RESOLUTION NO. 2019-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LAKE ELSINORE, CALIFORNIA, RECOMMENDING ADOPTION OF FINDINGS THAT PLANNING APPLICATION NO. 2016-112 (MUNICIPAL CODE AMENDMENT NO. 2017-02, CONDITIONAL USE PERMIT NO. 2018-03, AND COMMERCIAL DESIGN REVIEW NO. 2016-17) IS CONSISTENT WITH THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP)

Whereas, Joseph Karaki, Karaki Western States Engineering, Inc., has filed an application with the City of Lake Elsinore (City) requesting approval of Planning Application No. 2016-112 (Municipal Code Amendment No. 2017-02, Conditional Use Permit No. 2018-03, and Commercial Design Review No. 2016-17). The Project site is located in the central portion of the City, near the southwest corner of Riverside Drive and Collier Avenue and encompasses Assessor Parcel Numbers (APNs) 378-030-007 and 378-030-009; and,

Whereas, Municipal Code Amendment (MCA) No. 2017-02 proposes an amendment to Chapter 17.132 of the Lake Elsinore Municipal Code (LEMC) to allow for drive-through establishments as a use subject to approval of a Conditional Use Permit in the Commercial Manufacturing (C-M) District; and,

Whereas, Conditional Use Permit No. 2018-03 and Commercial Design Review No. 2016-17 are proposing to establish a new travel center consisting of an 8,360 square foot (SF) convenience store with concurrent sale of alcoholic beverages (Type 21 ABC), three (3) quick serve restaurants, two (2) covered gas dispensing areas (with a maximum throughput of 5.8 million gallons of gasoline per year) totaling 6,092 SF, and a free-standing 2,543 SF fast-food restaurant with a drive-through on a 2.39 net acre site after right-of-way dedication. The Project will provide 59 total vehicular parking spaces, three (3) RV parking spaces, and a service loading area along the northern property line; 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 Cell #4266; and,

Whereas, pursuant to Section 17.415.040 (Zoning Amendments), Section 17.415.070 (Conditional Use Permits), and Section 17.415.050 (Major Design Review) 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 zoning amendments, conditional use permits, and design reviews; and,

Whereas, on November 5, 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.

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

Section 1: The Commission has considered the Project and its consistency with the MSHCP prior to recommending that the Council adopt Findings of Consistency with the MSHCP.

Section 2: That in accordance with the MSHCP, the Commission 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 majority of the project site (2.67 acres) is located within Criteria Cell #4266. A small portion of the project site (0.17 acre) is not located within a criteria cell. A formal and complete LEAP application, LEAP 2017-02 was submitted to the City on January 23, 2018. and the JPR application, JPR 18-03-29-01 was submitted to the County on March 26, 2018. The County's Regional Conservation Authority (RCA) completed the review on May 9, 2018 and found the Project consistent with both the Criteria and Other Plan Requirements.

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

   The property was assessed for the presence of Riparian/Riverine and Vernal Pool habitats through an on-site evaluation. No rivers, streams, or other watercourses (or vegetation associated with these features) were observed on the project site. The closest riparian vegetation is located in a flood-control channel less than 200 feet southwest of the Project site. Denser, more mature riparian habitat occurs in Alberhill Creek, approximately 600 feet west of the project site. No drainages, waterbodies, or other water resources under the regulatory authority of the United States Army Corps of Engineers (USACE), the California Department of Fish and Wildlife (CDFW) or the Regional Water Quality Control Board (RWQCB) were observed in the project area.

No basins, ponds, or obvious depressional features were observed on the Project site. However, a small area exhibiting surface soil cracks was present in the southwest portion of the site. Surface soil cracks, where clay sediment is deposited by infiltration and evaporation of water, are an indicator of hydrology and possible ponding. If the area holds surface water, it may provide habitat for vernal pool branchiopods (i.e., fairy shrimp). One fairy shrimp, Riverside fairy shrimp (Streptocephalus woottonii) was reported from the literature review in the project vicinity.

Given that the survey was conducted during the dry season, it was not possible to directly determine whether this area holds water for any length of time. However, it is unlikely that the area ponds. A review of aerial imagery shows no indication of surface water or soil saturation over multiple years and seasons. In addition, the soil type (Garretson very fine sandy loam and Pachappa fine sandy loam) is not considered hydric. This area would not be considered a "vernal pool" because indicator plant species (e.g., woolly-marbles [Psilocarphus brevissimus], toad rush [Juncus bufonius] or water crassula [Crassula aquatic]) are not likely to be present. Plant species observed in the immediate area consist of horseweed (Erigeron canadensis), stinknet (Oncosiphon piluliferum), annual bur-sage, and grayish shortpod mustard, which are considered upland or facultative upland species. For these reasons, fairy shrimp are not expected to occur on the Project site.

