

## RESOLUTION NO. 2019-\_\_

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LAKE ELSINORE, CALIFORNIA, RECOMMENDING ADOPTION OF A MITIGATED NEGATIVE DECLARATION (ER 2018-02) (SCH NO. 2019029048) FOR PLANNING APPLICATION NO. 2016-112 (MUNICIPAL CODE AMENDMENT NO. 2017-02, CONDITIONAL USE PERMIT NO. 2018-03, AND COMMERCIAL DESIGN REVIEW NO. 2016-17)**

**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**, the Project is subject to the provisions of the California Environmental Quality Act (Public Resources Code §§ 21000, et seq.: "CEQA") and the State Implementation Guidelines for CEQA (14 California Code of Regulations Sections 15000, et seq.: "CEQA Guidelines") because the Project involves an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and involves the issuance of a lease, permit license, certificate, or other entitlement for use by one or more public agencies (Public Resources Code Section 21065); and,

**Whereas**, pursuant to CEQA Guidelines Section 15063, the City conducted an Initial Study to determine if the Project would have a significant effect on the environment. The Initial Study revealed that the Project would have potentially significant environmental impacts but those potentially significant impacts could be mitigated to less than significant levels; and,

**Whereas**, based upon the results of the Initial Study (Environmental Review No. 2018-02), and based upon the standards set forth in CEQA Guidelines Section 15070, it was determined that it was appropriate to prepare and circulate a Mitigated Negative Declaration (MND) for the Project; and,

**Whereas**, in accordance with CEQA Guidelines Section 15073, the MND was made available for public review and comment for a minimum of 30 days beginning on February 8, 2019, and ending on March 11, 2019; and,

**Whereas**, several comments were received on the MND, as detailed in *Appendix M – Response to Comments on The Draft Initial Study/Mitigated Negative Declaration Environmental Review No. 2018-02, City of Lake Elsinore, August 2019* that were considered by the Lead Agency before it acted on the Proposed Project; and,

**Whereas**, pursuant to CEQA Guidelines Section 15073.5 (a) and in response to comments received, the City of Lake Elsinore recirculated the Draft Initial Study/Mitigated Negative Declaration due to substantial revisions after public notice of its availability but prior to its adoption; and,

**Whereas**, pursuant to CEQA Guidelines Section 15073.5(b)(1), a new, avoidable significant effect was identified associated with vibration impacts, and MM NOI-3 was added to restrict the use of construction equipment within proximity to the property line, which would reduce the potential impact to less than significant; and,

**Whereas**, pursuant to CEQA Guidelines Section 15073.5(b)(2), proposed mitigation measure MM NOI -1 associated with construction noise would not reduce potential effects to less than significant, therefore, MM NOI – 1 was revised to state that no stationary equipment would be operated within 50 feet of the northwest and southwest property lines and that construction of the proposed sound wall detailed in MM NOI-2 be completed prior to the start of site preparation or grading activities for the Proposed Project, which would reduce the potential impact to less than significant and preparation of a draft Environmental Impact Report was not required pursuant to CEQA Guidelines Section 15073.5(d); and,

**Whereas**, pursuant to CEQA Guidelines Section 15072, on September 13, 2019, the City duly issued a notice of intent to adopt the MND; and,

**Whereas**, in accordance with CEQA Guidelines Section 15073, the Recirculated MND was made available for public review and comment for a minimum of 30 days beginning on September 13, 2019, and ending on October 14, 2019; and,

**Whereas**, a Mitigation Monitoring and Reporting Program (MMRP) for the Project has been prepared in accordance with Section 21081.6 of CEQA; 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 foregoing recitals are true and correct and are hereby incorporated into these findings by this reference.

**Section 2:** The Commission has evaluated all comments, written and oral, received from persons who have reviewed the MND. The Commission hereby finds and determines that all public comments have been addressed.

**Section 3:** The Commission hereby finds that the MND for the Project is adequate and has been completed in accordance with the CEQA Guidelines and the City's procedures for implementation of CEQA; and recommends to the Council that it make the same finding. The Commission has reviewed and considered the information contained in the MND and finds that the MND represents the independent judgment of the City.

**Section 4:** The Commission further finds and determines that none of the circumstances listed in CEQA Guidelines Section 15073.5 requiring recirculation of the MND are present and that it would be appropriate to recommend adoption the MND as proposed to the Council.

**Section 5:** The Commission hereby makes, adopts, and incorporates the following findings regarding the lack of potential environmental impacts of the Project and the analysis and conclusions set forth in the MND:

1. Revisions in the Project plans or proposals made by or agreed to by the applicant before a Mitigated Negative Declaration and Initial Study was released for public review and mitigation measures set forth in the Initial Study would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur.

*Based upon the Initial Study conducted for the Project, there is substantial evidence suggesting that all potential impacts to the environment resulting from the Project can be mitigated to less than significant levels. All appropriate and feasible mitigation has been incorporated into the Project design. The Mitigation Monitoring and Reporting Plan contains an implementation program for each mitigation measure. After implementation of the mitigation contained in the MMRP, potential environmental impacts are effectively reduced to less than significant levels.*

2. There is no substantial evidence, in the light of the whole record before the agency including the initial study and any comments received, that the Project will have significant effect on the environment.

*Pursuant to the evidence received, including comment letters, and in the light of the whole record presented, the Project will not have a significant effect on the environment.*

**Section 7:** Based upon the evidence presented, the above findings, and the conditions of approval imposed upon the Project, the Commission recommends that the Council adopt the MND (ER 2018-02) (SCH No. 2019029048) and the MMRP for Planning Application No. 2016-112 (Municipal Code Amendment No. 2017-02, Conditional Use Permit No. 2018-03, and Commercial Design Review No. 2016-17).

**Section 8:** This Resolution shall take effect immediately upon its adoption.

**Passed and Adopted** on this 5<sup>th</sup> day of November, 2019.

\_\_\_\_\_  
Myles Ross, Chairman

**Attest:**

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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 5<sup>th</sup> day of November, 2019 and that the same was adopted by the following vote:

AYES  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
Justin Kirk,  
Assistant Community Development Director