

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

207B



FROM: TLMA - Planning Department

SUBMITTAL DATE:
May 25, 2010

SUBJECT:

ORDINANCE NO. 810 FEE CREDIT AGREEMENT BETWEEN THE COUNTY OF RIVERSIDE AND LAKE MATHEWS ASSOCIATES, LLC.

RECOMMENDED MOTION:

That the Board of Supervisors Approve Ordinance No. 810 Fee Credit Agreement between the County of Riverside and Lake Mathews Associates, LLC and authorize the Chairman to execute said Agreement.

Ron Goldman
Planning Director

Initials:
RG:ar

(Continued on Attached Page)

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	N/A
SOURCE OF FUNDS: N/A				Positions To Be Deleted Per A-30 <input type="checkbox"/>
				Requires 4/5 Vote <input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY
Tina Grande

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Benoit and duly carried,
IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Benoit and Ashley
Nays: None
Absent: Tavaglione and Stone
Date: June 22, 2010
xc: Planning, Co.Co.

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

Prev. Agn. Ref. 5/25/10 Item No's 3.51 / **District:** First **Agenda Number:**

3.44

FORM APPROVED COUNTY COUNSEL
BY:
KARIN L. WATTS-BAZAN
DATE: 5/27/10
Departmental Concurrence

Dep't Recomm.: ☐ Consent ☒ Policy
Per Exec. Ofc.: ☐ Consent ☒ Policy

BACKGROUND:

On March 23, 2010, the Riverside County Board of Supervisors tentatively approved a Fee Credit Agreement, between the project developer (Lake Mathews Associates, LLC) and the County of Riverside, for the Gavilan Hills Estates Specific Plan (Specific Plan No. 308, Amendment No. 1).

The Gavilan Hills Estates Specific Plan lies within the criteria area for the Western Riverside County Multiple Species Habitat Conservation Plan (Western MSHCP), and therefore was required to process a HANS application (Hans No. 1773) in accordance with the procedures of the Western MSHCP. Hans No. 1773 identified a need to conserve 536.4 acres to contribute towards proposed Linkage 3, one of two connections between the Lake Mathews/Estelle Mountain Reserve and Core Areas in Alberhill.

The Gavilan Hills Estates Specific Plan site contains significant biological resources including several listed plant and animal species, including a significant colony of Burrowing Owls, and subsequently was required to redesign the project to avoid the significant Burrowing Owl habitat, resulting in a loss of 40 tentatively designed lots. The developer has agreed to obtain credit for the value of the 40 lots against the fees that would otherwise be required to be paid in connection with its development of the Gavilan Hills Estates Specific Plan pursuant to Riverside County Ordinance No. 810.2.

The below listed recommendations were made on the Form 11 to the Board of Supervisor's on **March 23, 2010** as Agenda Item No. **16.1** and the following actions were taken.

TENTATIVE APPROVAL of **ORDINANCE NO. 810** Fee Credit Agreement between the County of Riverside and Lake Mathews Associates, LLC.;

CERTIFICATION of **ENVIRONMENTAL IMPACT REPORT NO. 453**, which has been completed in compliance with the EIR Guidelines and the Riverside County CEQA Implementation Procedure;

APPROVAL of **GENERAL PLAN AMENDMENT NO. 662** from Specific Plan (SP00308), Rural Community: Estate Density Residential (RC: EDR) (2 Acre Minimum), Rural Community: Low Density Residential (RC: LDR) (½ Acre Minimum), Rural: Rural Mountainous (R: RM) (10 Acre Minimum), and Rural: Rural Residential (R: RR) (5 Acre Minimum) to Specific Plan No. 308, Amendment No. 1 in the Lake Mathews/Woodcrest Area Plan in accordance with Exhibit #5;

APPROVAL of **SPECIFIC PLAN NO. 308, AMENDMENT NO. 1**, subject to the attached conditions of approval, and based on the findings and conclusions incorporated in the staff report;

APPROVAL of **CHANGE OF ZONE NO. 6730**, amending the zoning classification for the subject property from Residential Agricultural (2 Acre Minimum) (R-A-2), Residential Agricultural (5 Acre Minimum) (R-A-5), and Residential Agricultural (10 Acre Minimum) (R-A-10) to Specific Plan (SP Zone), in accordance with Exhibit #2; and,

APPROVAL of **TENTATIVE TRACT MAP NO. 31554**, subject to the attached conditions of approval, and based upon the findings and conclusions incorporated in the staff report.

