

**PLANNING COMMISSION
RESOLUTION NO. 2009- 3**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MURRIETA APPROVING TPM 009-2774 (TENTATIVE PARCEL MAP #32123 AMENDMENT NO. 1) BY MDMG TO SUBDIVIDE 67.84 ACRES INTO 17 PARCELS LOCATED NORTH OF WINCHESTER ROAD, WEST OF MAX GILLIS ROAD, AND EAST OF THE PROPOSED EXTENSION OF CLINTON KEITH ROAD (AKA MURRIETA MARKETPLACE)

WHEREAS, on January 29, 2009, an application was filed by MDMG, Inc. for the subdivision of 67.84 acres into 17 parcels located north of Winchester Road, west of Max Gillis Road, and east of the proposed extension of Clinton Keith Road ("the Project"). An amendment to a Parcel Map is required to be presented to the Planning Commission for approval by Murrieta Development Code Section 16.94.110 B. (Major Amendments). The application was deemed complete on March 2, 2009; and

WHEREAS, a public hearing was duly noticed for the Planning Commission meeting of March 11, 2009, by mailing a notice to property owners within a 500 foot radius of the site on February 28, 2009, publishing the notice in The Californian newspaper on March 1, 2009, and posting the site on March 1, 2009; and

WHEREAS, the Planning Commission has considered an Environmental Impact Report ("EIR") CC-2006-1653, for Parcel Map 32123 (TPM 004-058) and Conditional Use Permit 004-062 (CUP-004-062) certified on December 5, 2006, which addresses any potential environmental impacts of the proposed Project; and

WHEREAS, a public hearing for this Project was held by the Planning Commission on March 11, 2009, at which time reports, recommendations, and testimony were considered.

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

SECTION 1. In accordance with Section 16.94.080 of the Murrieta Municipal Code, and based upon the facts, testimony and information provided and of record in these proceedings, the Planning Commission makes the following findings regarding Tentative Parcel Map 32123 Amendment No. 1 (Case No. TPM-009-2774):

1. The proposed map, design or improvement is consistent with the objectives, policies, general land uses, and programs of the general plan and any applicable specific plans and all applicable provisions of the Murrieta Development Code.

FACTS: The proposed subdivision is consistent with General Plan Objective LU-1.2 – Provide a mixture of Commercial land use designations the provide for the full spectrum of commercial needs. The proposed subdivision is intended to allow businesses or other entities the opportunity to purchase the parcels. The entire center is proposed to be occupied by commercial and retail uses.

2. The site is physically suitable for the type or density of development proposed.

FACTS: The site is physically suitable for development and is compatible to the surrounding properties. The property is bounded by two arterial streets and immediately adjacent to a state highway. The development is adequate in size to accommodate the proposed commercial uses while complying with or exceeding the City's development standards. The other uses adjacent to the proposed subdivision are existing commercial development and some existing a single-family residential. The project site is not located within the wildland fire, FEMA, or dam inundation hazard area.

3. The design of the subdivision or the proposed improvements are unlikely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

FACTS: An EIR for this project (State Clearinghouse #2005031028) was certified on December 5, 2006 for the original project (CUP-004-062 and TPM 004-058). The proposed subdivision amendment will not cause any environmental damage or injure any habitat area not previously analyzed as part of the approval of Tentative Parcel Map 009-2774 and Conditional Use Permit for the project pursuant to the Environmental Impact Report certified prior to approval of the original project. This map amendment would not change results of the EIR or mitigation measures. The proposal is not changing any of the mitigation measures of the report. The proposal will change only the ownership arrangement of parcels and will not change the building configuration, site design, or use.

4. The design of the subdivision or type of improvements is not likely to cause serious public health problems.

FACTS: The proposed subdivision will not cause any public health problems as the proposal only addresses a change to the ownership of the various parcels and does not propose any use or activity that is inconsistent or exceeds prior approvals for development.

5. The design of the subdivision and the type of improvements would not conflict with easements, acquired by the public at large for access through or use of property within the proposed subdivision.

