

ATTACHMENT #1

Proposed Resolution Adopting EIR Addendum
for RON

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RESOLUTION NO. 2022-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ADOPTING AN ADDENDUM TO THE CERTIFIED EIR FOR THE 1996 UPDATE TO THE CITY OF INDIAN WELLS GENERAL PLAN (SCH# 94092037) WITH REGARD TO THE PROPOSED RESOLUTION OF NECESSITY FOR THE ACQUISITION OF APN 633-360-002

WHEREAS, the City proposes to acquire the subject site (APN 633-360-002), which comprises approximately 34 acres of undeveloped land located at the northeast corner of Miles Avenue and Warner Trail in the City of Indian Wells (the "Property"); and

WHEREAS, this proposed acquisition of the Property for the development of affordable housing, public parking, recreation facilities and open space constitutes the Project for purposes of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA); and

WHEREAS, on February 1, 1996, the City of Indian Wells City Council adopted the 1996 Update to the City of Indian Wells General Plan (1996 General Plan). At the same time, the City Council certified by Resolution No. 96-9 the City of Indian Wells General Plan Final Environmental Impact Report (SCH No. 94092037) (Certified FEIR) in compliance with the California Environmental Quality Act (CEQA) and CEQA Guidelines; and

WHEREAS, in 1999, the City adopted a Negative Declaration and initiated proceedings to annex the City's sphere of influence (approximately 400 acres, including APN 633-360-002) consistent with the City's 1996 General Plan; and

WHEREAS, on December 19, 2002, the City adopted a Negative Declaration and approved a General Plan Amendment, Zoning Map Amendment, and Zoning Text Amendment which included APN 633-360-002; and

WHEREAS, in 2007 the City approved the General Plan Land Use Element Update and adopted an Addendum to the General Plan FEIR (2007 Addendum to FEIR); and

WHEREAS, in 2013, the City updated the Housing Element for the 2014-2021 planning period (5th cycle) and adopted an Addendum to the General Plan FEIR (2013 Addendum to FEIR); and

WHEREAS, pursuant to CEQA, when taking subsequent discretionary actions in furtherance of a project for which an EIR has already been certified, the Council is prohibited from requiring a subsequent or supplemental EIR unless at least one of the circumstances identified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 and the City's Local CEQA Guidelines, are present; and

WHEREAS, an Addendum to the Certified FEIR was prepared for the proposed Project (“Project Addendum”), pursuant to CEQA, the State CEQA Guidelines, and the City’s Local CEQA Guidelines, and a copy of the Project Addendum is attached hereto as Exhibit 1; and

WHEREAS, the Project Addendum finds that Project would not involve any changes to the APN 633-360-002’s existing land use and zoning or the associated development potential contemplated by Certified FEIR, as modified by the 2007 Addendum to FEIR and the 2013 Addendum to FEIR; and

WHEREAS, on November 3, 2022, the City Council of the City of Indian Wells (Council) conducted a duly-noticed public meeting on the proposed Project Addendum, at which time all persons wishing to testify in connection with the proposed Project Addendum were heard and the proposed Project Addendum was comprehensively reviewed; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF INDIAN WELLS AS FOLLOWS:

SECTION 1. Compliance with the California Environmental Quality Act. The Council has reviewed and considered the Certified FEIR, subsequent CEQA documents, and the Project Addendum and finds that these documents taken together contain a complete and accurate reporting of all of the potential environmental impacts associated with the proposed Project. The Council further finds that the Project Addendum has been completed in compliance with CEQA, the State CEQA Guidelines, and the City’s Local CEQA Guidelines and contains a complete, objective, and accurate reporting of the environmental impacts associated with the proposed Project, and reflects the independent judgment and analysis of the Council.

SECTION 2. CEQA Findings. Based on the substantial evidence set forth in the record, including but, not limited to, the Certified FEIR, subsequent CEQA documents, and the Project Addendum, the Council finds that an addendum is the appropriate document for disclosing the changes reflected in the proposed Project, and that none of the conditions identified in Public Resources Code section 21166 and State CEQA Guidelines section 15162 or City’s Local CEQA Guidelines requiring subsequent environmental review have occurred, because:

(a) The Project does not constitute a substantial change that would require major revisions of the due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

(b) There is not a substantial change with respect to the circumstances under which the Project will be developed that would require major revisions of the Certified FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects.

