

RESOLUTION NO. 24-4740

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURRIETA APPROVING THE APPEAL AND OVERTURNING THE PLANNING COMMISSION DECISION ADOPTING A MITIGATED NEGATIVE DECLARATION FOR DEVELOPMENT PLAN PERMIT NO. 2022-2605/2023- 00006 (DP 2022-2605/2023-00006) FOR CONSTRUCTION OF 387 MULTI- FAMILY UNITS AND ASSOCIATED AMENITIES AND IMPROVEMENTS, LOCATED SOUTHEAST OF THE INTERSECTION OF MURRIETA HOT SPRINGS ROAD AND JEFFERSON AVENUE (APN 910-410-011)

WHEREAS, on June 28, 2022, the City of Murrieta received an application for Development Plan Permit No. 2022-2605 (DP 2022-2605), (the “Project”) pursuant to section 16.56 of the City of Murrieta Development Code proposing the construction of 387 multi-family units and associated amenities and off-site roadway infrastructure improvements; and

WHEREAS, the Project site is bordered by Jefferson Avenue and Business Park zoning to the west of the project site, Murrieta Hot Springs Road and Community Commercial (CC) zoning with the Transit Oriented Development (TOD) Overlay to the north, vacant land and CC zoning to the south, and watercourse and existing commercial development to the east along with CC zoning;

WHEREAS, the Project site on the City of Murrieta General Plan 2035 Land Use Map has a land use designation of Commercial; and

WHEREAS, the Project site on the City of Murrieta Zoning Map is zoned Community Commercial (CC) within the Transit Oriented Development (TOD) Overlay District. The CC zoning district permits destination centers, supermarkets, and smaller single-lot, commercial activities. Financial, office, and restaurant activities are also allowed. The TOD Overlay District allows a mix of residential and non-residential land uses that are near transit to encourage mixed land uses for enhanced transit and pedestrian activity. As described under Murrieta Municipal Code Section 16.16.040.C, all uses in the applicable underlying zoning district are allowed, in addition to multi-family residential and mixed-use developments with densities of at least 30 dwelling units per acre (du/ac) with the approval of a Development Plan permit; and

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

WHEREAS, the Initial Study and Mitigated Negative Declaration were issued for a 30-day disclosure period between August 11, 2023, and September 11, 2023; and

WHEREAS, comments were received from public agencies, and responses were prepared and sent to each of the respective commenters; and

WHEREAS, it was determined that the Project as proposed, is consistent with the General Plan and Zoning designations, is served by the required utilities and public services, and a

Mitigated Negative Declaration has been prepared for this Project, pursuant to the CEQA Guidelines; and,

WHEREAS, a public hearing was duly noticed for the Planning Commission meeting of March 27, 2024, by mailing a notice to property owners within 300 feet of the perimeter of the Project site on March 17, 2024, publishing the notice in “The Press-Enterprise” newspaper on March 17, 2024, and posting the site on March 17, 2024; and

WHEREAS, on March 27, 2024, the Planning Commission held a duly noticed public hearing and considered all written and oral reports of staff, heard and considered public testimony on the matter, received written and oral testimony from the Applicant, and considered related materials and communications which are reflected in the administrative record of this matter.

WHEREAS, the Planning Commission has considered and adopted the Mitigated Negative Declaration, Initial Study, and the Mitigation Monitoring and Reporting Program (MMRP) and supporting documentation for more specific information, and,

WHEREAS, the Planning Commission has considered the Development Plan Permit as proposed; and

WHEREAS, the Planning Commission approved the Development Plan Permit as proposed, and an appeal was filed on April 1, 2024; and

WHEREAS, on April 1, 2024, the decision of the Planning Commission to adopt the Mitigated Negative Declaration was formally appealed to the City Council.

WHEREAS, as required by MMC section 16.78.040, a meet and confer conference was offered to the applicant for the dates of April 29, May 1, May 2, and May 3, 2024, with the Appellant and City Staff; and

WHEREAS, a public hearing was duly noticed for the City Council meeting of May 7, 2024, by mailing a notice to property owners within 300 feet of the perimeter of the Project site on April 27, 2024, publishing the notice in “The Press-Enterprise” newspaper on April 27, 2024, and posting the site on April 27, 2024; and

WHEREAS, a public hearing for the Project was held by the City Council on May 7, 2024, at which time reports, recommendations, and public statements were considered; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MURRIETA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The proposed use would be consistent with the objectives, policies, general land uses, and programs of the general plan and any applicable specific plan.

FACTS: The proposed use is inconsistent with the City’s General Plan Circulation Element. The Project’s traffic impact analysis (TIA) identifies the City’s acceptable traffic LOS for the roadway segment on Murrieta Hot Springs Road (MHSR) as LOS C. The IS/MND failed to properly disclose that the Project would conflict with the Level of Service C segment for Murrieta

Hot Springs Road. The traffic delay from the proposed use and LOS would be worse than the acceptable Level of Service (LOS D).

