

ATTACHMENT A
PC Resolution No. 14-04

PC RESOLUTION NO. 14-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WILDOMAR, CALIFORNIA, ADOPTING AN ADDENDUM TO ENVIRONMENTAL ASSESSMENT NO. 40124 AND APPROVAL OF MINOR CHANGES TO TENTATIVE TRACT MAP NO. 32535 (PLANNING APPLICATION NO. 13-0078) LOCATED GENERALLY ON STABLE LANES, APPROXIMATELY 900 FEET NORTH OF CLINTON KEITH ROAD (APN'S: 380-110-005, 380-110-006, 380-120-001, 380-120-002, 380-100-006, 380-100-005, 380-130-002, 380-130-018 AND 380-100-004)

WHEREAS, an application for a Minor Change to Tentative Tract Map No. 32535 (Planning Application No. 13-0078) has been filed by:

Applicant / Owner:	C.V. Communities, Inc.
Authorized Agent:	Mr. Adam Smith
Project Location:	West side of Stable Lanes Road, and north of Clinton Keith Road and south of Catt Road
APN Number:	380-110-005, 380-110-006, 380-120-001, 380-120-002, 380-100-006, 380-100-005, 380-130-002, 380-130-018 AND 380-100-004)

WHEREAS, the County of Riverside approved Tentative Tract Map No. 32535 on December 5, 2006. In connection with such approval, the County adopted a Mitigated Negative Declaration (EA No. 40124); and

WHEREAS, the Planning Department has prepared an Addendum to the previously adopted Mitigated Negative Declaration (EA No. 40124) for Tentative Tract Map No. 32535 in accordance with Section

WHEREAS, Tentative Tract Map No. 32535 permits the development of 84 single family homes on the property, which is owned by CV Communities, Inc.; and

WHEREAS, in accordance with Title 16, Section 16.12.140 of the Wildomar Municipal Code (Subdivision Ordinance), the Planning Department on March 20, 2014 mailed a legal notice of a public hearing to all adjacent property owners within a 600-foot radius of the project site notifying them of the public hearing for the proposed minor change to TTM No. 32535 to be held on April 2, 2014; and

WHEREAS, in accordance with Title 16, Section 16.12.140 of the Wildomar Municipal Code (Subdivision Ordinance), the Planning Department on March 21, 2014 published a legal notice in the Press Enterprise, a local newspaper of general circulation, notifying the general public of the public hearing for the proposed minor change to TTM No. 32535 to be held on April 2, 2014; and

WHEREAS, in accordance with Title 16, Section 16.12.140 of the Wildomar Municipal Code (Subdivision Ordinance), the Planning Department on March 20, 2014 mailed a legal notice of a public hearing a legal notice of public hearing to the Elsinore Valley Municipal Water District (EVMWD) and the Lake Elsinore Unified School District (LEUSD) notifying them of the public hearing for the proposed minor change to TTM No. 32535 to be held on April 2, 2014; and

WHEREAS, in accordance with Wildomar Municipal Code Section 16.12.220, the City of Wildomar Planning Commission conducted the duly noticed public hearing on April 2, 2014, at which time interested persons had an opportunity to testify in support of, or opposition to the Addendum to EA No. 40124 and proposed minor changes to Tentative Tract Map No. 32535, and at which time the Planning Commission received public testimony concerning Planning Application No. 13-0078.

NOW THEREFORE, the Planning Commission of the City of Wildomar does hereby resolve, determine, order as follows:

CEQA FINDINGS.

In accordance with the requirements of the California Environmental Quality Act (Public Resources Code § 21000, et seq.) (“CEQA”), a Mitigated Negative Declaration (MND) was prepared, considered and approved by the County Planning Commission and the County Board of Supervisors in approving Tentative Tract Map No. 32535 and a Notice of Determination was filed and appropriate fish & game fees paid.

CEQA Guideline 15162 provides that once a mitigated negative declaration is adopted for a project, the lead agency may determine, based on substantial evidence, whether additional environmental review of the project is warranted. More specifically, if one or more of the conditions stated in Guideline 15162(a) are present (discussed in more detail below), then the lead agency must prepare a subsequent EIR for the project. If none of the conditions stated in Guideline 15162(a) are present, then the lead agency has the discretion to determine whether to require a lesser form of environmental review (such as an addendum) or no further documentation at all. (Guideline 15162(b)).

Guideline 15162(a) requires a subsequent EIR to be prepared if one or more of the following conditions exist:

“(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental

effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.”

