

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

212B



SUBMITTAL DATE:
April 11, 2013

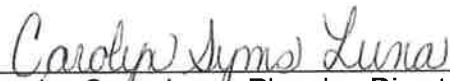
FROM: TLMA – Planning Department

SUBJECT: RESOLUTION NO. 2013-111 ESTABLISHING ADDITIONAL GUIDANCE AND PROCEDURES FOR THE IMPLEMENTATION OF THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN AND GENERAL PLAN INITIATION PROCEEDINGS (GPIP) FOR GENERAL PLAN AMENDMENT NO. 1120 CONCERNING SAME- Applicant: County of Riverside – First/First, Second/Second, Third/Third, and Fifth/Fifth Supervisorial Districts – The boundary of the project is consistent with the boundary of the Western Riverside County Multi-species Habitat Conservation Plan (MSHCP).

RECOMMENDED MOTION: The Planning Director recommends that the Board of Supervisors:

1. Adopt Resolution No. 2013-111 establishing additional guidance and procedures for the implementation of the Western Riverside County Multiple Species Habitat Conservation Plan (superseding and amending Resolution No. 2012-254 in its entirety); and
2. Adopt an order initiating the above referenced General Plan Amendment (GPA) No. 1120 based on the attached report.

BACKGROUND: This GPIP for GPA No. 1120 was continued from February 26, 2013 to April 23, 2013, at the request of Planning Staff to afford County Counsel and Planning Staff an opportunity to evaluate a memorandum sent from Dave Jeffers, representing a number of GPIP applicants, to Dr. Dan Silver, representing the Endangered Habitats League (EHL) concerning implementing processes. Planning Staff and County Counsel have also met with Laurie Correa – RCA Staff, Larry Markham – representing property owners, and Dr. Dan Silver – EHL, to discuss GPA No. 1120 and to address comments made in writing, as well as orally at the


Carolyn Syms Luna, Planning Director

Initials:
CSL

(Continued on Next Page)

REVIEWED BY EXECUTIVE OFFICE

DATE

Tina Grande

Departmental Concurrence

FORM APPROVED COUNTY COUNSEL

BY:

KARIN L. WATTS-BAZAN

DATE

Policy

Consent

Dep't Recomm.:

Policy

Consent

Per Exec. Ofc.:

Prev. Agn. Ref. 2/26/13 Item 15-1;
Related 12/18/12 Item
3.65.

District: 1/1, 2/2,
3/3, 5/5

Agenda Number:

15-1

The Honorable Board of Supervisors

Re: **RESOLUTION NO. 2013-111 AND GENERAL PLAN INITIATION PROCEEDINGS (GPIP)
FOR GPA NO. 1120**

Page 2 of 3

Planning Commission. Based upon the above referenced meetings, changes to Resolution No. 2012-254 are necessary. Such changes are reflected in Resolution No. 2013-111 which supersedes and amends Resolution No. 2012-254 in its entirety.

HISTORY: On May 8, 2008, the Board of Supervisors amended Article I of Ordinance No. 348, which added the General Plan Initiation Procedures to the requirements for all General Plan Amendments. Preceding this action, many property owners submitted GPAs to the Planning Department under the eight year cycle review that began on January 2, 2008. Many of these applications were submitted without development proposals or land use applications to subsequently subdivide, grade or build on the property.

Specifically, a concentration of GPIPs in the Third Supervisorial District lacked development proposals or land use applications to subsequently subdivide, grade or build on the subject property and are commonly referred to as "stand alone" GPIPs/GPAs. In the five years since the GPIP process was adopted, it has been brought to our attention by project proponents that some of the General Plan provisions have proved to be problematic.

On December 18, 2012, the Board of Supervisors adopted Resolution No. 2012-254 which establishes and provides additional guidance and procedures for the implementation of the MSHCP, when a General Plan Amendment (GPA), a Zoning Ordinance Amendment (CZ), or a Lot Line Adjustment (LLA) lacks any development project proposal and is a "stand alone" application. Pursuant to the terms of Resolution No. 2012-254, it does not become effective until such time as this GPA, GPA No. 1120, becomes effective, if adopted. The Form 11 regarding Resolution No. 2012-254 directed Planning Staff to revise the applicable sections of the General Plan that require "stand alone" GPAs, CZs, and LLAs to comply with the requirements of the MSHCP in an effort to streamline development applications through a General Plan Amendment.

