

DIRECTOR'S HEARING
RESOLUTION NO. DIRECTOR'S HEARING-2008- 12

**A RESOLUTION OF THE PLANNING DIRECTOR OF THE CITY
OF MURRIETA APPROVING A MINOR CONDITIONAL USE
PERMIT (MCUP 008-2694)**

The Planning Director of the City of Murrieta hereby resolves as follows:

WHEREAS, the City of Murrieta has received an application Lowes Companies, Inc, for. approval of a minor conditional use permit to allow for the outdoor display of merchandise at a previously approved Lowes store within a regional commercial (MCUP 008-2694); and

WHEREAS, the City of Murrieta has undertaken a review of the requests, including an environmental analysis pursuant to the California Environmental Quality Act; and

WHEREAS, the Murrieta Planning Director held a duly noticed public hearing and considered the Minor Conditional Use Permit at its meeting of December 15, 2008; and

NOW, THEREFORE, the Planning Director of the City of Murrieta hereby resolves as follows:

SECTION 1. The Planning Director, having considered the written reports from staff and public testimony and such other facts as are of record in these proceedings makes the following findings regarding Minor Conditional Use Permit 008-2694 in accordance with Section 16.52.040 of the Murrieta Municipal Code:

1. The proposed use is conditionally allowed within, and would not impair the integrity and character of, the subject zoning district and complies with all applicable provisions of this development code

FACT: The proposed Lowes Home Improvement Store is part of a previously entitled regional commercial center. The outdoor display of merchandise is specifically allowed by Section 16.52.020 B9 of the Development Code upon the approval of a minor conditional use permit. This approval requires compliance with all applicable sections of the Municipal Code, specifically Section 16.44.120, which regulates the outside display and sales of merchandise.

2. The proposed use is consistent with the objectives, policies, general land uses, and programs of the general plan, and any applicable specific plan

FACT: The general plan designation for the site is Regional Commercial. This proposed minor conditional use permit is for the outdoor display of merchandise for a home improvement center within a regional commercial center. Such outdoor display of merchandise is typical of other such home improvement centers within regional centers both in the City of Murrieta and in similar centers outside of the City of Murrieta.

3. The approval of the conditional use permit for the proposed use is in compliance with the requirements of the California Environmental Quality Act (CEQA) and there will be no potentially significant negative impacts upon environmental quality and natural resources that could not be properly mitigated and monitored;

FACTS: The entitlement of the regional center within which this minor conditional use permit is proposed included the approval of an Environmental Impact Report and Addendum (SCR#2005031029). The proposed minor conditional use permit neither adds nor subtracts to the potential environmental impacts identified in the approved Environmental Impact Report and Addendum and thus any potential impacts caused by this approval have been adequately addressed by the previously approved Environmental Impact Report and Addendum.

4. The site is suitable for the type and intensity of use or development that is proposed.

FACTS: The site is has already been entitled for a regional commercial center. This minor conditional use permit only allows for the outdoor display of merchandise subject to standard and special city conditions. It does not add nor alter the type and intensity of the use which has already been approved and found to be suitable for this site.

5. There are adequate provisions for sanitation, water, and public utilities and services to ensure public convenience, health, safety, and general welfare.

FACTS: All utilities required for the development are available in rights-of-way adjacent to the site and will be installed pursuant to the conditions and approved building plans for the regional commercial center for which this minor conditional use permit is being approved. The outdoor display of merchandise as approved herein does not add to the need for or burden on the proposed utilities or other city services needed to ensure the public convenience, health, safety and welfare.

6. The proposed use will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other allowed uses in the vicinity or adverse to the public convenience, health, safety, or general welfare, or materially injurious to properties and improvements in the vicinity of the subject property.

FACTS. The proposed minor conditional use permit is accessory to an already approved regional commercial center. Thus approval does not alter nor block any vehicular nor pedestrian access ways nor does it create any additional noise or other objectionable or detrimental situation in excess of the impacts of the already approved commercial center.

