

RESOLUTION NO. 2023-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ADOPTING FINDINGS THAT PLANNING APPLICATION NO. 2022-03 (TENTATIVE TRACT MAP NO. 38378 AND RESIDENTIAL DESIGN REVIEW NO. 2022-02) IS CONSISTENT WITH THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP)

Whereas, Brett Crowder, Coastal Commercial Properties has filed an application with the City of Lake Elsinore (City) requesting approval of Planning Application No. 2022-03 (Tentative Tract Map No. 38378 and Residential Design Review No. 2022-02) to subdivide an approximately 17.21-acre site into one (1) approximately 16.93-acre lot for condominium purposes (0.28-acre right-of-way dedication) and a residential design review to construct 191 detached condominium residences and associated site improvements. The project site is located within the East Lake Specific Plan, adjacent to and west of Mission Trail, across from Lemon Street to the south, and Lewis Street and Victorian Lane to the north (APNs: 370-050-019, 370-050-020, and 370-050-032);

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;

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;

Whereas, pursuant to Lake Elsinore Municipal Code (LEMC) Section 17.415.050 (Major Design Review), Section 17.410.030 (Multiple Applications), and Chapter 16.24 (Tentative Map) the Planning Commission (Commission) has been delegated with the responsibility of making recommendations to the City Council (Council) pertaining to tentative maps and design review applications;

Whereas, on October 17, 2023 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 by a resolution recommended that the Council adopt Findings of Consistency with the MSCHP; and

Whereas, on November 14, 2023, at a duly noticed Public Hearing the Council has considered 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 forgoing recitals are true and correct and are hereby incorporated into these findings by this reference.

Section 2: The Council has considered the project and the recommendation of the Commission as well as evidence presented by the Community Development Department and other interested parties with respect to this item.

Section 3: 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.

Approximately 0.30 acre of the project site 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 Western Riverside County Regional Conservation Authority's (RCA) Joint Project Review processes.

Approximately 0.30 acre of the project site is located in Criteria Cell 5131, which is in MSHCP Elsinore Area Plan, Subunit 3 (Elsinore). Therefore, a formal and complete LEAP application, LEAP 2022-03 was submitted to the City on January 26, 2023.

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

On November 2, 2021 and February 3, 2023, Hernandez Environmental Services conducted field surveys of the site to determine whether the project site includes riparian/riverine area or vernal pools.

The project site contains approximately 0.07 acre located below the CDFW jurisdictional elevation of 1,265 feet AMSL and associated with the back basin of Lake Elsinore that would be considered riparian/riverine areas as defined in Section 6.1.2 of the Western Riverside County MSHCP. The riparian/riverine area onsite is located within an existing access easement comprised of disturbed, ruderal vegetation currently being utilized as a gravel and dirt access road. No bed, bank, or channel are present. The riparian/riverine area shows no signs of hydrology; no signs of current or historic flow are visible. The riparian/riverine area is isolated and no downstream flows are present. In addition, no hydric soils or hydrophytic vegetation are present. The onsite riparian/riverine area does not provide any of the functions and values functions typically associated with riparian/riverine resources; even the existing ruderal habitat is too disturbed to provide nesting and foraging habitat due to the use of the area as a dirt and gravel access road.

The project has been designed to avoid this area of the project site. Although the project does include the dedication of the Victorian Lane right-of-way along the northern project site boundary, no construction, grading, or street improvements related to the Victoria Lane right-of-way are included as part of the project. Therefore, no permanent or temporary impacts to onsite riparian/riverine area will result from project implementation. The northern limit of

project disturbance is located between five to fifteen feet south of the onsite riparian/riverine area. No avoidance buffer is proposed. Urban/Wildlands Interface Guidelines will be implemented even though the riparian/riverine area is isolated and no downstream flows are present. However, the project does not propose to place a conservation or deed restriction over the onsite riparian/riverine area due to the fact that the area is already located within an existing access easement and no riparian/riverine functions and values would be preserved by conservation of the area.

While the northwestern portion of the site located below the CDFW jurisdictional elevation of 1,265 feet AMSL meets the definition of a riparian/riverine area according to the MSHCP, it does not support suitable riparian habitat with the potential to support riparian/riverine bird species; the onsite riparian/riverine area is comprised of disturbed, ruderal vegetation currently being utilized as a gravel and dirt access road. No stream bed, bank, channel, or riparian habitat exists within the project site boundaries. Further, none of the riparian/riverine bird species listed in Section 6.1.2 of the MSHCP were found within the project site. Due to the lack of suitable riparian habitat on the project site, focused surveys for riparian/riverine bird species listed in Section 6.1.2 of the MSHCP are not warranted.

Vernal pools are seasonal depressional wetlands that occur under Mediterranean climate conditions of the west coast and in glaciated conditions of northeastern and midwestern states. They are covered by shallow water for variable periods from winter to spring but may be completely dry most of the summer and fall. Vernal pools are usually associated with hard clay layers or bedrock, which helps keep water in the pools. Vernal pools and seasonal depressions usually are dominated by hydrophytic plants, hydric soils, and evidence of hydrology.