As mentioned above, this GPIP for GPA No. 1120 was continued from February 26, 2013 to April 23, 2013, at the request of Planning Staff to afford County Counsel and Planning Staff an opportunity to evaluate comments received by, and meet with, concerned property owners and other stakeholders regarding the guidance and procedures set forth in Resolution No. 2012-254. Based upon the outcome of those meetings and evaluations of comments received, it has been determined that clarification on the additional procedures for implementing the MSHCP is warranted and that Resolution No. 2012-254 should be superseded and amended in its entirety by Resolution No. 2013-111. Resolution No. 2013-111 clarifies the requirements for private and public stand alone applications located within the MSHCP Criteria Areas, as well as the requirements for private and public stand alone applications not located within the MSHCP Criteria Areas. As used in Resolution No. 2013-111, "stand alone application" means "an amendment to the County's General Plan or an amendment to the County's zoning ordinance that is not accompanied by, or associated with, an application to subdivide or other land use development application." A "stand alone application" also includes "the approval of a lot line adjustment." A "stand alone application" does not include a Specific Plan application.

Accordingly, the purpose of this County-initiated amendment, GPA No. 1120, is to identify the applicable sections of the County's General Plan and amend language that requires MSHCP compliance for "Stand Alone Applications."

The Honorable Board of Supervisors

Re: **RESOLUTION NO. 2013-111 AND GENERAL PLAN INITIATION PROCEEDINGS (GPIP)
FOR GPA NO. 1120**

Page 3 of 3

PROJECT DESCRIPTION AND LOCATION:

The project proposes to initiate General Plan Amendment proceedings for a County initiated General Plan Amendment (GPA) No. 1120. Pursuant to Ordinance No. 348, Article II, a proposed GPA must receive comments from the Planning Commission and then be initiated by the Board of Supervisors prior to commencement of the General Plan process. GPA No. 1120 was presented to the Planning Commission for comments on January 16, 2013. The Planning Commission's comments on GPA No. 1120 are included with the attached staff report. The proposed GPA will modify language within the County's General Plan that requires certain GPAs, CZs, and LLAs, further clarified as "stand alone applications", to comply with the Multiple Species Habitat Conservation Plan (MSHCP).

The General Plan incorporates compliance with the MSHCP. Specifically, Section 6 of the MSHCP requires that all discretionary projects located within a criteria cell unit must comply with the Habitat Evaluation and Acquisition Negotiation Strategy (HANS) process and other habitat conservation requirements.

Additionally, the MSHCP includes other requirements that must be complied with, including but not limited to the Protection of Riparian/Riverine Areas and Vernal Pools (Section 6.1.2); the requirements for the Protection of Narrow Endemic Plant Species (Section 6.1.3); the requirements for Urban/Wildlands Interface Guidelines (Section 6.1.4); and the imposition of conditions and/or mitigation measures that are necessary to ensure surveys are prepared for development projects (Section 6.3.2).

GPA No. 1120 will affect the Open Space Element and the following Area Plans within the Western Riverside County, Highgrove, Temescal Canyon, Lake Elsinore, Southwest, Lake Mathews/Woodcrest, Mead Valley, Sun City, Harvest Valley/Winchester, Reche Canyon/Badlands, Lakeview/Nuevo, San Jacinto, The Pass, and the REMAP.