(c) New information of substantial importance has not been presented that was not known and could not have been known with the exercise of reasonable diligence at the time the

Certified FEIR was certified or adopted, showing any of the following: (i) that the modifications would have one or more significant effects not discussed in the earlier environmental documentation; (ii) that significant effects previously examined would be substantially more severe than shown in the earlier environmental documentation; (iii) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects, but the applicant declined to adopt such measures; or (iv) that mitigation measures or alternatives considerably different from those analyzed previously would substantially reduce one or more significant effects on the environment, but which the applicant declined to adopt.

SECTION 3. The Council adopts the Project Addendum.

SECTION 4. This Resolution takes effect upon adoption.

SECTION 5. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on this 3rd day of November 2022.

**DANA REED
MAYOR**

CERTIFICATION FOR RESOLUTION NO. 2022-41

I, Angelica Avila, City Clerk of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the City Council of the City of Indian Wells on the 3rd day of November 2022, by the following vote:

AYES:
NOES:

ATTEST:

APPROVED AS TO FORM:

**ANGELICA AVILA
CITY CLERK**

**TODD LEISHMAN
CITY ATTORNEY**

EXHIBIT 1

Proposed Project Addendum

(follows this page)

De Novo Planning Group

A Land Use Planning, Design, and Environmental Firm



MEMORANDUM AND EIR ADDENDUM

To: Jon Berg, Community Development Director, City of Indian Wells
From: Starla Barker, AICP, Principal Planner
Date: October 14, 2022
Re: Resolution of Necessity for APN 633-360-002 CEQA Review

SUBJECT SITE

The subject site (APN 633-360-002) comprises approximately 34 acres of undeveloped land located at the northeast corner of Miles Avenue and Warner Trail in the City of Indian Wells. The General Plan Land Use/Zoning map (General Plan Figure IIA-3, updated December 15, 2016) designates the subject site as Residential, Medium Density Residential. Based on the density of 6.55 dwelling units per acre (General Plan Table IIA-2. 2025 General Plan Land Use Buildout Estimate), the subject site would allow for development of approximately 223 dwelling units.¹

BACKGROUND

On February 1, 1996, the City of Indian Wells City Council adopted the 1996 Update to the City of Indian Wells General Plan (1996 General Plan). At the same time, the City Council certified by Resolution No. 96-9 the City of Indian Wells General Plan Final Environmental Impact Report (SCH No. 94092037) (General Plan FEIR) in compliance with the California Environmental Quality Act (CEQA) and CEQA Guidelines. The General Plan FEIR concluded that, although implementation of development under the 1996 General Plan could result in significant impacts, these potential adverse impacts are able to be mitigated to below a level of significance with the exception of impacts related to short- and long-term air quality, even after the implementation of General Plan policies as mitigation.

In 1999, the City adopted a Negative Declaration and initiated proceedings to annex the City's sphere of influence (approximately 400 acres, including the subject site) consistent with the City's 1996 General Plan and General Plan land use designations (1996 General Plan Figure IIA-5, Land Use Policy Map – designating the subject site as Residential, Medium High Density and Residential, Low Density). The annexation area included the area bounded on the west by Elkhorn Trail and Miles Avenue, on the north by Fred Waring Drive, on the east by Washington Avenue and on the south by the southern edge of the Whitewater Rivers Storm Channel and existing corporate boundaries of the City at that time. The Negative Declaration concluded there was no substantial evidence that there would be significant adverse environmental impacts associated with the proposed annexation. On January 27, 2000, the Local Agency Formation Commission of the County of Riverside, adopted Resolution No. 03-00 approving the reorganization and on March 16, 2000 the City adopted Resolution No. 2000-12 approving the annexation.

On December 19, 2002, the City adopted a Negative Declaration and approved a General Plan Amendment, Zoning Map Amendment, and Zoning Text Amendment to change the Residential, Medium High Density and Residential, Low Density designations to Residential, Medium Density on land east of Warner Trail, which included the subject

¹ The density of 6.55 was calculated based on the acreage (85.4) and number of units (560) in the General Plan's buildout estimate table for the Medium Density designation.

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site. The 2002 Negative Declaration determined the General Plan Amendment, Zoning Map Amendment, and Zoning Text Amendment would not have a significant effect on the environment.