On **May 25, 2010** The Board of Supervisors adopted Resolution No. 2010-125 Certifying Environmental Impact Report No. 453, adopting Specific Plan No. 308A1, and approving Tentative Tract Map No.31554; adopted Ordinance No. 348.4699 for Zoning Map No. 56.011 and Change of Zone No. 6730 amending Ordinance No. 348 text to reflect Specific Plan development standards, and establishing the Specific Plan Boundary and Planning Area Boundaries; and adopted the Second Cycle General Plan Amendment as Resolution No. 2010-138.

COUNTY OF RIVERSIDE

TRANSPORTATION AND LAND MANAGEMENT AGENCY

George A. Johnson · Agency Director

Planning Department

Ron Goldman · Planning Director

2073

DATE: June 9, 2010

TO: Clerk of the Board of Supervisors

FROM: Planning Department - Riverside Office

SUBJECT: Ordinance No. 810 Fee Credit Agreement between the County of Riverside and Lake Mathews Associates, LLC.

(Charge your time to these case numbers)

The attached item(s) require the following action(s) by the Board of Supervisors:

- | | |
|---|---|
| <input type="checkbox"/> Place on Administrative Action (Receive & File; EOT) | <input type="checkbox"/> Set for Hearing (Legislative Action Required; CZ, GPA, SP, SPA) |
| <input type="checkbox"/> Labels provided If Set For Hearing | <input type="checkbox"/> Publish in Newspaper: |
| <input type="checkbox"/> 10 Day <input type="checkbox"/> 20 Day <input type="checkbox"/> 30 day | **SELECT Advertisement** |
| <input type="checkbox"/> Place on Consent Calendar | <input type="checkbox"/> **SELECT CEQA Determination** |
| <input checked="" type="checkbox"/> Place on Policy Calendar (Resolutions; Ordinances; PNC) | <input type="checkbox"/> 10 Day <input type="checkbox"/> 20 Day <input type="checkbox"/> 30 day |
| <input type="checkbox"/> Place on Section Initiation Proceeding (GPIP) | <input type="checkbox"/> Notify Property Owners (app/agencies/property owner labels provided) |
| | Controversial: <input type="checkbox"/> YES <input type="checkbox"/> NO |

Designate Newspaper used by Planning Department for Notice of Hearing: **SELECT**

Please schedule on the 6/22/2010 BOS Agenda

Documents to be sent to County Clerk's Office for Posting within five days:

Notice of Determination
Fish & Game Receipt (CFG2787)

Riverside Office · 4080 Lemon Street, 9th Floor
P.O. Box 1409, Riverside, California 92502-1409
(951) 955-3200 · Fax (951) 955-3157

Desert Office · 38686 El Cerrito Road
Palm Desert, California 92211
(760) 863-8277 · Fax (760) 863-7555

ORDINANCE NO. 810 FEE CREDIT AGREEMENT
BETWEEN THE COUNTY OF RIVERSIDE
AND LAKE MATHEWS ASSOCIATES, LLC

This Agreement is made this 22nd day of June, 2010, by and between the County of Riverside, a political subdivision of the State of California, hereinafter referred to as "County", and Lake Mathews Associates, LLC, a limited liability corporation, hereinafter referred to as "Developer", and its successors and assigns.

WHEREAS, the Gavilan Hills Estates Specific Plan (Specific Plan No. 308 Amended No. 1) was approved by the Board of Supervisors on, 6-22 2010; and

WHEREAS, the Gavilan Hills Estates Specific Plan lies within the criteria area for the Western Riverside County Multiple Species Habitat Conservation Plan (Western MSHCP); and

WHEREAS, the Gavilan Hills Estates Specific Plan was required to process a HANS application (Hans No. 1773) in accordance with the procedures of the Western MSHCP, which identified a need to conserve 536.4 acres to contribute towards proposed Linkage 3, one of two connections between the Lake Mathews/Estelle Mountain Reserve and Core Areas in Alberhill; and

WHEREAS, the Gavilan Hills Estates Specific Plan site contains significant biological resources including several listed plant and animal species, including a significant colony of Burrowing Owls; and

WHEREAS, Developer was required to redesign the project to avoid the significant Burrowing Owl habitat, resulting in a loss of 40 tentatively designed lots; and

WHEREAS, An appraisal performed by John A. Johnson of West Coast Service, dated 9/10/09, determined today's value of a comparable lot to be \$36,000; and

WHEREAS, The value of 40 lots in today's market value is \$1,440,000; and

WHEREAS, Developer desires to obtain credit for the value of the 40 lots against the fees that would otherwise be required to be paid in connection with its development of the Gavilan Hills Estates Specific Plan pursuant to Riverside County Ordinance No. 810.2.

NOW, THEREFORE, in consideration of the foregoing recitals, it is mutually agreed as follows:

1. Purpose of the Agreement. Provide a fee credit to Developer in connection with the lost value of 40 residential lots due to the redesign of the project in order to preserve significant biological

resources.