BOARD OF SUPERVISORS

COUNTY OF RIVERSIDE

RESOLUTION NO. 2013-111

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE
TO ESTABLISH ADDITIONAL GUIDANCE AND PROCEDURES FOR IMPLEMENTATION
OF THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN
(SUPERSEDING AND AMENDING RESOLUTION NO. 2012-254)**

WHEREAS, on December 18, 2012, the Board of Supervisors (Board) in a regularly scheduled meeting adopted Resolution No. 2012-254 that established additional guidance and procedures for implementation of the Western Riverside County Multiple Species Habitat Conservation Plan; and

WHEREAS, since the adoption of Resolution No. 2012-254 it has been determined that clarification on the additional procedures for implementing the MSHCP was warranted; and

WHEREAS, the Planning Department and County Counsel recommend that Resolution No. 2012-254 be superseded and amended in its entirety by this Resolution No. 2013-111 (Resolution); and

WHEREAS, this Resolution shall be known as the "Western Riverside County Multiple Species Habitat Conservation Plan Implementation Policy"; and

WHEREAS, the Board finds that the ecosystems of western Riverside County and the vegetation communities and sensitive species they support are fragile, irreplaceable resources that are vital to the general welfare of all residents; and

WHEREAS, these vegetation communities and natural areas contain habitat value which contributes to the region's environmental resources; and

WHEREAS, special protections for these vegetation communities and natural areas are essential to prevent future endangerment of the plant and animal species that are dependent upon them; and

WHEREAS, on June 17, 2003, the Board approved the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and executed its associated Implementing Agreement. Thereafter, relevant provisions of the MSHCP and policies concerning development project implementation and compliance with the MSHCP

FORM APPROVED COUNTY COUNSEL
DATE 4/11/13
BY [Signature]
COUNTY CLERK

1 were incorporated into the County of Riverside General Plan. The purpose of this Resolution is to provide further
2 guidance concerning the implementation of the requirements of the MSHCP; and

3 WHEREAS, adoption and implementation of this Resolution will enable the County to achieve the
4 conservation goals set forth in the MSHCP and to preserve the ability of affected property owners to make
5 reasonable use of their land consistent with the requirements of the National Environmental Policy Act (NEPA), the
6 California Environmental Quality Act (CEQA), the Federal Endangered Species Act (FESA), the California
7 Endangered Species Act (CESA), the California Natural Community Conservation Planning Act (NCCP), and other
8 applicable laws; and

9 WHEREAS, it is the intent of this Resolution to protect vegetation communities and natural areas within
10 western Riverside County which support species covered under the MSHCP; to maintain a future of economic
11 development within western Riverside County by providing a streamlined process from which development can
12 proceed in an orderly process; and to protect the existing character of western Riverside County through the
13 implementation of a system of reserves which will provide for permanent open space, community edges, and
14 habitat conservation for species covered by the MSHCP.

15 **NOW, THEREFORE, BE IT RESOLVED, FOUND, DETERMINED AND ORDERED** by the Board
16 of Supervisors of the County of Riverside, in regular session assembled on April 23, 2013, at 9:00 a.m., in its
17 meeting room located on the 1st Floor of the County Administrative Center, 4080 Lemon Street, Riverside,
18 California that the following guidance and procedures related to the MSHCP be implemented:

20 **SECTION I. APPLICATION OF REGULATIONS**

21 Except as provided in Section II., this Resolution shall apply to all land within the unincorporated area of
22 western Riverside County shown on the MSHCP Plan Map included in the MSHCP. Upon application to the
23 County for a project, an applicant shall be required to comply with the procedures set forth in this Resolution.
24 Upon the County's initiation of a project that is subject to CEQA, the County shall be required to comply with the
25 procedures set forth in this Resolution. No private project requiring a discretionary permit or approval and no
26 County initiated public project shall be undertaken unless the project is consistent with the MSHCP and this
27 Resolution.

1
2 **SECTION II. EXEMPTIONS**

3 This Resolution shall not apply to the following:

- 4 A. Any project for which ~~and~~ to the extent that a vesting tentative map pursuant to the Subdivision Map
5 Act, or a development agreement pursuant to Government Code sections 65864 et seq., approved or
6 executed prior to the Board's approval of the MSHCP, confers vested rights under the County's
7 ordinances or state law to proceed with the project notwithstanding the Board's approval of the
8 MSHCP or adoption of this Resolution. Projects subject to this exemption must comply with all
9 provisions of any applicable state and federal law.
- 10 B. Any project for which the Board determines that application of this Resolution would result in the
11 property owner being deprived of all reasonable economic use of the property in violation of federal or
12 state constitutional prohibitions against the taking of property without just compensation.

