant communities were mapped using field observations and utilizing aerial imagery in Google Earth. Nine vegetation communities occur on the project site.

Non-native grassland

A total of 11.79 acres of non-native grassland habitat was mapped within the Project Site and 0.32 acre within the Offsite Improvements. The non-native grassland habitat is characterized by weedy non-native annual herbaceous species with a low density of weedy native species intermixed. Much of the non-native grassland habitat appears to be subject to annual disking. Non-native species within the habitat include red-stem filaree (*Erodium cicutarium*), cheeseweed (*Malva parviflora*), Russian thistle (*Salsola tragus*), London rocket (*Sisymbrium irio*), shortpod mustard (*Hirschfeldia incana*), tumble pigweed (*Amaranthus albus*), oats (*Avena* sp.), ripgut brome (*Bromus diandrus*), red brome (*Bromus madritensis*), cheatgrass (*Bromus tectorum*), and false barley (*Hordeum murinum*). Native species within the habitat include doveweed (*Croton setigerus*), common fiddleneck (*Amsinckia intermedia*), and vinegar weed (*Trichostema lanceolatum*). Occasional small California sagebrush (*Artemisia californica*), brittlebush (*Encelia farinosa*), and California buckwheat (*Eriogonum fasciculatum*) were observed within the habitat.

Ruderal

A total of 18.86 acres of ruderal land and associated plant species was observed within the Project Site and 2.25 acres within the Offsite Improvements area. The ruderal land type was identified within the southwestern portion of the Site as well as north of and adjacent to the current Nichols Road. The area includes primarily weedy, non-native species such as Russian thistle and mustard, and appears to be regularly disturbed by

*mowing, disking, or other vegetation maintenance activities. Occasional native species within the land type included small scattered grassland pinebush, vinegar weed, and doveweed. This area mostly lacks non-native grasses, which is one main distinguishing factor from the non-native grassland.*

#### *Riversidean Sage Scrub*

*A total of 1.65 acres of Riversidean sage scrub was identified within the Project Site. The Riversidean sage scrub is found primarily on the gently sloping and steep banks adjacent to the drainage channel as well as in a small area south of the drainage feature. Species observed within this habitat on-site include California sagebrush, California buckwheat, brittlebush, deerweed (Acmispon glaber), white sage (Salvia apiana), jimson weed (Datura wrightii), and grassland pinebush (Ericameria palmeri var. pachylepis). The understory was comprised of mostly herbaceous species including native dove weed as well as weedy, non-native red-stem filaree, shortpod mustard, and brome grasses.*

#### *Disturbed Riversidean Sage Scrub*

*A total of 1.30 acre of disturbed Riversidean sage scrub was identified within the Project Site and 0.18 acre within the Offsite Improvements area. The disturbed Riversidean sage scrub is found in areas adjacent to the drainage channel on the gently sloping banks as well as slopes somewhat removed from the drainage channel. Vegetation observed within this habitat is predominantly a high density of weedy native and non-native annual herbaceous species such as doveweed, redstem filaree, shortpod mustard, and brome grasses with sparse and small Riversidean sage scrub shrubs throughout including California sagebrush, California buckwheat, brittlebush, grassland pinebush, and deerweed. It appears the areas of disturbed Riversidean sage scrub may experience regular disturbance, such as annual disking explaining why the shrubs are small and sparse. Mapping is sufficient under the MSHCP and is consistent with the MSHCP vegetation mapping requirements.*

#### *Riversidean Alluvial Fan Sage Scrub*

*A total of 1.68 acre of Riversidean alluvial fan sage scrub was mapped within the Project Site. This habitat is associated with the sandy/gravelly bottomed ephemeral wash within the channel that bisects the Project Site. Dominant species in this habitat include scalebroom (Lepidospartum squamatum) and California buckwheat. Additional species observed within the habitat include brittlebush, California sagebrush, deerweed, and white sage. The understory was comprised of mostly weedy non-native herbaceous species such as red-stem filaree, shortpod mustard, and brome grasses.*

#### *Disturbed Riversidean Sage Scrub – Encelia dominated*

*A total of 0.14 acre of disturbed Riversidean sage scrub – Encelia dominated was mapped within the Project Site and 1.59 acres within the Offsite Improvements area. This habitat is located on the slopes found along the northern edge of the Offsite Improvement area within the future road right-of-way. Vegetation observed within the habitat consists of high density weedy, non-native mustard, as well as a low to moderate density of scattered native brittlebush. Additional native species in this habitat include valley cholla (Cylindropuntia californica var. parkeri), doveweed, and California buckwheat.*

Open Streambed

*A total of 0.14 acre of open streambed are located within the downstream portion of the on-site drainage channel. The open streambed is comprised of sandy wash substrate and is essentially void of vegetation. This area is wider than other section of open sandy wash; there are narrow sections of open sandy wash that are included in the Riversidean alluvial fan sage scrub habitat since the width is small and is considered part of that habitat type.*