FACTS: The proposed subdivision shall establish reciprocal access, parking and utility easements for the proposed shopping center and through condition number 18 contained in the attached Exhibit A. The improvements are conditioned through Tentative Parcel Map 32123 and Conditional Use Permit 004-062. The proposed subdivision will not impact any easements or any other use of the property.

6. The proposed subdivision is consistent with the Multi-Species Habitat Conservation Plan (MSHCP).

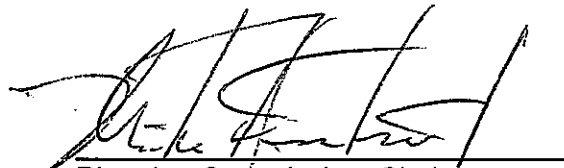
FACTS: Parcel 16 is to be dedicated to the Murrieta Community Services District and is being set-aside in compliance with the provisions of the Multiple Species Habitat Conservation Plan (MSHCP). The Riverside Conservation Agency approved this proposal on January 11, 2006 through the Joint Project Review (JPR).

7. The proposed use is in compliance with the provisions of the California Environmental Quality Act.

FACTS: The project has been determined to be in compliance with EIR CC-2006-1653 certified on December 5, 2006, as it adequately addressed any potential environmental impacts of the proposed Project and pursuant to Section 15162 (Subsequent EIRs and Negative Declarations) of the Guidelines for Implementation the California Environmental Quality Act (CEQA), California Code of Regulations (CCR) Title 14, no further environmental review is required for the Project. The proposed amendment to the tentative parcel map is not proposing any substantial changes which will require major revisions to the EIR due to the involvement of new significant effects; there have been no substantial changes in the circumstances under which the Project was undertaken which will require major revisions of the previous EIR; and no new information of substantial importance has been discovered.


SECTION 2. Pursuant to the above findings, the Planning Commission of the City of Murrieta hereby determines the project to be exempt from further environmental review pursuant to CEQA Guidelines, section 15162 as further detailed in the findings provided in this resolution and hereby approves Tentative Parcel Map 32123 Amendment No. 1 subject to the conditions contained in the attached Exhibit A incorporated herein by this reference:

PASSED, APPROVED AND ADOPTED THIS 11th DAY OF MARCH, 2009



Planning Commission, Chairperson

ATTEST:



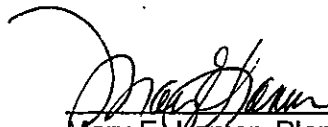
Mary E. Lanier, Planning Director

I, Mary E. Lanier, Planning Director, City of Murrieta, California do hereby certify under penalty of perjury that the foregoing Resolution was duly adopted at a regular meeting of the Planning Commission on the 11th day of March, 2009 by the following roll call vote:

MOTION MADE BY COMMISSIONER COHEN

SECONDED BY COMMISSIONER BUTLER

AYES: BUTLER, COHEN, LONG, LUPRO, FITZPATRICK
NOES: NONE
ABSENT: NONE
ABSTAINED: NONE



Mary E. Lanier, Planning Director

**FINAL
CONDITIONS OF APPROVAL FOR
TENTATIVE PARCEL MAP TPM 009-2774 AMENDMENT NO. 1
(TENTATIVE MAP 32123)
MARCH 11, 2009**

PLANNING DEPARTMENT:

General:

