

**PLANNING COMMISSION
RESOLUTION NO. PLANNING COMMISSION-2007-17**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MURRIETA APPROVING AN APPLICATION FOR A DEVELOPMENT PLAN PERMIT 2006-2205, CAS DEVELOPMENT LLC. TO DEMOLISH AN EXISTING SINGLE FAMILY RESIDENCE AND TWO ACCESSORY BUILDINGS AND CONSTRUCT A TWO-STORY, 14,300 SQ. FT. MIXED USE COMMERCIAL/OFFICE BUILDING AND 588 SQ. FT. OFFICE BUILDING AND MINOR VARIANCE NO. 007-2556 TO ALLOW A 19% REDUCTION IN REQUIRED ON-SITE PARKING UPON PROPERTY LOCATED AT THE SOUTHWEST CORNER OF WASHINGTON AVENUE AND KALMIA STREET AND WITHIN THE BOUNDARIES OF THE HISTORIC MURRIETA SPECIFIC PLAN.

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

SECTION 1. On December 10, 2006, an application was filed by CAS Development LLC. for Development Plan Permit 006-2205 to construct a two-story, 14,300 sq. ft. mixed use commercial/office building, a 588 sq. ft. office building, 47 on-site parking spaces, and demolish an existing single-family residence and two accessory buildings, and on October 17, 2007, an application was filed for Minor Variance 007-2556 requesting an 11% reduction in on-site parking (required 58 parking spaces vs. providing 47 parking spaces). The application was deemed complete on March 31, 2007.

SECTION 2. A public hearing was duly noticed for the Planning Commission meeting of November 28, 2007 by mailing a notice to property owners within a 500 foot radius of the site on November 16, 2007 publishing the notice in The Californian newspaper on November 18, 2007, 2007, and posting the site on November 16, 2007.

SECTION 3. An Initial Study was prepared for the project in accordance with Section 15070 of the California Environmental Quality Act (CEQA), which determined that a Mitigated Negative Declaration could be adopted for the project. The Initial Study did not identify any potentially significant environmental effects that could not be mitigated to a less-than significant level. Mitigation measures are required to reduce the impacts to aesthetics and cultural resources. The Planning Commission accepts the Mitigated Negative Declaration as satisfying the requirements of CEQA and includes all mitigations measures as Conditions of Approval.

SECTION 4. In accordance with Section 16.56.040 of the Murrieta Municipal Code, and based upon the testimony, exhibits and other information provided at the public hearing, the Planning Commission makes the following findings regarding Development Plan 007-2205:

1. The proposed use is allowed within the Historic Murrieta Specific Plan Village Mixed use zone and complies with all applicable provisions of the Murrieta Development Code.

FACTS: The proposed site plan, with the exception of on-site parking, complies with or exceeds applicable development standards of the Murrieta Development Code and Historic Murrieta Specific Plan. Additionally, the request to reduce the number of required on-site parking spaces is consistent with the goals and objectives of the Historic Murrieta Specific Plan, which encourages the development of commercial and office uses while allowing for the use of off-site and on-street parking. With the granting of a variance related to parking, the proposed use will be consistent with applicable regulations of the Code. The City's Historic Preservation Advisory Committee recommended approval based on the proposed "Italianate" architectural complies with the Historic Murrieta Specific Plan's architectural styles.

2. The proposed use would be consistent with the objectives, policies, general land uses and programs of the General Plan and applicable specific plan.

FACTS: The proposed commercial and office uses are allowed land uses by the Historic Murrieta Specific Plan VMU (Village Mixed Use) zoning classification and further the goals of creating "downtown" Murrieta.

3. The approval of Development Plan Permit 006-2205 is in compliance with the requirements of the California Environmental Quality Act (CEQA) and there would be no potentially significant negative impacts upon environmental quality and natural resources that could not be properly mitigated and monitored.