Disturbed/Developed

*A total of 36.47 acres of the land within the Project Site and 3.44 acres within the Offsite Improvements area is considered disturbed/developed. Disturbed/developed habitat includes areas of bare ground (e.g. dirt roads), paved roads, active mine activities (construction/grading), and other built facilities.*

Ornamental

*A total of 0.47 acre of ornamental vegetation was identified within the Project Site. The ornamental vegetation includes a few trees along the eastern boundary including regrowth of Peruvian peppertrees (*Schinus molle*) near Nichols Road and the northeastern corner of the Site, the canopy of adjacent landscaping trees including eucalyptus (*Eucalyptus* sp.), pine (*Pinus* sp.), palo verde (*Parkinsonia* sp.), and Mexican fan palm (*Washingtonia robusta*), as well as in the southeastern portion of the site including Peruvian peppertrees, eucalyptus, olive (*Olea europaea*), tamarisk (*Tamarix aphylla*), jacaranda (*Jacaranda* sp.), and African sumac (*Rhus lancea*).*

8. The Project is consistent with the Fuels Management Guidelines.

*The MSHCP acknowledges that brush management to reduce fuel loads and protect urban uses and public health/safety shall occur where development is adjacent to conservation areas. The MSHCP Project Area and the Offsite Improvements Area are not located within or adjacent to MSHCP Conservation Areas.*

*Since the project site is not immediately adjacent to a MSHCP Conservancy Area, the proposed project does not pose a risk of causing direct or indirect effects to MSHCP Conservancy Areas. Therefore, the Project is consistent with the Fuels Management Guidelines as set forth in Section 6.4 of the MSHCP.*

9. The proposed project will be conditioned to pay the City's MSHCP Local Development Mitigation Fee.

*The applicant shall pay MSHCP Local Development Mitigation fees in effect at the time of payment.*

10. The proposed Project is consistent with the MSHCP.

*The 27.0-acre portion of the project site subject to the MSHCP is located in Criteria Cell #4166 (0.05 acre) and Criteria Cell #4169 (26.95 acres).*

- *Conservation within Cell #4166 will range from 15%-25% of the Cell focusing in the northeastern portion of the Cell. The portion of the project site within this Cell*

*is located within northwestern corner. Therefore, the project will not preclude achievement of the conservation goal for Cell #4166.*

- *Conservation within Cell #4169 will range from 10%-20% of the Cell focusing in the southwestern portion of the Cell. The portion of the project site within this Cell is located in the north and northeastern portions of the Cell. Therefore, the project will not preclude achievement of the conservation goal for Cell #4169.*

*The 45.5-acre portion of the project site that is exempt from the MSHCP is located in Criteria Cells #4166 (0.06 acres) and #4169 (2.1 acres) and within Criteria Cells #4067 (1.6 acres) and 4070 (41.74 acres) within Cell Group W. As noted above, the 2.16 acres of the MSHCP-exempt portions of the project site located within Cell #4166 and Cell #4169 are not located within the portions of those Cells identified for conservation, and therefore the project will not preclude achievement the conservation goals for those Cells.*

*The remaining 43.34 acres of that portion of the MSHCP-exempt portion of project site are located in the southeastern portion of Cell Group W. Conservation for Cell Group W is 80 to 90 percent of the 3-cell group focusing in the northwestern portion of the Cell Group. Cell Group W consists of 480 acres. Conservation of 80 to 90 percent of this cell group would conserve between 384 and 432 acres, leaving between 48 and 96 acres for development. This goal did not take into consideration the Settlement Agreement that excluded 308 acres from the 480-acre cell group, part of which includes this 43.34-acre portion of the project site. It is noted that the 43.34 acres of the project site located in Cell Group W is not within the northwestern portion of the Cell Group identified for conservation. Nevertheless, because of the Settlement Agreement, the project cannot show consistency with Cell Group W acreage targets, but the project can be shown to be consistent with the overall Biological Issues and Considerations as summarized above.*

*As discussed above, the off-site improvements to Nichols Road (7.78 acres) and the small portion of the road (0.21 acre) located within the project site (totaling 7.99 acres) can be considered to be a "covered road" and consistent with the MSHCP.*

**Section 3:** Based upon the evidence presented, both written and testimonial, and the above findings, the Council hereby finds that the Project is consistent with the MSHCP.

**Section 4:** This Resolution shall take effect immediately upon its adoption.

**Section 5:** The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

**Passed and Adopted** on this 11<sup>th</sup> day of June, 2019.

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Steve Manos, Mayor



**Attest:**

\_\_\_\_\_  
Mark Mahan, Deputy City Clerk

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

I, Mark Mahan, Deputy City Clerk of the City of Lake Elsinore, California, do hereby certify that Resolution No. 2019-\_\_\_\_\_ was adopted by the City Council of the City of Lake Elsinore, California, at the regular meeting of June 11, 2019, and that the same was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mark Mahan, Deputy City Clerk