

RESOLUTION PC 17-4639

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL APPROVE A TENTATIVE SUBDIVISION MAP (TSM 16-001) CONSOLIDATING TEN (10) EXISTING PARCELS AND CREATING TWELVE (12) NEW LOTS CONSISTING OF TWO (2) LOTS FOR FUTURE OFFICE/COMMERCIAL, THREE (3) LOTS FOR FUTURE RESIDENTIAL, ONE (1) LOT AS A POTENTIAL FUTURE SCHOOL OR RESIDENTIAL SITE, ONE (1) LOT FOR A FUTURE PUBLIC PARK, TWO (2) LOTS FOR FUTURE STORM WATER BASINS, ONE (1) LOT FOR OPEN SPACE, ONE (1) LOT AS A FUTURE COMMON LOT AND ONE (1) REMAINDER LOT WITHIN THE BARHAM/DISCOVERY NEIGHBORHOOD

Case No. TSM 16-001 (P16-0005)  
H.G. Fenton Development Company LLC

WHEREAS, on January 26, 2016 the City of San Marcos received an application from H.G. Fenton Development Company LLC, requesting a Tentative Subdivision Map (TSM 16-001), Conditional Use Permit (CUP 17-004), and Grading Variance (GV 17-005) by subdividing ten (10) existing parcels to create twelve (12) new lots for future development consisting of office/commercial, residential/potential school site, public park, storm water basins, open space, a common lot, a remainder lot and private/interior streets located on approximately 87.46 acres, more particularly described as:

ALL OR PORTIONS OF LOTS 1 AND 2 OF BLOCK 67, AND LOTS 8, 9, 10, 11, 12 AND 13 OF BLOCK 63 OF RANCHO LOS VALLECITOS DE SAN MARCOS, ACCORDING TO MAP THEREOF 806 AND PARCEL A OF MAP NO. 16595  
Assessor Parcel Numbers: 221-080-18-00, 221-080-24-00, 221-080-19-00, 221-080-11-00, 221-070-20-00, 221-142-07-00, 221-080-23-00, 221-080-12-00, and 221-070-19-00

WHEREAS, the Development Services Department held a public workshop on October 5, 2017 for the proposed project; and

WHEREAS, the Development Services Department did study said request and does recommend approval of the request; and

WHEREAS, the required public hearing was held on February 5, 2018 was duly advertised and held in the manner prescribed by law; and

WHEREAS, the project is within the scope of the Final Environmental Impact Report (FEIR) for the University District Specific Plan and 2014 and 2017 Addendum to the FEIR (State Clearinghouse No. 2008101083) for the University District Specific Plan pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission has considered said Tentative Subdivision Map and the recommendation of its staff, the City Engineer, the Director of Public Health, the Director of the Department of Sanitation and Flood Control, and the Chief of the San Marcos Fire Department with respect thereto, and has determined that the conditions hereinafter enumerated are necessary to insure that the subdivision and the improvements thereof will conform to all ordinances, plans, rules, standards, and improvements and design requirements of the City of San Marcos; and

WHEREAS, the Applicant/developer proposes to file one or more Final Maps on said subdivision; and

WHEREAS, the Planning Commission's decision is based upon the following findings and determinations:

1. Said Tentative Subdivision Map (TSM 16-001) complies with the University District Specific Plan (SP 14-003).
2. The West Creek Park on Lot 4, consisting of 1.63 acres, will be design and constructed by the applicant/developer consistent with the University District Specific Plan and dedicated to the City of San Marcos.
3. The applicant/developer complies with the intent of the University District Specific Plan by agreeing to design and install a boardwalk (designed to the satisfaction of the Planning Manager) with three observation decks along the southerly edge of the natural Open Space Lot C.
4. The applicant/developer complies with the intent of the University District Specific Plan by agreeing to identify Lot 7 as a potential school site pending negotiations with the school district or if unsuccessful, Lot 7 would revert back to a residential lot.
5. The site is physically suitable for this type of subdivision under the adopted University District Specific Plan;
6. The design of this subdivision and improvements will not cause public health problems;
7. The design or improvements will not conflict with any easements acquired by the public at large for access;
8. The proposed Tentative Subdivision Map (TSM 16-001) is in conformance with the goals, policies and objectives of the adopted University District Specific Plan, in that the design guidelines will result in a quality office, commercial, open space, and a housing product blending in with the constraints of the site which insures better compatibility with the surrounding area.
9. The proposed Tentative Subdivision Map (TSM 16-001), as conditioned, will not be

detrimental to the public health, safety, morals and welfare in that adequate public facilities and infrastructure including fire, police, water, sewer, drainage, and road capacity are being provided.