The proposed Project will not directly impact riparian bird species (least Bell's vireo, southwestern willow flycatcher, and western yellow-billed cuckoo) because the project will not result in the removal of the habitat for these species. However, construction noise and human activity may indirectly impact riparian species if they occur in the flood-control channel's riparian habitat that is approximately 200 feet southwest of the project site. These activities are not expected to impact species in Alberhill Creek, since it is more than 500 feet from project activities. 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 and surveys for Criteria Area species are required for the subject property prior to approval of a development proposal. Therefore, for MSHCP consistency, additional focused rare plant surveys for these species are required.

   The property is not within a Criteria Area Species Survey Area (CASSA), and CASSA surveys are not required. It is also not within survey areas for amphibian species (MSHCP Figure 6-3) burrowing owls (Figure 6-4) or mammal species (MSHCP Figure 6-5) and surveys for those species are not required. 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. 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 guidelines that are intended to address indirect effects associated with locating development in proximity to the MSHCP Conservation Area, where applicable. The Project site is not immediately adjacent to a defined MSHCP Conservation Area and thus does not pose a risk of causing direct or indirect effects to any defined MSHCP Conservation Areas. However, it is in proximity to a proposed Conservation Area (Proposed Linkage 2) which occurs approximately 600 feet west of the proposed project site, and there are two parcels southwest of, but removed from the Project site and within Cell 4266 that are set aside as Public Quasi - Public Conserved Lands. The closest riparian vegetation is located in a flood-control channel less than 200 feet southwest of the project site. Denser, more mature riparian habitat occurs in Alberhill Creek, approximately 600 feet west of the project site.

While the proposed project would not directly impact riparian bird species (least Bell's vireo, southwestern willow flycatcher, and western yellow-billed cuckoo) by removing their habitat, construction noise and human activity may indirectly impact riparian bird species if they occur in the flood-control channel's riparian habitat, approximately 200 feet southwest of the project site. These activities are not expected to impact species in Alberhill Creek, since it is more than 500 feet from project activities. Indirect impacts on riparian bird species could be avoided or minimized if construction activities, or at least the most noise-intensive portions of construction, can be limited to the season when these migratory birds are not present in California (i.e., September 16 to March 14). While indirect impacts should be avoided, if possible, there is no requirement to limit construction timing adjacent to riparian habitat.

Indirect impacts, often called "edge effects", are those that affect the quality of nearby wildlife habitat resulting from disturbance by construction (such as noise, dust, and urban pollutants) and/or the long-term use of the site. MSHCP Criteria Area Cell 4266 could be impacted by these edge effects.

During construction, runoff carrying excessive silt or petroleum residues from construction equipment could potentially impact water quality and, in turn, affect plant and wildlife species using habitat adjacent to the project site. Grading and other construction activities would disturb soils and result in the accumulation of dust on the surface of the leaves of trees, shrubs, and herbs. Temporary construction noise has the potential to disrupt foraging, nesting, roosting, and/or denning activities for a variety of wildlife species. Following construction, urban runoff from project infrastructure or landscaping could permanently impact water quality during operation of the proposed project. Landscaping associated with the proposed project may introduce new, invasive species to the surrounding open space. An increase in the number of nighttime light and glare sources could affect the behavioral pattern of nocturnal and crepuscular (i.e., active at dawn and dusk) wildlife.

The Project Applicant will be required to follow the Urban/Wildlands Interface Guidelines in Section 6.1.4 of the MSHCP to minimize urban/wildlands interface issues in the nearby Criteria Area. These include measures related to indirect impacts such as water quality (drainage), use of toxics, night lighting, indirect noise, invasive plant and wildlife species, protection of habitat areas (barriers), and grading/land development adjacent to habitat areas. As a mitigation measure for the proposed Project, the City of Lake Elsinore will require the following measures:

1. *The Project will not result in runoff being discharged into the MSHCP conservation area. The Project is designed as to not release toxins, chemicals, petroleum products, exotic plant materials, or other elements that might degrade or harm biological resources or ecosystem processed within the MSHCP Conservation Area. Drainage flows will be captured by ribbon gutters and directed towards proposed storm water BMPs. Permeable pavement is incorporated into the Project design. These surfaces reduce the volume and peak of storm water runoff and mitigate pollutants from storm water runoff.*