2. Fee Credit. The fee credit provided herein applies only to the development of property within the Gavilan Hills Estates Specific Plan and to the payment of fees pursuant to Ordinance No. 810.2 or any subsequently approved amendment to Ordinance No. 810. No transfer of credit may occur to a different development entitlement. The total number of approved residential lots within the Gavilan Hills Estates Specific Plan subject to this Agreement is 432. Each individual approved residential lot shall receive a total fee credit not to exceed \$3,333. The total fee credit shall be \$1,440,000.00 and shall not exceed this amount. Any Ordinance No. 810.2 fees required to be paid that exceed \$3,333 per lot shall remain the responsibility of Developer or its successor in interest.

3. Recordation of Agreement. This Agreement and any amendments thereto shall be recorded in the Office of the Riverside County Recorder for the County of Riverside.

4. Consistency with Ordinance No. 810 and Resolution No. 2004- 223. This fee credit is consistent with and meets the requirements for fee credits set forth in Ordinance No. 810 and Resolution No. 2004-223.

5. Paragraph Headings. The paragraph headings herein are for the convenience of the parties only, and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions or language of this Agreement.

6. Authority to Execute Agreement. The Developer warrants that its authorized officer has the authority vested in him or her to execute this Agreement.

7. Entire Agreement. This Agreement is intended by the parties hereto as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous leases, agreements and understandings, oral or written, in connection herewith. No provision contained herein shall be construed against the County solely because it prepared this Agreement in its executed form.

8. Amendment. This Agreement shall not be changed, modified, or amended except upon written consent of the parties hereto. In the event the Gavilan Hills Estates Specific Plan is amended to increase the number of approved residential lots subject to this Agreement as set forth in paragraph 2 above, an amendment to this Agreement shall be submitted by the Developer to the County for its consideration.

1 IN WITNESS WHEREOF, County and Developer have entered into this Agreement on the last
2 date indicated below.

3
4 Lake Mathews Associates, LLC
A limited liability corporation

5
6 Dated: _____


7 By: 
8 Authorized Officer

9 County of Riverside

10
11 Dated: JUN 22 2010

12 By: 
13 Chairman, Board of Supervisors
14 MARION ASHLEY

15 ATTEST:
16 Clerk of the Board **KECIA HARPER-IHEM**

17 By: 
18 Deputy

19
20 APPROVED AS TO FORM:
21 County Counsel

22 By: 
23 Deputy

24
25
26 KWB/mdk
021110

27 G:\PROPERTY\KWATTSBA\ORD 810 FEE CREDIT AGREEMENT GAVILLAN HILLS.DOC

George A. Johnson · Agency Director

Planning Department

Ron Goldman · Planning Director

Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on.

0/23/10
Date

Initial

TO: ☐ Office of Planning and Research (OPR)
P.O. Box 3044
Sacramento, CA 95812-3044
☒ County of Riverside County Clerk

FROM: Riverside County Planning Department
☒ 4080 Lemon Street, 9th Floor
 P. O. Box 1409
 Riverside, CA 92502-1409

☐ 38686 El Cerrito Road
Palm Desert, California 92211

SUBJECT: Filing of Notice of Determination in compliance with Section 21152 of the California Public Resources Code.

ORDINANCE NO. 810 FEE CREDIT AGREEMENT BETWEEN THE COUNTY OF RIVERSIDE AND LAKE MATHEWS ASSOCIATES, LLC.

Project Title/Case Numbers

JEFF HORN
County Contact Person

951-955-4641
Phone Number

SCH# 2007 041 067

State Clearinghouse Number (if submitted to the State Clearinghouse)

Lake Mathews Associates LLC
Project Applicant

2716 Ocean Park Blvd, Suite 2025, Santa Monica CA 90405
Address

The project is located southerly of Multiview Drive, northerly of Lake Mathews Drive, and westerly of Gavilan Road in the community of Gavilan Hills.

On May 25, 2010 The Board of Supervisors adopted Resolution No. 2010-125 Certifying Environmental Impact Report No. 453, adopting Specific Plan No. 308A1, and approving Tentative Tract Map No.31554; adopted Ordinance No. 348.4699 for Zoning Map No. 56.011 and Change of Zone No. 6730 amending Ordinance No. 348 text to reflect Specific Plan development standards, and establishing the Specific Plan Boundary and Planning Area Boundaries; and adopted the Second Cycle General Plan Amendment as Resolution No. 2010-138. The Gavilan Hills Estates Specific Plan (Specific Plan No. 308, Amendment No. 1) site contains significant biological resources including several listed plant and animal species, including a significant colony of Burrowing Owls, and subsequently was required to redesign the project to avoid the significant Burrowing Owl habitat, resulting in a loss of 40 tentatively designed lots. The developer has agreed to obtain credit for the value of the 40 lots against the fees that would otherwise be required to be paid in connection with its development of the Gavilan Hills Estates Specific Plan pursuant to Riverside County Ordinance No. 810.2.