13
14 **SECTION III. PROCEDURES**

- 15 A. The County shall implement the requirements for private and public project contributions to the
16 MSHCP Conservation Area as set forth in the MSHCP, by electing to comply with the following:
- 17 1. The County shall implement the Property Owner Initiated Habitat Evaluation and Acquisition
18 Negotiation Process (HANS) for private projects ; and
- 19 2. Prior to the County's initiation of a public project, the County shall determine whether all or a
20 portion of the real property for the project is located within the boundaries of the Criteria Area. If
21 the County determines that all or a portion of the real property for the project is located within the
22 Criteria Area, then the County shall perform the following:
- 23 a. Determine the design criteria applicable to the project based on the particular USGS section,
24 quadrant, and/or cell grouping in which the project property is located, as set forth in Section
25 3.2 of the MSHCP; and
- 26 b. Impose as a mitigation measure such requirements as are necessary to ensure the project
27 complies with and implements the design criteria applicable to the project.
- 28

1 B. The County shall implement the following requirements for private and public Stand Alone
2 Applications located within the MSHCP Criteria Area(s):

- 3 1. A HANS application shall be filed concurrently with the Stand Alone Application and an initial
4 HANS assessment of the proposed project shall be made by the Planning Department's
5 Environmental Programs Division; and
- 6 2. The initial HANS assessment shall determine if any, all, or a portion of the subject property is
7 needed for inclusion in the MSHCP Conservation Area. Such determination shall be provided in
8 writing to the project applicant; and
- 9 3. Habitat assessments and species specific focused surveys as set forth in Section 6.0 of the MSHCP
10 shall not be required as part of the initial HANS assessment; and
- 11 4. The initial HANS assessment shall be submitted to the Western Riverside County Regional
12 Conservation Authority (RCA) as part of the Joint Project Review (JPR) process set forth in Section
13 6.0 of the MSHCP; and
- 14 5. Once HANS and JPR are complete, the Stand Alone Application shall be allowed to move forward
15 with the planning process. MSHCP required habitat assessments and surveys shall not be required
16 until such time that a development proposal or land use application to subsequently subdivide,
17 grade, or build on the property is submitted to the County.

18 C. The County shall implement the following requirements for private and public Stand Alone
19 Applications not located within the MSHCP Criteria Area(s):

- 20 1. A Stand Alone Application located outside of the MSHCP Criteria Area is not intended for
21 inclusion in the MSHCP Conservation Area and is thus not subject to the HANS and JPR process
22 for assessing MSHCP Conservation Criteria; and
- 23 2. Habitat assessments and species specific focused surveys as set forth in Section 6.0 of the MSHCP
24 shall not be required for such Stand Alone Applications until such time that a development proposal
25 or land use application to subsequently subdivide, grade, or build on the property is submitted to the
26 County.