FACTS: The environmental impacts of the project have been evaluated by a Mitigated Negative Declaration, which found that the project, subject to adoption of mitigation measures, would not have a significant impact on the environment. In summary, mitigation measures were applicable to aesthetics and cultural resources and require preservation of the existing mature deodar cedar tree and replacement of the existing single-family with a like structure.

4. The location, size, design and operating characteristics of the proposed use would be compatible with existing land uses within the general area in which the proposed use is to be located.

FACTS: The project site is located within a designated commercial corridor along Washington Avenue and access to the project site is via an existing arterial, Kalmia Street. The proposed pedestrian and vehicular access is via these major arterials and the access paths do not require travel through existing residential neighborhoods located to the west of the project site. The proposed two-story commercial building is located adjacent to the commercial arterial (Washington Street) and has an approximate 80' building setback from the nearest residential structures.

5. The site of the proposed use is physically suitable for the type and density/intensity of development being proposed.

FACTS: The site is physically suitable for the proposal for the following reasons:

- A. The site is level and is located in area of stable soils.
- B. The site is located in an urbanized area.
- C. The site is located adjacent to two major arterials, Washington Avenue and Kalmia Street.

- D. The proposal is being developed at a density similar to existing and proposed new developments located in the vicinity of the project site.
 - E. The site is not located within a 100 year flood plain or area subject to dam inundation.
6. There are adequate provisions for sanitation, water, and public utilities to ensure public convenience, health, safety, and general welfare.

FACTS: The project site is located in an area that already has existing public and private utility infrastructure that was designed with the capacity to serve the potential development of the project site.

SECTION 5. In accordance with Section 16.72.040 (Findings and Decision) of the Murrieta Municipal Code, and based upon the testimony, exhibits, and other information provided at the public hearing, the Planning Commission makes the following findings regarding Minor Variance 007-2556:

1. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, or topography), so that the strict application of the Murrieta Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.

FACTS: Special circumstances exist in that the project cannot use on-street parking on Washington Avenue because of an existing transition traffic lane. The Historic Murrieta Specific Plan allows a Permittee to use on-street parking within Washington Street right-of-way adjacent to a project site for on-site parking. Properties south and east of the project site have been able to use on-street parking for their required on-site parking. Additionally, special circumstances exist on-site in that the northeasterly portion of the project site was dedicated to the City for the placement of an entry monument sign for the Historic District and a portion of the project site cannot be developed because the proposal includes the retention of a mature deodar cedar tree, which is located at the southeasterly corner of the site. If the project was not subject to these circumstances, the 11 additional parking spaces could have been provided either on-site or within the right-of-way for the Washington Street.

2. Granting the variance: a) would not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; and b) would not authorize a use or activity which is not otherwise expressly authorized by the zoning district regulations governing the subject property.

FACTS: Approving the variance does not grant a special privilege or allow development not over what is allowed on nearby properties with the same zoning because the proposed land uses are allowed by the general plan and zoning applicable to the project site and the proposal, with the exception of providing on-site parking, complies with the City's development standards for building setback, Floor Area Ratio (FAR), and building height. The maximum height for the existing Washington Center Building is 44 feet and the proposed Washington Plaza building (southeast corner of Washington Avenue and Kalmia Street) is 38 feet.

3. The variance for off-street parking will be an incentive to, and a benefit for, the subject nonresidential development.

FACTS: The variance allows the commercial and office use of the project site at intensity similar to recent commercial/office development on properties located in the vicinity of the project and properties with the same zoning. Approval of the variance is an incentive to the permittee to develop the project site with commercial and office uses, which reinforces that Washington Avenue is the "Main" street of the City's Historical District.

4. The location, size, design and operating characteristics of the proposed use would be compatible with existing land uses within the general area in which the proposed use is to be located.

FACTS: The proposed two-story, mixed use commercial/office building is being build in a similar scale and at a similar intensity as existing and proposed commercial/office developments located on properties in the vicinity of the project site and that have the same Village – Mixed Use zoning.