2. *Land use proposed in proximity to the MSHCP Conservation Are that use chemicals or generates bio-products such as oil machinery and trucks that are potentially toxic or may adversely affect wildlife species, habitat, or water quality shall incorporate measures to ensure that application of such chemicals does not result in discharge to the MSHCP Conservation Area. Measures implemented to address drainage issues would also address chemicals and toxins. Wash water containing any cleaning agent or degreaser and discharge will be collected to the sanitary sewer and not to a storm drain.*

3. *All exterior lighting will be shielded away from the natural lands (western boundary of the Project site).*

4. *Noise generation activities are anticipated to result from operation of the Project. Any noise producing activities associated with the long-term operation of the businesses will be relegated to indoor space levels and shall not exceed residential noise standards.*

5. *No invasive and/or non-native plant species on the California Invasive Plant Counsel List will be used in the landscaping of the Project site.*

For these reasons, the subject Project is consistent with the Urban/Wildlife Interface Guidelines.

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

A literature review was conducted prior to the field survey to identify special status plant and wildlife species known to occur within the Project vicinity. Plant communities was evaluated on the ground using a pedestrian survey by biologists from Psomas on June 14, 2017. The following vegetation type and other areas occur in the survey area: ruderal (2.34 acres), bare ground (0.43 acres) and developed (0.07 acres).

Ruderal vegetation occurs throughout much of the survey area. The dominant species are grayish shortpod mustard (Hirschfeldia incana) and London rocket (Sisymbrium irio). Other common herbaceous species include fiddleneck (Amsinckia sp.), Russian thistle

(Salsola tragus) and annual bur-sage (Ambrosia acanthicarpa). Evidence of ground-disturbance (e.g., mowing, tilling) during a prior season was noted during the survey; vegetation had not been disturbed this season. Ornamental China berry (Melia azedarach) trees occur in the center of the survey area along with a few small Mexican palo verde (Parkinsonia aculeate). Ruderal vegetation follows the non-native grassland association of the Grasslands vegetation association of the MSHCP habitat accounts.

Unvegetated areas consist of bare ground and developed. The portion of the survey area adjacent to Riverside Drive is bare, while a paved sidewalk is adjacent to Collier Avenue. These areas correspond to the Residential/Urban/Exotic vegetation association of the MSHCP habitat accounts. This mapping is sufficient under the MSHCP and is consistent with the MSHCP vegetation mapping requirements.

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. Surrounding land uses include the developed Twist'n U Gymnastics facility and associated parking lots to the west; self- storage buildings to the north across Collier Avenue, a Cemetery to the east across Collier Avenue; Riverside Drive and beyond a vacant disturbed lot to the southeast. The Project site is not immediately adjacent to a MSHCP Conservancy Area and thus 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 Project has been conditioned to pay MSHCP Local Development Mitigation fees in effect at the time of payment.

10. The proposed Project is consistent with the MSHCP.

    Target conservation in Criteria Cell #4266 ranges from 30% to 40% of the Cell focusing in the western portion of the Cell. There are two parcels removed from the Project site but within Cell 4266 that are set aside as Public Quasi-Public Conserved Lands. Both preserved parcels are owned by the Riverside County Flood Control and occur within and adjacent to the riparian area of Alberhill Creek. One parcel includes 4.72 acres and the other includes 0.86 acres. Both preserved parcels occur toward the western end of the cell, while the Project site is on the eastern edge of the cell, with several parcels separating the Project site from the preserved parcels. Additionally, the project site does not meet the conservation requirements set forth for Subunit 3 of the Elsinore Area Plan. Therefore, conservation of the project site or any portion thereof, is not required. The proposed project is consistent with the MSHCP.

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

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

Passed and Adopted on this 5th day of November, 2019.

Myles Ross, Chairman

Attest:

Justin Kirk,
Assistant Community Development Director

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

I, Justin Kirk, Assistant Community Development Director of the City of Lake Elsinore, California, hereby certify that Resolution No. 2019-__ was adopted by the Planning Commission of the City of Lake Elsinore, California, at a regular meeting held on the 5th day of November, 2019 and that the same was adopted by the following vote:

AYES
NOES:
ABSTAIN:
ABSENT:

Justin Kirk,
Assistant Community Development Director