The Planning Commission hereby finds and determines that the proposed minor changes to the final map for Tentative Tract Map No. 32535 do not trigger any of the conditions that would require the preparation of a subsequent EIR as follows:

CEQA Findings:

1) Substantial Changes to the Project:

CEQA only requires a subsequent EIR to be prepared for this project if substantial changes are made to the project that create new significant impacts or a substantial increase in previously identified significant impacts. The applicant's proposal to modify the pad location/elevation with a differential change of 1.3-foot average with an overall average pad change of +0.3 feet (or 4 inches) actually decreases impacts identified in the MND. The site has excess soil that must be exported off-site and increasing the pad elevations reduces the amount of off-site export. The map as approved by the County impacted jurisdictional waters and the minor changes reduce the impacts to USACE and RWQCB jurisdictional waters by .05 acres and increase the impacts to CDFW jurisdictional waters by .19 acres, for a total increased impact of only .14 acres. Due to the small size of the increased impact area and the fact that the impacts to that area are mitigated through the required DBESP process and the required Section 1602 Streambed Alteration Agreement process with CDFW, this is not a substantial change that would trigger a subsequent EIR.

2) Substantial Changes to the Project's Circumstances:

Further, upon incorporation of the City of Wildomar, the City adopted the General Plan and Zoning Ordinance of Riverside County that were used to consider and approve Tentative Tract Map No. 32535. Since incorporation, the City has not made any amendments to the General Plan land use designation of Medium Density Residential (MDR) or to the R-1 (One-Family Dwelling) Zoning designation that would affect the approved tract map. In addition, the applicant and City staff have thoroughly investigated whether the environmental setting for Tentative Tract Map No. 32535 has changed since the map was first approved by the Riverside County Board of Supervisors on December 5, 2006, and determined that the environmental setting is the same as it was in 2006.

3) New Information of Substantial Importance:

This final element under Guideline 15162 requires a showing of new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time of the project approval. The City has not been made aware of any new information that was not known and could not have been known at the time the County originally approved the MND that evidences new or increased significant environmental effects or that new mitigation measures or mitigation measures previously found infeasible are available that would substantially decrease the project's environmental impacts.

The Planning Commission, therefore, determines that there have been no significant changes in the project, no significant changes in the circumstances under which the project will be undertaken, and no new information has come to light, and therefore, none of the conditions exist that might otherwise require a subsequent EIR to be prepared.

MINOR CHANGE CRITERIA/FINDINGS

In accordance with the definition of a minor change outlined in Section 16.04.060 (Definitions) of the Subdivision Ordinance, the Planning Commission hereby determines that the proposed changes (as outlined below) to Tentative Tract Map No. 32535 meet the criteria for a minor change as follows:

- 1) Request - Reduce the approved lot count from 84 to 81 residential lots.

Staff Determination - This request meets the definition of a minor change since the request is being made to reduce the number of approved lots and not to increase the number of lots.

- 2) Request - Modifications to the approved lot dimensions to create a better land plan.

Staff Determination - This request meets the definition of a minor change since the request is being made to modify lot dimensions resulting in a modified lot

design. Further, the modified lot lines remain consistent with the R-1 zone standards for minimum lot size, lot depth and lot width.

- 3) Request - Modify the pad location/elevation with a differential change of 1.3-foot average. Overall average pad change of +0.3 feet (or 4 inches).

Staff Determination - This request meets the definition of a minor change since the request to modify the pad location retains the basic design concept approved with the tentative tract map. Increasing the pad elevations also reduces impacts associated with grading, as this site has excess soil that must be exported off-site and increasing the pad elevations reduces the amount of soil export.

- 4) Request - Add a traffic calming measures (i.e., reduced street width) on a portion of Arnett Road as required by the Engineering Department to increase vehicular safety.

Staff Determination - This request meets the definition of a minor change since the reduced street width for a portion of Arnett Road retains the basic design concept approved with the tentative tract map. Further, the change is being required by the Public Works Director/City Engineer to increase vehicular safety which results in a better design for this portion of the roadway.

- 5) Request – Shift Copper Court Road entry approximately 50 feet to the north (or approximately one street width) to allow proposed lots 80 and 81 to front on Cooper Court Road.

Staff Determination - This request meets the definition of a minor change since the roadway shift retains the basic design concept approved with the original tentative tract map, and does not impact the traffic flow. The revised lot line configuration for Lots 80 and 81 are permitted as allowed within the definition of a minor change, in addition to, producing a better design layout.