SECTION 6. Pursuant to the above findings, the Planning Commission of the City of Murrieta hereby approves Development Plan Permit 006-2205 and Minor Variance 007-2556 subject to the following conditions of approval:

**CONDITIONS OF APPROVAL
FOR
DEVELOPMENT PERMIT 006-2205 AND
MINOR VARIANCE 007-2556**

PLANNING:

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 this approval of Development Plan No. 006-2205 and Minor Variance No. 007-2556. 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. 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 by the approval authority. Failure to pay such outstanding fees within the time specified shall invalidate any approval or conditional approval granted. No permits, site work, or other actions authorized by this action shall be processed by the City, nor permitted, authorized or commenced until all outstanding fees are paid to the City.

3. Pursuant to Section 711.4 of the State of California Fish and Game Code, the permittee is required to pay a 1250 Certification Fee and \$64.00 handling fee. Said fees shall be paid to the Clerk/Recorder of the County of Riverside at the time the Notice of Determination is filed pursuant to Section 21152 of the Public Resources Code. If this fee is not paid, the approval of this project shall not be operative, vested, or final. In order to comply with State mandated time lines for filing of a Notice of Determination the above fee must be delivered to the Planning Department within two (2) working days after the date of final approval.
4. The project approval is for a Development Plan and Minor Variance which allows the demolition of an existing single-family residence, and the construction of a 14,300 sq. ft. mixed use commercial/office building, 588 sq. ft. office, and 47 on-site parking spaces on a 0.77 acre parcel. The project proposes retail commercial uses including retail stores and office uses.

Prior to submittal of building plans, the proposed building elevations (dated December 12, 2007) shall be revised as follows:

- A. **The "X-key" above the second story window shall be removed.**
- B. **The square windows on the north (Washington Street) and west (Kalmia Avenue) building facades shall be replaced with rectangular windows to match the existing rectangular windows on the second story.**
- C. **Additional corbels shall be added under the building eave along the southerly quarter of the north (Washington Street) building façade.**
- D. **The single width entry doors/windows facing Washington Street shall be widened to match the double width entry doors/windows facing the parking lot.**

Prior to submittal of building plans the Planning Director shall review and approve the revised building elevations for compliance with the changes noted above.

All construction plans shall be in substantial conformance with the approved site plans, floor plans, (revised) elevations, material and color board, landscaping plans and grading plans dated December 12, 2007. Any proposed change substantially different than the approved plan shall require an amendment to this approval in accordance with the Development Code.

(Bolded text indicates amendments to the Condition by the Planning Commission dated December 12, 2007)

5. This approval shall be used within two (2) years of approval date, otherwise it shall become null and void and of no effect whatsoever. "Used," means the beginning of substantial construction contemplated by this approval which is thereafter diligently pursued to completion or to the actual occupancy of existing buildings or land under the terms of the authorized use.
6. Prior to the expiration of this approval, the permittee may request a one (1) year extension of time in which to use this approval. A maximum of three one-year extensions of time requests may be permitted subject to review and approval by the Planning Director. Should the time period established by any of the extension of time

requests lapse, or should all three one-year extensions be obtained and no substantial construction or use of this approval be initiated within five (5) years of the effective date of the issuance of this approval, this approval shall become null and void.