SECTION 2. Pursuant to the above findings, the Planning Director of the City of Murrieta approves Minor Conditional Use Permit 008-2694 (MCUP 008-2694) subject to the attached conditions of approval in Exhibit A.

PASSED, APPROVED AND ADOPTED THIS 15th DAY OF DECEMBER, 2008



Mary E. Lahier, Planning Director
City of Murrieta

ATTEST:



Cynthia S. Kinser, Assistant Planning Director

I, Cynthia S. Kinser, Assistant Planning Director, City of Murrieta, California do hereby certify that the foregoing Resolution was duly adopted at a regular Director's Hearing held by the Planning Director on December 15, 2008.



Cynthia S. Kinser, Assistant Planning Director

**EXHIBIT A
RECOMMENDED CONDITIONS OF APPROVAL
MINOR CONDITIONAL USE PERMIT (MCUP 008-2694)
DECEMBER 15, 2008**

PLANNING DEPARTMENT:

GENERAL CONDITIONS

1. The permittee shall defend (with attorneys approved by the City), indemnify and hold harmless the City of Murrieta, its agents, officers, and employees from any claims, damages, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City, its advisory agencies, appeal boards, or legislative body concerning Minor Conditional Use Permit 2007-2576. The City will promptly notify the permittee of any such claim, action, or proceeding against the City and will cooperate fully in the defense.
2. This approval shall be used within two (2) years of the approval date; otherwise, it shall become null and void and of no effect whatsoever. Use means implementation of the approval within the two (2) year period, in compliance with the conditions of approval contained herein.
3. Any fees due the City of Murrieta for processing this project shall be paid to the City within thirty (30) calendar days of final action. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted by this action. No permits, site work, or other actions authorized by this action shall be permitted, authorized or commenced until all outstanding fees are paid to the City.
4. In the event the use hereby permitted under this permit is: (a) found to be in violation of the terms and conditions of this permit; (b) found to have been obtained by fraud or perjured testimony; or (c) found to be detrimental to the public health, safety or general welfare, or a public nuisance; this permit shall be subject to the revocation procedures in Section 16.82 of the Development Code.
5. The project conditionally permitted with this application is for the use of a permanent outdoor display(s) for sales of new home improvement merchandise for LOWE'S of Murrieta only.
6. All outdoor seasonal sales shall be located within the designated areas as identified on the approved site plan and shall not exceed 5,916 square-feet (Seasonal) and 23,400 square-feet (Christmas).
7. All outdoor sales locations shall provide a minimum of six (6) feet clearance between the end of the display and the adjacent curb face to allow for pedestrian access.
8. The seasonal sales events shall be subject to existing store hours and in compliance with the times and dates which shall be subject to review and approval by the Planning Director.

9. The annual Christmas tree event shall not exceed a one time 30-day period prior to December 27 in any one year period. The Christmas tree event shall be located within the designated area identified on the approved site plan.
10. All/any bagged goods (associated home improvement materials or construction) shall be located inside the building. No bagged goods shall be located outside the main structure.
11. Storage of merchandise shall be located in the designated approved storage area(s) for this building/project.
12. Any additional planned store related event(s) shall require a review and approval by the City. A request/application with applicable fees must be submitted to the city a minimum of 30-days prior to the scheduled event.
13. Any new signage will require a separate application accompanied by the appropriate fees and be submitted for review and approval by the Planning Department.
14. Outdoor display merchandise shall not exceed a height of 12-feet above the finish grade, with exception of any pallet(s) shall not exceed one pallet height. Any outdoor displays above 12-feet shall be subject to review and approval by the City of Murrieta Planning Director.
15. The permittee shall obtain any necessary building permits for the proposed improvements from the Building Department.
16. The project site shall be the point-of-sale for the purpose of collecting sales tax on goods that are sold at this establishment.
17. Public (outdoor) address systems are not allowed. Beepers and/or personal pagers should be used in outdoor areas if it is necessary to contact employee's outdoors.
18. At all times during the conduct of the permitted use the permittee shall maintain and keep in effect all applicable Federal, State (dealers license), licensing, or equivalent as provided by law.
19. The permittee shall comply with all provisions of Murrieta Municipal Code Section 16.44.120.