The timing is unknown for the widening of Murrieta Hot Springs Road (MHSR) over the Yoder Wash as a capital improvement to address the Project's impact on the City's Circulation Element. CEQA continues to require projects to analyze its potentially significant transportation impacts related to safety and LOS is a factor in determining whether a project will substantially increase hazards due to a geometric design feature or incompatible uses. The proposed use is not consistent with General Plan Goal CIR-1 and Policy CIR-1.3 as the roadway segment's LOS will exceed the Circulation Plan's capacity for MHSR, as the degradation of LOS may cause a significant traffic safety impact.

The Project, through the draft street improvement plan, relies upon an inadequate design speed for Murrieta Hot Springs Road of 45 MPH. The draft plan shows the anticipated tapering required for that design speed. The design speed of MHSR is currently 60 MPH, which means that the tapering will need to take into consideration a deeper transition for traffic, which will likely require additional pavement for the area needing to cut back into the off-site City-owned property where the Yoder Wash is located. Given that the curve will cut back into the existing edge of the currently paved roadway and shoulder, the corresponding 5-foot-wide sidewalk will also push back into the area where the Yoder Wash is. The current project relies upon the avoidance of Yoder Wash but is reliant upon a deficient design speed study based upon a speed that does not meet City and State requirements. Given that the current IS/MND does not provide this information to the public, this would require an updated biological resources report and discussions with Regional, State, and Federal Agencies, resulting in an updated environmental analysis. As an example, under Biological Resources in the Initial Study, the first of six questions related to jurisdictional waters is: Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? Without an updated street improvement plan set at 60 MPH, it is not known if the Project is in compliance with CEQA. The Project shall provide more information to determine if the culvert to the east needs modifications to meet the design speed of 60MPH, which has not been disclosed. The project would need to explain the impacts on environmental quality and natural resources and what mitigation would be required. The analysis in the Mitigated Negative Declaration does not provide substantial evidence to support a determination that the project clearly will not have any significant environmental effects.

In addition, the Project use is inconsistent with the City's General Plan Circulation Element until the roadway over Yoder Wash is widened, and the timing is unknown. The Project use is inconsistent with General Plan Goal CIR-2 and Policy CIR-2.1, a circulation system that promotes safety as the design speed of 60 MPH has not been demonstrated to have been met, which could cause a new environmental effect under CEQA. Also, there is not enough information to explain how drivers will merge onto Jefferson Avenue and Murrieta Hot Springs Road, given the delays that are not yet understood in the IS, MND, and Traffic Study. This lack of meaningful analysis leads to a conflict with the land use plan by not carefully explaining how the degradation of LOS is being mitigated under CEQA.

The Project conflicts with the City's General Plan policies adopted for the purpose of avoiding certain environmental impacts. The City's General Plan's policies related to LOS were adopted,

in part, to ensure the City's circulation system operates safely and does not result in traffic safety hazards. Due to the lack of disclosure in the CEQA documents, the use is not found to be consistent with the objectives, policies, general land uses, and programs of the general plan.

Section 2. The Mitigated Negative Declaration prepared for the development plan permit for the proposed use is not in compliance with the requirements of the California Environmental Quality Act (CEQA) for the following reasons:

2.1 The MND does not provide adequate supporting information to demonstrate how the Project will provide adequate road improvements on Jefferson Avenue and Murrieta Hot Springs Road to address the traffic safety impacts caused by the project.

2.2 The Project has not demonstrated that the design complies with CEQA. In the Transportation section of the Initial Study, a question asks if the Project would Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses. As previously explained, when future residents, guests, and delivery drivers exit along Jefferson Avenue and Murrieta Hot Springs Road, they will be restricted to right turnout only. For Jefferson Avenue, drivers may need to make a U-turn at the intersection of Murrieta Hot Springs Road to go southbound on Jefferson Avenue. Drivers will need to cross over three lanes of traffic to then get into the left lane. A typical driver is anticipated to wait a maximum of 65 seconds at this traffic signal.

For drivers that are going southbound on Jefferson Avenue and would then turn left into the Project, there is a concern that drivers will be delayed, which may cause poor decision-making as they wait for traffic to clear. Although the intersection of Jefferson Avenue/Project driveway is anticipated to meet the City's LOS criteria for the overall intersection, the individual left-turning movement into the project driveway is shown to operate at a Level of Service F. As reviewed and recommended by the City Engineer and City Traffic Engineer, in order to verify and ensure that the safety of the left-turn into the project driveway is maintained, a gap analysis shall be provided at this location, to ensure that there are an adequate number of available gaps for vehicles entering the project driveway.