7. The project shall be developed in substantial conformance with all adopted environmental mitigation measures, any written project proposal information and any verbal agreements or representations made to the decision making body as part of its consideration of the project. Any proposed change substantially different than the approved project shall require an amendment to this approval in accordance with the Development Code.
8. Subsequent modifications of this approval, which do not intensify the use, including but not limited to reorientation of structure(s), alteration of parking and circulation design, minor changes to the conditions of approval, interpretations of the conditions of approval relative to intent, necessity of, and timing, may be approved by the Planning Director, unless the Director requires a Substantial Conformance or Revised Permit application in accordance with the Development Code.
9. The permittee shall pay all applicable impact and/or mitigation fees or provide proof that all required fees have been paid in accordance with City policies and ordinances in effect at the time of permit issuance.
10. In the event the development 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.
11. The permittee shall comply with all applicable provisions of federal, state and local ordinances in effect at the time of building permit issuance.
12. The permittee shall obtain approval of all necessary plans for the construction of structures on the subject property in accordance with the Murrieta Development Code and Building and Safety requirements and Codes. Such plans include, but are not limited to, site plans, floor plans, building elevations, grading plans and landscaping plans.
13. The project shall be developed in compliance with all applicable requirements and standards identified within the Historic Murrieta Specific Plan's Village Mixed Use zone and City of Murrieta Development Code.
14. Exterior noise levels produced by any use allowed under this permit, including, but not limited to, any outdoor public address system, shall not exceed 45 db (A), 10- LEQ, between the hours of 10:00 p.m. to 7:00 a.m., and 65 db (A), 10-minute LEQ, at all other times as measured at any hospital, school, library, nursing home or other similar noise sensitive land use. In the event noise exceeds this standard, the permittee or the permittee's successor-in-interest shall take the necessary steps to remedy the situation, which may include discontinued operation of the facilities.

15. Any off-sale alcoholic beverage shall be allowed in conformance with Development Code Section 16.44.030 and applicable state and county requirements.
16. Outside storage is not approved/permitted as part of this project.
17. The project site shall be the point-of-sale for the purpose of collecting any sales tax on goods that are sold, delivered or rented on the site.
18. The project shall be constructed/developed in one phase.

Design and Lighting:

19. Mechanical equipment and vents (ground or rooftop) shall be screened from view from any public right of ways (Washington Avenue and Kalmia Street) and adjacent residences, landscaping area, open space and parking area. The method of screening shall be architecturally integrated in terms of materials, color, and form. Roof top equipment should be integrated into the design of the building. Line of sight details shall be included in/on the plans for review for building permit issuance and stamped by a licensed architect. In addition, details including the height of the roof-top equipment and height of the parapet must be a detail within the plans for building permit issuance. Also, during the Planning Department review of the building plans, the design of a proposed screening method shall be included within the building plans in the event the roof top equipment is visible.

If any time during the building inspection process, any roof-top equipment is found to exceed the height provided in the details of the approved plans for building permit issuance, the permittee must submit proposed method for screening of the equipment. Approval of such screening method is at the discretion of the Planning Department and/or, Planning Commission.

Planning Department Approval and Building Permit Issuance must be obtained prior to any installation of the proposed screening method.

20. An interior room, with direct exterior access, shall be provided for the placement of main utility electrical switch gear distribution and roof access ladders.
21. Project materials shall be compatible with the proposed building style and should be selected on quality and durability.
22. Roof gutters and downspouts are not permitted on the exterior of the building unless satisfactorily integrated into the architecture as determined by the Planning Department prior to building permit issuance.
23. The City is located within the Mt. Palomar Special Lighting Area, as defined in Section 16.18.110 of the Development Code, low pressure sodium vapor lighting or overhead high pressure sodium vapor lighting with shields or cut off luminaries, shall be utilized.

24. All lighting fixtures including within parking areas shall be designed with shielding or cut-off fixtures to project in a downward manner to minimize glare and to not shine directly upon adjoining property or public rights-of-way.
25. All parking lot lights and other outdoor lighting shall be shown on electrical plans submitted to the Department of Building and Safety for plan check approval and shall comply with the requirements of Development Code Section 16.18.100-Lighting and 16.18.110-Mt Palomar Lighting Standards.
26. All trash bins shall be stored in approved enclosures and screened in compliance with Sections 16.18.120 and 16.18.150 of the Murrieta Development Code. The location of the enclosures must be shown on the precise grade plan and shall provide a minimum of 96 square feet of refuse storage area (48 square feet for refuse and 48 for recycling).