- 1 D. The County shall implement the requirements for the Protection of Riparian/Riverine Areas and Vernal
2 Pools set forth in Section 6.1.2 of the MSHCP in the following manner:
- 3 1. As part of the CEQA review for a project, the property owner shall comply, or the County shall
4 comply if the project is County-initiated, with the surveying, mapping, and documentation
5 procedures set forth in Section 6.1.2 of the MSHCP for Riparian/Riverine Areas and Vernal Pools
6 on the project property; and
- 7 2. Based on the documentation prepared for the project, the County shall impose a condition and/or a
8 mitigation measure such requirements as are necessary to ensure the project complies with and
9 implements the policies for the Protection of Riparian/Riverine Areas and Vernal Pools set forth in
10 Section 6.1.2 of the MSHCP.
- 11 E. The County shall implement the requirements for the Protection of Narrow Endemic Plant Species set
12 forth in Section 6.1.3 of the MSHCP in the following manner:
- 13 1. As part of the CEQA review of the project, the property owner shall comply, or the County shall
14 comply if the project is County-initiated, with the site-specific focused survey procedures set forth
15 in Section 6.1.3 of the MSHCP; and
- 16 2. Based on the site-specific focused surveys prepared for the project, the County shall impose a
17 condition and/or mitigation measure such requirements as are necessary to ensure the project
18 complies with and implements the policies for Narrow Endemic Plant Species policies set forth in
19 Section 6.1.3 of the MSHCP.
- 20 F. The County shall impose a condition and/or mitigation measure such requirements as are necessary to
21 ensure the project complies with and implements the Urban/Wildlands Interface Guidelines set forth in
22 Section 6.1.4 of the MSHCP.
- 23 G. The County shall impose a condition and/or mitigation measure such requirements as are necessary to
24 ensure surveys are prepared for the project as required by Section 6.3.2 of the MSHCP.
- 25 H. Pursuant to Section III. of this Resolution and the MSHCP, the County shall transfer any property
26 interest acquired or obtained in fee title or as a conservation easement to the Western Riverside County
27 Regional Conservation Authority for management.
- 28

- 1 I. The County shall comply with CEQA for Stand Alone Applications located either outside or within the
2 MSHCP Criteria Area(s) in the following manner:
- 3 1. An Environmental Assessment Form ("EA") shall be prepared for all Stand Alone Applications,
4 which shall provide the framework for the Initial Study ("IS"); and
- 5 2. The "No Impact" box shall be checked under the Biological Resources Section of the EA with the
6 following finding of fact noted: the proposed project does not provide the opportunity for physical
7 disturbance of the property, therefore, there is no potential for take of sensitive species or conflict
8 with adopted conservation plans, including but not limited to the MSHCP; and
- 9 3. Once a development proposal or land use application to subsequently subdivide, grade, or build on
10 the property associated with the Stand Alone Application is submitted, a subsequent review and EA
11 shall be prepared assessing potential impacts to Biological Resources as well as any conflicts with
12 adopted conversation plans, including but not limited to the MSHCP.

14 SECTION IV. DEFINITIONS

15 For purposes of this Resolution, the following terms shall have the meaning set forth herein:

- 16 A. "Area Plan" means the sixteen areas designated for purposes of providing an organizational framework
17 for the Criteria Area, and for purposes of developing specific design criteria that will be utilized in
18 assembling land within the Criteria Area that will become part of the MSHCP Conservation Area.
- 19 B. "Criteria Area" means the general area designated and denoted on the MSHCP Plan Map as the
20 "Criteria Area", comprised of approximately 310,000 acres from which new habitat conservation
21 within the MSHCP Conservation Area will be assembled.
- 22 C. "MSHCP" means the Western Riverside County Multiple Species Habitat Conservation Plan.
- 23 D. "MSHCP Plan Map" means the map of the area encompassed by the MSHCP.
- 24 E. "Project" means any action or activity that is subject to the County's discretionary approval for the
25 purpose of developing or improving real property, including, but not limited to, the following: the sale,
26 purchase or lease of County-owned property; the approval of a tentative subdivision map; the issuance
27 of a license, permit, certificate, variance, or other entitlement for the development or improvement of
28

1 real property, including the clearing or grading of real property (except for weed or fire hazard
2 abatement); and the construction or improvement of streets, water, sewer, or other public facilities or
3 public works.

4 F. "Stand Alone Application" means the following:

- 5 1. Any amendment to the County's General Plan or an amendment to the County's zoning ordinance
6 that is not accompanied by, or associated with, an application to subdivide or other land use
7 development application.
- 8 2. The approval of a lot line adjustment.
- 9 3. Stand Alone Application shall not include Specific Plan applications.

10 **BE IT FURTHER RESOLVED AND DETERMINED** that this Resolution shall not take effect until
11 such time as the Board of Supervisors adopts an amendment to the County of Riverside General Plan revising
12 certain language related to MSHCP implementation so that it is consistent with the procedures provided in this
13 Resolution and said amendment is in effect.