With the existing 60 MPH design speed along these roads, drivers may initiate risky behavior given that they are facing delays in entering the roadways and are restricted in their turning movements. With the Project design, drivers would be restricted to right turn out onto Murrieta Hot Springs Road. They also will have situations where they will take risks to merge into traffic. Therefore, until a gap analysis is provided by the Applicant and reviewed and accepted by the City, the Project would lead to traffic safety issues which is an environmental effect.

The Project's traffic impact analysis (TIA) identifies the City's acceptable traffic LOS for the roadway segment on Murrieta Hot Springs Road (MHSR) as LOS C. The IS/MND failed to properly disclose that the Project would conflict with the Level of Service C segment for Murrieta Hot Springs Road. The resulting LOS D on the MHSR road segment is a planned impact on the City's adopted General Plan Circulation Element that the proposed MND should have disclosed for the public's information, as well as why there was no mitigation required pursuant to CEQA.

The traffic delay from the proposed use and LOS would be worse than the acceptable Level of Service (LOS D).

Also, the timing is unknown for the widening of Murrieta Hot Springs Road (MHSR) over the Yoder Wash as a capital improvement to address the Project's impact on the City's Circulation Element is needed. The MND should have identified the delayed timing for the improvement and the impact of the delay in MHSR widening on achieving the City's circulation plan. The proposed use is not consistent with General Plan Goal CIR-1 and Policy CIR-1.3 as the roadway segment's LOS will exceed the Circulation Plan's capacity for MHSR, causing reasonably foreseeable significant traffic safety impacts. The Project use is inconsistent with the City's General Plan Circulation Element until the roadway over Yoder Wash is widened, as the timing is unknown.

As previously stated, the Project relies upon an inadequate design speed for Murrieta Hot Springs Road (45 MPH). The design speed of MHSR is currently 60 MPH, which means that the tapering of the road will likely cut back into the off-site City-owned property where the Yoder Wash is located, as well as the adjacent sidewalk may need to cross over the jurisdictional water. As the current project relies upon the avoidance of Yoder Wash, the lack of a design speed study based upon 60 MPH does not meet State CEQA requirements, as the whole of the action needs to be understood by the public and decision-makers. Without the information demonstrating how the design speed of 60 MPH would comply with the current avoidance strategy, it is unknown if the Project is in compliance with CEQA. The applicant needs to demonstrate how the project will provide more information to determine if the Project would impact environmental quality and natural resources and what mitigation would be required to do so. Based upon the lack of meaningful information disclosed to the public in the environmental document and technical studies, approval of the development plan permit would not be in compliance with the requirements of CEQA. There would be potentially significant negative impacts on environmental quality and natural resources that could not be properly mitigated and monitored.

The Project use is inconsistent with General Plan Goal CIR-2 and Policy CIR-2.1 as the design speed of 60 MPH could not be met. The culvert to the east of the Project needs modifications to meet the design speed of 60 MPH. The inability of the City to enforce its speed limit laws is due to the Applicant's proposed street design, which would pose a traffic hazard if implemented. This should have been disclosed in the IS/MND as an environmental effect on traffic safety. The supporting environmental and technical documents for the proposed project fail to identify effects determined not to be significant and fail to explain the reasons for determining that potentially significant effects would not be significant. As such, the proposed use is inconsistent with the City's General Plan Circulation Element since it does not comply with CEQA.

The technical studies, Initial Study, and Mitigated Negative Declaration do not provide substantial evidence to support a determination that the project clearly will not have any significant environmental effects on jurisdictional waters, traffic safety, and LOS.

The Project's traffic impact analysis (TIA) identifies the City's acceptable traffic LOS for the roadway segment on Murrieta Hot Springs Road (MHSR) as LOS C. The IS/MND failed to properly disclose that the Project would conflict with the Level of Service C segment for Murrieta Hot Springs Road. The traffic delay from the proposed use and LOS would be worse than the acceptable Level of Service (LOS D). The timing is unknown for the widening of Murrieta Hot

Springs Road (MHSR) over the Yoder Wash as a capital improvement to address the Project's impact on the City's Circulation Element is needed.

MHSR is currently classified as an Urban Arterial, with a design speed of 60 MPH, which means that the tapering of the road will likely cut back into the off-site City-owned property where the Yoder Wash is located, as well as the adjacent sidewalk will need to cross over. The lack of a design speed study based upon a 60 MPH does not demonstrate how the design and operating characteristics would be compatible with existing land uses within the general plan area in which the proposed use is to be located and does not demonstrate how it meets State CEQA requirements. Without the information demonstrating how the design speed of 60 MPH would comply with the current avoidance strategy, it is unknown if the Project is in compliance with CEQA, without demonstrating how the project can provide more information to determine if the Project would impact environmental quality and natural resources, and as to what mitigation would be required to do so. Based upon the lack of meaningful information disclosed to the public in the environmental document and technical studies, approval of the development plan permit is not in compliance with the requirements of CEQA. There would be potentially significant negative impacts on environmental quality and natural resources that could not be properly mitigated and monitored.