Parking:

27. The project shall provide a minimum 47 on-site parking spaces as approved by Variance No. 007-2556.
28. Prior to the execution of any purchase contract or tenant lease agreements, permittee shall provide a detailed statement disclosing to perspective buyer/tenant(s) the amount of parking provided for each unit, and that the City's parking requirements could significantly restrict a proposed use. Additionally, the disclosure shall advise buyers/tenants to confirm with the City the parking requirements for any proposed use for this project. Any use requiring additional parking above that provided or otherwise made available shall not be permitted without further review and approval by the Planning Director.
29. Any use proposed by this development that would require additional parking spaces above the 47 spaces approved shall provide a comprehensive parking analysis that shall address the use proposed, number of spaces required and possible shared parking availability/options. The analysis shall be prepared by a qualified traffic engineer and shall be subject to review and approval by the City's traffic engineer. The use shall be subject to review and approval by the Planning Director.
30. All parking shall be designed and improved pursuant to Section 16.34 of the Murrieta Development Code, and shall be in conformance with the approved plans.
31. A minimum of two (2) bicycle rack/spaces shall be provided in compliance with section 16.34.090. They shall be located in an area so as to facilitate bicycle access to the project area and clearly identified with plans submitted for building permit review. The bicycle racks/spaces shall be shown on project landscaping and improvement plans submitted for Planning Department approval, and shall be installed in accordance with those plans.
32. Parking spaces(s) for persons with disabilities shall be provided. Each parking space reserved for persons with disabilities shall: (a) be identified by a permanently affixed reflective sign constructed of porcelain on steel, beaded text or equal, displaying the International Symbol of Accessibility; (b) not be smaller than 70 square inches in area;

(c) be centered at the interior end of the parking space at a minimum height of 80 inches from the bottom of the sign to the parking space finished grade; and (d) have a surface identification sign duplicating the symbol of the accessibility in blue paint of at least 3 square feet in size.

33. A sign shall be posted in a conspicuous place at each entrance to the off-street parking area, not less than 17 inches by 22 inches, clearly and conspicuously stating the language provided by the Building and Safety Department regarding accessible parking.
34. A minimum of one (1) loading space shall be provided in accordance with Section 16.34.100 of the Development Code

Signage:

35. No signs are approved as part of this project approval except as specifically identified in these conditions. Prior to the installation of any on-site advertising or directional signs, a comprehensive sign plan shall be submitted to and approved by the Planning Department pursuant to the requirements of Section 16.38 of the City's Development Code.
36. Prior to building permit issuance, a comprehensive sign program shall be submitted to the Planning Department for review and approval.

Prior To Grading Permit Issuance:

37. Prior to issuance of grading permits, the Planning Department shall determine if the deposit based fees for the project are in a negative balance. If so, any outstanding fees shall be paid by the permittee/developer permittee prior to issuance of grading permits.
38. Prior to the issuance of grading permits, the project permittee shall comply with the provisions of any existing City ordinance that has been established as a mitigation measure for the Stephens' Kangaroo Rat. These ordinances may include fee schedules, mechanisms for protecting habitat, or a combination thereof.
39. Any addition to the proposed finished floor elevation (1100.5) in excess of one foot (1101.5) shall be subject to review and approval by the Planning Director.

Prior to building permit issuance:

40. The permittee shall include the conditions of approval on the cover page of the building permits plans.
41. A minimum of 30-days prior to building permit issuance, the permittee shall submit an application for addressing of the building.
42. The local postal delivery office shall review and approve all proposed postal delivery arrangements, including location and access to all mailboxes. The permittee shall provide the City with evidence of postal service approval.

Final Inspection:

43. Unless otherwise indicated, all conditions, and other requirements shall be fully constructed and implemented prior to final inspection of the building and/or site improvements.
44. The permittee shall contact the Planning Department a minimum of 72-hours to allow for scheduling of any inspection required for this project.