1. The Project approval is for the Amendment No. 1 to Tentative Parcel Map 32123, subdivision of 67.84 acres into 16 lots within the approved Murrieta Marketplace shopping center. The revision is to reconfigure the lots with the result of one additional lot for a new total of 17 lots within the subdivision. This subdivision does not change the size or location of the lots that are being dedicated to the City of Murrieta for the purpose of conservation in accordance with the Multiple Species Habitat Conservation Plan (MSHCP).
2. The subdivider 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 Case No. TPM-009-2774. The City will promptly notify the subdivider of any such claim, action, or proceeding against the City and will cooperate fully in the defense.
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 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.
4. The Project shall comply with all conditions of approval for Tentative Parcel Map (Case No. TPM-004-058), Conditional Use Permit (CUP-004-062), Annexation, Pre-Zone (ZC-2006-1891), and Development Agreement (DA-006-2152) attached as Attachment 3 and dated December 5, 2006.
5. This approval of Amendment No. 1 to Tentative Parcel Map 32123 does not alter the expiration date of original Tentative Parcel Map 32123. Tentative Parcel Map 32123's approval is effective until December 5, 2009 based on the City Council's approval date of December 5, 2006, and automatic 1 year extension granted by State Senate Bill 1185. Additional time extensions may be granted pursuant to City Ordinance and the State Subdivision Map Act.
6. This land division shall comply with the State of California Subdivision Map Act and to all requirements of the City's Development Code, unless modified by the conditions listed herein and all other applicable State and Federal codes.

7. The subdivider, or any successor-in-interest to subdivider, shall be responsible for maintenance and upkeep of all common areas subject to condition 17 below.
8. Pursuant to Section 711.4 of the State of California Fish and Game Code, the subdivider is required to pay a \$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.
9. The subdivider 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. Subsequent modifications of this approval may be approved in accordance with the Development Code.
11. The subdivider shall obtain approval of all necessary plans for the construction of structures on the subject property in accordance with the Murrieta Development Code. Such plans may include, but are not limited to, floor plans, tenant improvement plans, and/or building elevations.
12. The Project shall be developed in compliance with all applicable requirements and standards identified within the City's Development Code.

Prior to final map recordation:

13. After approval of the Tentative Map and prior to the expiration of the map, the subdivider shall cause the real property included within the Tentative Map, or any part thereof, to be surveyed and a Final Map be submitted to the Engineering Department for review and approval.
14. The Planning and Engineering Department's shall review any final map to ensure compliance with approved tentative map and all other Development Code requirements for the Regional Commercial (RC) zone, and Conditional Use Permit (CUP-004-062), Annexation, Pre-Zone (ZC-2006-1891), and Development Agreement (DA-006-2152).
- ~~15. Prior to the approval of the Final Map, the subdivider shall provide documentation for reciprocal parking, access, and maintenance procedures and or agreement (collectively the "Agreement") for the Project to the satisfaction of the Planning Director and the City Attorney. The City shall be third party in interest to such Agreement.~~

~~The Agreement shall provide a method for the maintenance of any common areas, privately maintained slopes, and drainage course within the Final Map, and shall provide to the extent they are not adequately enforced as to the requirements in the Agreement the City shall have the right to enforce them, at the cost of the subdivider or its~~

~~successors in interest. Once approved, the Agreement shall be recorded at the same time that the final map is recorded.~~

~~The Agreement shall provide for a minimum term of 60 years, and shall not be terminated or substantially amended without prior written consent of the Planning Director of the City of Murrieta or the City's successor in interest. A proposed amendment shall be considered substantial if it affects the extent, usage or maintenance of the private streets, common areas, and landscaping. Any amendments to the Operation and Easement Agreement, recorded October 9, 2008 (Document Number 2008-0548108) and provided by the applicant, shall be submitted to the Planning Director for review for conformity to the conditions of approval. Any changes not in conformance with the conditions of approval will require substantial conformance or amendment pursuant to the Municipal Code. (Revised at the Planning Commission hearing on 3/11/09)~~

16. Parking on all developed parcels within the subdivision shall be available for the use of all occupants of the premises without any encumbrances. Parking spaces shall not be designated for individual owners or tenants.

ENGINEERING DEPARTMENT, LANDSCAPING, BUILDING DEPARTMENT, FIRE DEPARTMENT AND POLICE DEPARTMENT:

17. The revised Tentative Map 32123 shall comply with conditions of approval for underlying originally approved map (TPM-004-058), Conditional Use Permit (CUP-004-062), Annexation, Pre-Zone (ZC-2006-1891), and Development Agreement (DA-006-2152).

END OF CONDITIONS