The entire site was evaluated for the presence of habitat capable of supporting branchiopods. The site was evaluated as described in the USFWS Survey Guidelines for the Listed Large Branchiopods (USFWS 2017). The project site consists of vacant, disturbed land with evidence of weed abatement activities and off-road vehicle use. The site is dominated by dense non-native ruderal vegetation dominated by brome grass. The project area is primarily comprised of sandy loams that do not allow for water pooling on the site for any significant length of time after rain events. No vernal pools, swales, or vernal pool mimics such as ditches, borrow pits, cattle troughs, or cement culverts with signs of pooling water were found on the site. In addition, the site does not contain areas that showed signs of ponding water, hydrophytic vegetation, or soils typical of vernal pools that would be suitable for large branchiopods.

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), and 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 located within survey areas for criteria area species (MSHCP Figure 6-2), amphibian species (MSHCP Figure 6-3), or mammal species (MSHCP Figure 6-5) and surveys for those species are not required.

*The Project site is located within the MSHCP Survey Area for the burrowing owl. A burrowing owl (*Athene cunicularia*) habitat assessment following Step 1 of the Burrowing Owl Instructions for the Western Riverside MSHCP was conducted on the site on February 3, 2023 was conducted by Hernandez Environmental Services. Due to the presence of potentially suitable habitat, a focused burrow survey was conducted on the site on May 1, 2023 following Step 2A of the Burrowing Owl Survey Instructions for the Western Riverside MSHCP. The focused burrow survey found no potentially suitable burrows and manmade structures that could be utilized as burrows, such as earthen berms; cement, asphalt, rock, or wood debris piles; or openings beneath cement or asphalt pavement onsite; therefore, it was determined that the site is not currently occupied by the species*

As a mitigation measure for the proposed Project, the City 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 guidelines that are intended to address indirect effects associated with locating development in proximity to the MSHCP Conservation Area, where applicable.

The guidelines in Section 6.1.4 of the MSHCP are intended to address indirect effects associated with development near MSHCP Conserved Areas. Developments in proximity to MSHCP Conserved Areas may result in “edge effects” that might adversely affect biological resources within MSHCP Conserved Areas.

According to the MSHCP development may occur adjacent to Conservation Areas. Future Development in proximity to Conservation Areas may result in Edge Effects that will adversely affect biological resources within the Conservation Areas. To minimize such Edge Effects, 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.

The Project Site is not located within 3,000 feet of proposed preservation land in the 770-acre Plan therefore no indirect effects of urban/wildlands interfaces are expected at the Project Site.

The subject project is consistent with the Urban/Wildlife Interface Guidelines.

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

*The entire 17.21-acre project site consists of disturbed, ruderal habitat. This habitat is characterized by brome grass and non-native vegetation that grows in previously disturbed areas, including common barley (*hordeum vulgare*), cheatgrass (*bromus tectorum*), cheeseweed (*malva parviflora*), shortpod mustard (*Hirschfeldia incana*) and tall tumbled mustard (*Sisymbrium altissimum*). Other species in this habitat include stinknet (*Oncosiphon piluliferum*), common sunflower (*Helianthus annuus*), and Western ragweed (*Ambrosia psilostachya*).*

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.

Section 6.4 of the MSHCP requires that new developments adjacent to the MSHCP Conservation Area (in this case the proposed 770-acre Plan preservation areas) or other undeveloped lands incorporate any fuel/brush management zones and Best Management Practices. The Project Site is not located in or adjacent to the proposed 770-acre Plan preservation areas, is proposed as a non-combustible commercial development, and undeveloped areas adjacent to the Project Site are anticipated to be developed and is therefore not expected to be subject to fuel modification requirements.

The Project will incorporate the BMPs outlined in Volume I, Appendix C of the MSHCP as part of the development pursuant to regulatory and/or County requirements.

Therefore, the Project is consistent with the Fuels Management Guidelines as set forth in Section 6.4 of the MSHCP.

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

As a condition of approval, the Project will be required to pay the City's MSHCP Local Development Mitigation Fee at the time of issuance of building permits.

10. The Project is consistent with the MSHCP.

Approximately 0.30 acre of the project site is located in Criteria Cell 5131, which is in MSHCP Elsinore Area Plan, Subunit 3 (Elsinore). The property that will be developed by the Proposed Project includes that area. Conservation within this Cell will range from 65%-75% of the Cell focusing in the southern portion of the Cell. The conservation requirements set forth for this Criteria Cell has been replaced with the preservation of habitat in the Back Basin of Lake

Elsinore through the 770-acre Agreement. The Project Site is not located within 3,000 feet of proposed preservation land in the 770-acre Plan. Even without consideration of the 770-acre Plan, the Project site falls outside of that portion of Criteria Cell 5131 identified for conservation and the project site does not meet the conservation requirements set forth for Subunit 3 of the Elsinore Area Plan. The balance of the project site is not located within either a criteria cell or Subunit 3. Therefore, conservation of the project site, or any portion thereof, is not required. The proposed project is consistent with the MSHCP.

Section 4: Based upon the evidence presented, both written and testimonial, and the above findings, the Council finds that the Project is consistent with the MSHCP.

Section 5: This Resolution shall take effect immediately upon its adoption.

Section 6: 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 14th day of November, 2023.

Natasha Johnson,
Mayor

Attest:

Candice Alvarez, MMC,
City Clerk

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

I, Candice Alvarez, MMC, City Clerk of the City of Lake Elsinore, California, hereby certify that Resolution No. 2023-__ was adopted by the City Council of the City of Lake Elsinore, California, at a regular meeting held on November 14, 2023 and that the same was adopted by the following vote:

AYES
NOES:
ABSTAIN:
ABSENT:

Candice Alvarez, MMC,
City Clerk