The Project use is inconsistent with General Plan Goal CIR-2 and Policy CIR-2.1 as the design speed of 60 MPH could not be met. The culvert to the east of the Project needs modifications to meet the design speed of 60 MPH. The inability of the City to enforce its speed limit laws because of the Applicant's proposed street design poses a traffic hazard. This should have been disclosed in the IS/MND. The supporting environmental and technical documents for the proposed project fail to identify effects determined not to be significant and fail to explain the reasons for determining that potentially significant effects would not be significant. As such, the proposed use is inconsistent with the City's General Plan Circulation Element. The technical studies, Initial Study, and Mitigated Negative Declaration does not provide substantial evidence to support a determination that the project clearly will not have any significant environmental effects.

The location, size, design, and operating characteristics of the proposed use are inconsistent with General Plan Goal CIR-1 and Policy CIR-1.3 as the roadway segment's LOS will exceed the Circulation Plan's capacity for MHSR, causing reasonably foreseeable significant traffic safety impacts. The Project use is inconsistent with the City's General Plan Circulation Element until the roadway over Yoder Wash is widened, and the timing is unknown. The location, size, design, and operating characteristics of the proposed use are incompatible with existing land uses within the area and inconsistent with General Plan Goal CIR-2 and Policy CIR-2.1 as the design speed of 60 MPH could not be met. The culvert to the east of the Project may require modifications to meet the design speed of 60 MPH.

In reviewing the proposed location, size, design, and operating characteristics of the proposed use, along with the lack of clarity in the documents sent out for public review and public hearing, the applicant has not demonstrated how the Project would be compatible with existing land uses within the general area in which the proposed use is to be located. The Mitigated Negative Declaration does not provide substantial evidence to support a determination that the project clearly will not have any significant environmental effects.

The site is located near two major streets, Murrieta Hot Springs Road and Jefferson Avenue. Given the concerns above on how the supporting documentation for LOS, design speed, and timing of the CIP improvement, the Project does not demonstrate the suitability of the site, the multi-family Project would not be compatible with the adjacent uses and would have the potential to have negative impacts if constructed per the existing record. As previously explained, given the deficient design speed of 45 MPH that the street improvement plan relies upon, an updated street improvement plan of 60 MPH may show that the new road and sidewalk improvements will be pushed back onto the City-owned property, which could lead to new environmental impacts upon the jurisdictional waters and species within Yoder Wash that have not yet been analyzed under CEQA. The Mitigated Negative Declaration does not provide substantial evidence to support a determination that the project clearly will not have any significant environmental effects.

It is not known if the Project is designed with safe access that would not be detrimental to public health and safety. As stated in the previous pages, the street improvement plans are deficient in explaining how the Project will be implemented through avoidance of the Yoder Wash, which is a jurisdictional water. The site will be served by all necessary public utilities and infrastructure. With the above explanation of how the Project has not demonstrated a clear record of the impacts, the Project may be detrimental to public safety and welfare. The technical studies, Initial Study, and Mitigated Negative Declaration does not provide substantial evidence to support a determination that the project clearly will not have any significant environmental effects.

Section 3. NOW, THEREFORE, having considered each of the arguments on appeal raised by the Appellants and the responses to those arguments provided by staff and by the Project applicant, the City Council of the City of Murrieta hereby approves the appeal, as the appeal has demonstrated the Initial Study prepared for the project has not adequately analyzed the following traffic impacts that pertain to public health and safety, overturning and reversing the Planning Commission approval pursuant to the above findings regarding the Mitigated Negative Declaration prepared for Development Permit (DP) No. 2022-2605/2023-00006 and stays the approval of Development Permit (DP) No. 2022-2605/2023-00006 pending approval of a new or revised environmental documentation as discussed in Section 3.

Section 4. City Staff is directed to conduct additional analysis of the Project's potential environmental effects to address the deficiencies identified in the findings set forth above and provide this additional environmental analysis as well as a new or revised environmental clearance document to the City Council for its consideration.

PASSED, APPROVED, AND ADOPTED this 7th day of May 2024

Lori Stone, Mayor

ATTEST:

Cristal McDonald, City Clerk

APPROVED AS TO FORM:

Tiffany Israel, City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)§
CITY OF MURRIETA)

I, Cristal McDonald, City Clerk of the City of Murrieta, California, do hereby certify that the foregoing Resolution No. 24-4740 was duly passed and adopted by the City Council of the City of Murrieta at the regular meeting thereof, held on the 7th day of May, 2024, and was signed by the Mayor of the said City, and that the same was passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Cristal McDonald, City Clerk