

PLANNING COMMISSION

Meeting Date: 10/16/17

ADDITIONAL ITEM ADDED AFTER DISTRIBUTION OF PACKET (# 1)

AGENDA ITEM # 1

Applicant/Project Name Gary Levitt -
Urban Villages SM, LLC # CUP 17-0005

Brief Description:

Staff Memo dated 10/16/17 -
Revisions to Resolution PC 17-41a02

Date 10/16/17
Time 5:20 PM

MEMORANDUM

TO: Planning Commission
FROM: Art Piñon, Associate Planner
DATE: October 16, 2017
SUBJECT: Revisions to Resolution PC 17-4662 for Item 1 (CUP 17-0005)

- **Page 1, Third (3rd) Recital**

WHEREAS, the project does not require Site Development Plan (SDP) review in that per San Marcos Municipal Code (SMMC) 20.515.e3e-020.C, proposed projects required to go before the Planning Commission under Conditional Use Permit procedures shall not be required to comply with the Site Development Plan review procedures; and

- **Page 3, Condition of Approval G**

~~The Developer must ensure that prospective purchasers sign a disclosure acknowledging that the property is within the City's Community Facilities Districts Boundaries which are subject to supplemental tax assessments. Annexation into one or more of these districts and payment of in-lieu fees is or will be required.~~

The Developer must ensure that prospective purchasers sign a disclosure acknowledging that the property is located within the boundaries of one or more of the City's Community Facilities Districts (CFDs) which subject the property to supplemental tax assessments. Annexation into these CFDs is required. Notwithstanding the foregoing, for any portion of the property which is currently exempt from the obligation to pay taxes and/or special assessments, because the owner(s) of such property remain obligated to mitigate their impacts pursuant to the Final Environmental Impact Report (FEIR) for the University District Specific Plan and 2017 Addendum to the FEIR (State Clearinghouse No. 2008101083) for the University District Specific Plan, in lieu of annexation, for so long as the use is a tax exempt use, such obligation may be met either by the payment of a fee for each CFD consistent with the pre-payment option provided in the formation documents for each respective CFD, or assurance of ongoing payment of the mitigation amount through other contractual mechanism deemed acceptable by the City Manager and City Attorney, which mechanism will be recorded against the property and performed by the owner(s) thereof.

The Developer must record a document against the property which discloses that should any portion of the building currently owned by an entity exempt from the obligation to pay taxes and/or special assessments subsequently be transferred to an individual and/or entity not

exempt from such tax and/or special assessment obligations, such property must be annexed into the CFD upon the transfer of the affected portion(s) of the property to such non-exempt individual and/or entity.

- **Page 12, Condition of Approval N.32**

~~The (Applicant) shall mitigate for impacts on City services related to emergency response, traffic congestion, landscaping, and infrastructure maintenance. The mitigation shall be met through the execution of applications to annex the real property of the project into the following Community facilities Districts (CFD):~~

~~CFD 98-01 - Improvement Area No. 1 (Police Only)~~

~~CFD 98-02 (SIA F-54) - Lighting, Landscaping, Open Space and Preserve Maintenance~~

~~CFD 2001-01 - Fire and Paramedic~~

~~CFD 2011-01 - Congestion Management~~

~~No permit will be issued without receipt of a petition for annexation and consent and waiver executed by the property owners for each of the above-referenced Community Facilities Districts for the establishment of the special taxes. In lieu of annexation, the developer may pay a fee for each CFD consistent with the pre-payment option laid out in each CFD's formation documents. The developer shall be responsible for compliance with all rules, regulations, policies and practices established by State Law and/or the City with respect to the Community Facilities Districts including, without limitation, requirements for notice and disclosure to future owners and/or residents.~~

The (Applicant) shall mitigate for impacts on City services related to emergency response, traffic congestion, landscaping, and infrastructure maintenance. The mitigation shall be met through the execution of applications to annex the portion(s) of the real property of the project not exempt from the obligation to pay taxes and/or special assessments into the following Community Facilities Districts (CFD):

CFD 98-01 - Improvement Area No. 1 (Police Only)

CFD 98-02 (SIA F-54) - Lighting, Landscaping, Open Space and Preserve Maintenance

CFD 2001-01 - Fire and Paramedic

CFD 2011-01 - Congestion Management

No permit will be issued without receipt of a petition for annexation and consent and waiver executed by the applicable property owners for each of the above-referenced CFDs for the establishment of the special taxes. Annexation into these CFDs is required. Notwithstanding the foregoing, for any portion of the property which is currently exempt from the obligation to pay taxes and/or special assessments, the owner(s) of such property remain obligated to mitigate their impacts pursuant to the Final Environmental Impact Report (FEIR) for the University District Specific Plan and 2017 Addendum to the FEIR (State Clearinghouse No.

2008101083) for the University District Specific Plan, in lieu of annexation, so long as the use is a tax-exempt use, such obligation may be met either by the payment of a fee for each CFD consistent with the pre-payment option provided in the formation documents for each respective CFD, or assurance of ongoing payment of the mitigation amount through other contractual mechanism deemed acceptable by the City Manager and City Attorney, which mechanism will be recorded against the property and performed by the owner(s) thereof.

The Developer must record a document against the property which discloses that should any portion of the building currently owned by an entity exempt from the obligation to pay taxes and/or special assessments subsequently be transferred to an individual and/or entity not exempt from such tax and/or special assessment obligations, such property must be annexed into the CFD upon the transfer of the affected portion(s) of the property to such non-exempt individual and/or entity.

The developer shall be responsible for compliance with all rules, regulations, policies and practices established by State Law and/or the City with respect to the Community Facilities Districts including, without limitation, requirements for notice and disclosure to future owners and/or residents.