Landscaping:

Prior to the issuance of building permits:

45. Three copies of construction landscaping plans shall be submitted to the Planning Division and approved. The final landscaping plans shall be in substantial conformance with plans review and approved by the City's Planning Commission. A licensed Landscape Architect shall prepare the plans.
46. The above-described plans shall be in substantial conformance with the plans as approved by the City Landscape Architect, City Administrative Staff, Planning Commission and/or City Council. Notes, details, and specifications shall be included.
47. All landscape and irrigation plans shall be consistent with Title 16.28 of the Murrieta Municipal Code and the Historic Murrieta Specific Plan.
48. All parking lot planting areas, curbing, irrigation, and bumper overhang shall be consistent with Title 16.34.070-H. of the Murrieta Municipal Code.
49. Landscape plans shall be drawn at a scale of 20 feet equal to 1 foot or larger. The City Landscape Architect will not accept plans drawn in 30 feet scale or smaller without prior approval.
50. No light fixture shall be designed for any location in a planting area, which would make it necessary to eliminate a tree. All overhead light fixtures shall be identified on the grading or site plan prior to approval of the site plan.
51. Plant materials shall be installed from container sizes consistent with Historic Murrieta Specific Plan Minimum Required Mix of Plant Materials: 50% 24" box/50% 15 gal trees, 75% 5-gal/25% 1-gal shrubs, groundcover 100% within 1 year. Where applicable, walls shall be covered at least 50% with vines at maturity.
52. All ground covers shall be installed from living plant materials. Spacing shall be such that 100% coverage is achieved within 2 years of the installation. No gravel or bark areas are allowed.
53. All planter areas shall be a minimum of 5 feet wide excluding curbs and required concrete strip adjacent to parking spaces (12" wide by 4" deep—plus the 6" wide curb or 12" wide by 12" deep integrally poured curb) and excluding wall footings and overhead obstructions.

54. Permanent, evergreen shrubs capable of mature growth to between 36 inches and 42 inches high shall be designed to screen the perimeter parking area.
55. An approved concrete mow strip shall separate all turf and shrub beds.
56. All trash enclosures shall be covered with architectural treatment to blend with the buildings as approved by the Planning Division. All three sides of trash enclosure walls shall have a minimum 5 feet wide planting area (excluding curbing and walkway strip). Flowering vines shall be trained on to the walls. Trees, shrubs and ground covers shall be included.
57. Planting areas adjacent to streets shall have trees provided at the rate of one for each 30 lineal feet of landscaped area.
58. Mature specimen trees in 36-inch or 48-inch boxes shall be supplied in sufficient quantity to provide variety and emphasis at main focal areas visible from Kalmia Street and Washington Avenue.
59. Above ground utility locations shall be approved with prior permission of the Planning Department. Building backflow prevention units shall be located in shrub areas outside of the City right-of-way and screened with shrubs. All double detector check and backflow assemblies shall be located in shrub beds clearly identified on the grading or site plan prior to approval of the site plan. The detector check /backflow devices shall be painted a neutral/earth-tone color and any pipes extending above ground shall be finished and painted to match the device. The detector check and post indicator shall be set back at least 15 feet away from the driveway or sidewalk in a shrub area.
60. No required canopy shade tree planting area or shrub planting bed shall be narrower than 5 feet wide without permission from the City Landscape Architect.
61. Canopy shade trees shall be located directly adjacent to public parking spaces in continuous planting areas at no farther than 25 to 30 feet on center (depending on the canopy spread of the species) to provide the required percentage of parking spaces shaded at 15 years growth. Trees located within the parking lot and in front of buildings with adjacent parking spaces, shall be located no farther than 36 feet on center within curbed planter areas containing a minimum of 25 square feet of planted area. Required shade trees shall be added at the required spacing to shade parking spaces at the rear (east) property line and at the entrance to the building from the east side.
62. Site landscaping shall encompass a minimum 24% of the site as shown on plans reviewed and approved by the City's Planning Commission.
63. No building roof drain shall daylight into a planter area or splash block. Roof drains located at planter areas shall be adapted to convey excess water through the planter via drain pipes, which daylight through the curb into the adjacent gutter and as required by the Engineering Department.