BUILDING DEPARTMENT

20. Areas utilized for outdoor display merchandise or events shall not interfere with or impede related building means of egress and ensuing egress discharge to the public right-of-way; or diminish designated handicap parking, handicap unload areas or exterior routes of travel.

FIRE DEPARTMENT

21. Plans must illustrate designated location of fire lanes. Contact Fire Prevention for recommended designations. Fire lane locations as shown on provided plan are acceptable as long as they also meet below conditions.
22. Fire lanes to be a minimum of 24 feet wide to accommodate Fire Department equipment.
23. Access will have a 48-foot turning radius capable of accommodating fire apparatus.
24. Fire lanes to have a vertical clearance minimum of 13' 6" to accommodate Fire Department equipment.

POLICE DEPARTMENT

General Conditions:

25. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which he has control.
26. Graffiti shall be removed from the exterior walls and windows of the premises within 24 hours of discovery at the expense of the owner or property manager.
27. Any display area within the parking lot must have perimeter fencing with a clear or open fencing material so that the interior can be viewed by persons on the outside of the perimeter fencing. The entrance to the display area must be nearest the front of the existing building/store.
28. Building Numbering: The number/letter of the building shall also be marked with a reflectorized material (at least 24 inches in height) on the flat portion of the roof of the building which does not negatively impact the aesthetics of the project.
29. Any Permanent Outdoor Display area in the parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot.

Surveillance:

30. Video: The applicant must install an operational video surveillance system capable of day and night viewing which encompasses all interior customer entrances and exits to the store, the merchandise return area, the front of the store where the Permanent Outdoor Display areas are located, and every vehicle entry and exit point to that portion of the parking lot which would be used by customers of the applicant, to the satisfaction of the Chief of Police or his designee. The minimum standards for the system must be a digital system with the capability to view in color and in a low-lux environment. The exterior system must be capable of capturing the front and rear license plates and vehicle occupant(s) within the parking lot to the satisfaction of the Chief or Police or his designee. Video surveillance records must be maintained by the store management on site for at least thirty (30) days and made available to any law enforcement agency for viewing and/or copying within one (1) business day.

31. To satisfy the above requirement, cameras shall minimally be placed in these specific locations:
- a. One fixed camera shall be mounted at the front corner of the building (southeast corner) at the roofline in front of the garden area and focused on the Merchandising Display Area.
 - b. One fixed camera shall be mounted at the front corner of the building (southeast corner) at the roofline in front of the garden area and focused on the drive aisle which runs parallel to the front of the store from Clinton Keith Rd. This camera shall be capable of capturing license plates from vehicles.
 - c. Two PTZ (pan-tilt-zoom) cameras shall be mounted on the front of the building at the roofline. These cameras shall be on the front facade at the front of the store and shall be mounted on either side of the main front doors. These cameras shall be focused on the parking lot, and when a Seasonal Outdoor Display Area in the parking lot is implemented, one of these cameras shall be focused on this area.
 - d. One fixed camera shall be mounted on the lumber entrance roofline (southeast corner) and focused on the Merchandising Display Area.
 - e. At least one fixed camera shall be mounted on the lumber entrance roofline interior eave (northeast corner) and focused on the Merchandising Display Area and the lumber entrance.
 - f. One fixed camera shall be mounted on the lumber entrance roofline (northeast corner) and focused on the drive aisle which runs parallel to the front of the store from Max Gillis Blvd. This camera shall be capable of capturing license plates from vehicles.

END OF CONDITIONS