In 2007 the City approved the General Plan Land Use Element Update and adopted an Addendum to the General Plan FEIR (2007 Addendum to FEIR). The Land Use Element Update consisted of minor revisions to language, exhibits, and maps to reflect existing conditions and changes that had been made since the adoption of the General Plan in 1996, including the 2000 annexation and 2002 General Plan Amendment, Zoning Map Amendment, and Zoning Text Amendment. The 2007 Addendum to FEIR determined that the Land Use Element Update would not cause substantial changes to the analysis or conclusions in the General Plan FEIR, and that the Update resulted in reduced impacts on air quality, traffic, and noise due to reductions in land use intensities and buildout population and housing estimates.

In 2013, the City updated the Housing Element for the 2014-2021 planning period (5th cycle) and adopted an Addendum to the General Plan FEIR (2013 Addendum to FEIR). The 2013 Addendum to FEIR determined all potentially significant effects resulting from the residential development anticipated by the Housing Element had been adequately analyzed in the General Plan FEIR and could be avoided and/or mitigated pursuant to compliance with the mitigation measures contained in the General Plan FEIR.

DISCUSSION

The project proposed by the City is to acquire, by eminent domain, the subject site (also referred to as the "Project site") for approximately 223 units of affordable housing and associated recreational amenities and open space consistent with the maximum amount of development allowed under the existing Residential, Medium Density Residential land use and zoning for the site (the "Project"). Specifically, the City proposes developing 5 to 10 acres of the site at a location to be determined based on the results of discussions with those Native American tribes who are consulting with the City regarding the final disposition of cultural resources at the site.

The proposed acquisition would not involve any changes to the site's existing land use and zoning or the associated development potential contemplated by the General Plan and analyzed in the General Plan FEIR, as modified by the 2007 Addendum to FEIR and the 2013 Addendum to FEIR. Consistent with the analysis and conclusions of the General Plan FEIR, future development of the Project site would be required to comply with the applicable General Plan policies and General Plan FEIR mitigation measures specific to biological resources, noise, air quality, public services and utilities, cultural resources, and paleontological resources, ensuring that potential environmental impacts are reduced to a less than significant level, with the exception of short- and long-term air quality impact, which the General Plan FEIR found would be significant even after the implementation of General Plan policies as mitigation.

A Historical/Archaeological Resources Survey Report (Phase I) and Phase II Archaeological Testing have been prepared specific to the site. During the preliminary research conducted for the Phase I, researchers found that two archaeological sites were previously recorded as lying within or partially within the site (Recorded Sites). Due to the possibility of buried cultural remains, further investigations, including test excavations were recommended to assess the archaeological data potential and the historic significance of the Recorded Sites. Phase II archaeological testing was conducted in June 2022 and identified significant cultural resources on the Recorded Sites.

These steps were taken consistent with the General Plan FEIR, which includes mitigation to reduce potential significant impacts to cultural resources by requiring that sites proposed for future development be evaluated for archaeological resources either through a literature search or by a certified archaeologist in accordance with CEQA. To the extent the General Plan FEIR recommends avoiding potential impacts to cultural resources by requiring sites proposed for future development be evaluated for archaeological resources in accordance with CEQA, this mitigation measure has been complied with through preparation of these studies. The specific location for future development of affordable housing within the site will be determined based on the results of ongoing discussions with consulting Native American tribes regarding the final disposition of cultural resources.

The environmental effects of the acquisition of the subject site for purposes of affordable housing and associated recreational amenities and open space consistent with the land use and zoning for the site were contemplated and analyzed in the General Plan FEIR, as modified by the 2007 Addendum to FEIR and the 2013 Addendum to FEIR. Accordingly, and pursuant to the criteria of Section 15162 of the CEQA Guidelines and Section 21166 of the Public Resources Code, and based on assessment of the site, no substantial changes have occurred in the site, no substantial changes have occurred in the circumstances under which the proposed development would be undertaken, and the City has obtained no new information of substantial importance that would require further environmental analysis. Thus, no further CEQA review is required. The General Plan FEIR, as modified by the 2007 Addendum to FEIR and the 2013 Addendum to FEIR, is adequate to satisfy the requirements of CEQA for the proposed acquisition of the subject site. This memo and the analysis herein constitute the EIR addendum for the Project.