Project Description

This is to advise that the Riverside County Board of Supervisors as the lead agency, has approved the above-referenced project on 06/22/10, and has made the following determinations regarding that project:

1. The project WILL have a significant effect on the environment.
2. An Environmental Impact Report was prepared for the project pursuant to the provisions of the California Environmental Quality Act (\$64.00).
3. Mitigation measures WERE made a condition of the approval of the project.
4. A Mitigation Monitoring and Reporting Plan/Program WAS adopted.
5. A statement of Overriding Considerations was adopted for the project.

This is to certify that the Environmental Impact Report, with comments, responses, and record of project approval is available to the general public at: Riverside County Planning Department, 4080 Lemon Street, 9th Floor, Riverside, CA 92501.


Signature

Board Assistant
Title

June 22, 2010
Date

Date Received for Filing and Posting at OPR:

DM/rj

Revised 8/25/2009

Y:\Planning Case Files-Riverside office\SP00308A1\BOS\Ord 810 Fee Agreement NOD.doc

Please charge deposit fee case#: ZCFG2787 \$64.00 (\$2,768.25 -paid- CFG2787)

06.22.10 3.44

FOR COUNTY CLERK'S USE ONLY

COUNTY OF RIVERSIDE
SPECIALIZED DEPARTMENT RECEIPT
Permit Assistance Center

J* REPRINTED * R0322114

4080 Lemon Street
Second Floor
Riverside, CA 92502
(951) 955-3200

39493 Los Alamos Road
Suite A
Murrieta, CA 92563
(951) 694-5242

38686 El Cerrito Rd
Indio, CA 92211
(760) 863-8271

Received from: LAKE MATHEWS ASSOCIATES LLC
paid by: CK 1196

\$64.00

EIR00453

paid towards: CFG02787
at parcel:
appl type: CFG3

CALIF FISH & GAME: DOC FEE

By _____ Nov 25, 2003 10:11
MBRASWEL posting date Nov 25, 2003

Account Code	Description	Amount
658353120100208100	CF&G TRUST: RECORD FEES	\$64.00

Overpayments of less than \$5.00 will not be refunded!

COUNTY OF RIVERSIDE
SPECIALIZED DEPARTMENT RECEIPT
Permit Assistance Center

J* REPRINTED * I1000625

4080 Lemon Street
Second Floor
Riverside, CA 92502
(951) 955-3200

39493 Los Alamos Road
Suite A
Murrieta, CA 92563
(951) 694-5242

38686 El Cerrito Rd
Indio, CA 92211
(760) 863-8271

Received from: LAKE MATHEWS ASSOCIATES LLC
paid by: VI 06509D

\$24.00

EIR00453

paid towards: CFG02787
at parcel:
appl type: CFG3

CALIF FISH & GAME: DOC FEE

By _____ Mar 08, 2010 14:18
JCMITCHE posting date Mar 08, 2010

Account Code	Description	Amount
658353120100208100	CF&G TRUST	\$24.00

Overpayments of less than \$5.00 will not be refunded!

COUNTY OF RIVERSIDE
SPECIALIZED DEPARTMENT RECEIPT
Permit Assistance Center

J* REPRINTED * R0914613

4080 Lemon Street
Second Floor
Riverside, CA 92502
(951) 955-3200

39493 Los Alamos Road
Suite A
Murrieta, CA 92563
(951) 694-5242

38686 El Cerrito Rd
Indio, CA 92211
(760) 863-8271

Received from: LAKE MATHEWS ASSOCIATES LLC \$2,768.25
paid by: CK 001027
EIR00453
paid towards: CFG02787 CALIF FISH & GAME: DOC FEE
at parcel:
appl type: CFG3

By _____ Oct 19, 2009 12:27
SBROSTRO posting date Oct 19, 2009

Account Code	Description	Amount
658353120100208100	CF&G TRUST	\$2,768.25

Overpayments of less than \$5.00 will not be refunded!

CLERK OF THE BOARD

KECIA HARPER-IHEM

Memorandum



From: Karen Barton, Board Assistant

Date: June 23, 2010

Re: Item 3.44 of 6/22/10

Per Kecia Harper-Ihem and Karin Watts-Bazan the following item is not adoption of an ordinance. It is a fee credit agreement with Lake Mathews Associates LLC that is being executed pursuant to Ordinance 810.