- 6) Request – Relocate Detention Basin B away from the western boundary to the east side of Arnett Road.

Staff Determination - This request meets the definition of a minor change since the detention basin relocation provides a better design alternative to the west side of the site without compromising the basic design concept approved with the original tentative tract map. Further, the relocation will reduce potential impacts to jurisdictional waters on the western edge of the site, while better addressing the water quality regulations of the Regional Water Quality Control Board.

- 7) Adjustment to the development impact footprint to reduce overall impacts resulting from the minor changes (as outlined in the DBESP) to U.S. Army Corps of Engineers and Regional Water Quality Control Board jurisdictional areas by 0.05 acres while slightly increasing impacts to California Department of Fish and Wildlife (CDFW) jurisdictional areas by 0.19 acres

Staff Determination – The adjustment to the development impact footprint does not alter the basic design concept of the approved tentative map and is therefore consistent with the definition of a minor change. In addition, since this project has a minor impact to jurisdictional areas, a Determination of Biologically Equivalent or Superior Preservation (DBESP) was prepared for the proposed minor changes to TTM No. 32535 and submitted to the U.S. Fish and Wildlife Service (USFW) and California Department of Fish and Wildlife (CDFW) on January 27, 2014. Based on the agencies review of the DBESP, it was determined that the proposed mitigation in the DBESP met the requirements of USFW and CDFW, and that no further action by the resource agencies is required.

SECTION 3. PLANNING COMMISSION ACTION

The Planning Commission of the City of Wildomar, based on the criteria/findings above, hereby takes the following actions:

1. Approves and adopts the Addendum to EA No. 40124, attached hereto this Resolution as Exhibit 1, which includes a Mitigation Monitoring and Reporting Program. All mitigation measures originally adopted by Riverside County Board of Supervisors on December 5, 2006 and not amended by the Addendum remain in full force and effect (as noted in Attachment B of this staff report);
2. Approves the minor changes to Tentative Tract Map No. 32535 as illustrated in Attachment E of this staff report, subject to the original conditions approved by Riverside County Board of Supervisors on December 5, 2006, as noted in Attachment C of this staff report; and
3. Amends condition of approval “10. Every. 3 MAP – HOLD HARMLESS”, as shown on Attachment C to the staff report, to read as follows:
“The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively “Actions”), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any

permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. City shall promptly notify the applicant of any Action brought and request that applicant defend the City. It is expressly agreed that applicant may select legal counsel providing the applicant's defense and the City shall have the right to approve separate legal counsel providing the City's defense. The applicant shall reimburse City for any attorneys' fees, costs and expenses directly and necessarily incurred by the City in the course of the defense. Applicant agrees that City will forward monthly invoices to Applicant for attorneys' fees, costs and expenses it has incurred related to its defense of any Action and applicant agrees to timely payment within thirty (30) days of receipt of the invoice. Within fourteen (14) days of an Action being filed, applicant agrees to post adequate security or a cash deposit with City in an amount to cover the City's estimated attorneys' fees, costs and expenses incurred by City in the course of the defense in order to ensure timely payment of the City's invoices. The amount of the security or cash deposit shall be determined by the City. City shall cooperate with applicant in the defense of any Action."

4. Direct the Planning Director to prepare and file a Notice of Determination with the Riverside County Clerk within five (5) working days of project approval.

PASSED, APPROVED AND ADOPTED this 2nd day of April, 2014, by the following vote:

AYES.
NOES:
ABSENT:
ABSTAINED:

Stan Smith
Planning Commission Chairman

ATTEST:

Matthew C. Bassi
Planning Director/Minutes Secretary

APPROVED AS TO FORM:

Eric Vega, Assistant City Attorney

ATTACHMENT A - EXHIBIT 1

Addendum to EA No. 40124 for TTM 32535

Exhibit 1 Appendices Included as Follows:

Appendix A - AQ Report

Appendix B1 - MND 40124 Biology Report

Appendix B2 - Updated Biological Technical Report

Appendix B3 - DBESP

Appendix C - MND 40124 Cultural Resources Report

Appendix D1 - MND 40124 Geotechnical Investigation

Appendix D2 - Updated Geotechnical Report

Appendix E - GHG Analysis

Appendix F - MND 40124 Phase I ESA

Appendix G1 - Hydrology Study Report

Appendix G2 - Hydrology Study Update Letter

Appendix G3 - WQMP

Appendix H - Traffic Update Letter