10. Pursuant to Government Code section 51084, the Planning Commission makes the following findings:
  - a. The preservation of a portion of the land (approximately 15 acres) as natural open space is consistent with the City's adopted General Plan and with the objectives of the General Plan; and
  - b. The preservation of a portion of the land (approximately 15 acres) as natural open space is in the best interest of the city and is important to the public for the enjoyment of scenic beauty, for the preservation of natural resources, and because of the following reasons:
    - i. It is in the public interest that the land be retained as natural open space area because such land will add to the natural amenities of living in neighboring urbanized areas and will help preserve the natural character of the area in which the 15 acres of land is located.
    - ii. The public interest will be served in a manner recited in the resolution and consistent with the purposes of this subdivision and Section 8 of Article XIII of the Constitution of the State of California.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED as follows:

- A. The foregoing recitals are true and correct.
- B. Said Tentative Subdivision Map (TSM 16-001) complies with the requirements of the City Subdivision Ordinance, and the Subdivision Map Act.
- C. The project is within the scope of the Final Environmental Impact Report (FEIR) for the University District Specific Plan (UDSP) and 2014 and 2017 Addendum to the FEIR for the University District Specific Plan (State Clearinghouse No. 2008101083) pursuant to the California Environmental Quality Act (CEQA).
- D. Said Tentative Subdivision Map (TSM 16-001) is hereby recommended for approval, pursuant to the City Subdivision Ordinance and no waiver of any requirement of said Ordinance is intended or implied except as specifically set forth in this Resolution.
- E. The approval of this revised Tentative Subdivision Map (TSM 16-001) expires within 24 months from date of approval. The Final Map conforming to this conditionally approved Tentative Subdivision Map (TSM 16-001) shall be filed with the City Council in time so that

the Council may approve said maps before their expiration, unless prior to that date, the Planning Commission or City Council subsequently grants a time extension for the filing of the Final Map, or as provided for in the City's Subdivision Ordinance and the Subdivision Map Act. It is the applicant/developer's responsibility to track the expiration date. Failure to request an extension will result in a refiling of the Tentative Subdivision Map and new processing of the map.

F. The Tentative Subdivision (Map TSM 16-001/PC Resolution 17-4639) is recommended for approval by City Council in conjunction with the submitted Conditional Use Permit (CUP 17-004/PC Resolution 17-4640) for a temporary rock crusher and a Grading Variance (GV 17-005/PC Resolution 17-4641) allowing slopes to exceed 20 feet in height.

G. General Provisions:

1. Prior to submittal and approval of the Final Tentative Subdivision Map and/or any development permit (i.e. grading permit or within 180 days of the approval of the Tentative Map, whichever occurs first, the revised tentative map, landscaping plan, etc. shall be submitted as a digital file on a CD including this resolution as a title page. This title page shall include the statement "I (we), \_\_\_\_\_, the owner(s) or the owner's representative, have read, understand and agree to the conditions of the City Council approving TSM 16-001." Immediately following this statement shall appear a signature block for the owner or the owner's representative which shall be signed. Signature blocks for the City's Planner and Civil Engineer shall also appear on this title page. The digital copy shall be approved by the City prior to any grading plan, improvement plan or final map submittal.
2. Future development projects within the Specific Plan area shall prepare focused traffic studies for the purpose of determining the adequacy of existing streets and to determine if any LOS or capacity thresholds are exceeded. Mitigation measures to reduce project-level and cumulative impacts to below a level of significance concurrent with impacts would be identified and implemented for these future projects. Such mitigation measures could include targeted roadway and/or intersection improvements, or implementation of strategies to reduce the number of trips that are generated. Impacts shall be mitigated to a level of service that is consistent with the Circulation (Mobility) Element of the San Marcos General Plan.
3. The applicant/developer shall review and comply with all applicable mitigation measures listed in the Final Environmental Impact Report (FEIR) for the University District Specific Plan (UDSP) and 2014 and 2017 Addendum to the FEIR for the University District Specific Plan.
4. The applicant/developer shall comply with all regulatory permit requirements associated with this development project.
5. The applicant /developer shall comply with all conditions as approved in CUP 17-004

and GV 17-005 per Resolutions incorporated by reference herein.

6. The applicant/developer shall comply with all provisions and requirements set forth in the San Marcos Municipal Code, City ordinances, City policies and City resolutions, and with all applicable state and federal regulations, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated herein by reference and fully set forth at this point.
7. The applicant/developer shall 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.
8. Prior to any future development within the TSM 16-001 boundary, the future applicant/developer shall submit Site Development Plan(s) (SDP) for review and approval by Developmental Services to confirm it complies with the adopted University District Specific Plan. The future Applicant/Developer shall comply with the following conditions:
9. Any future development proposals come forward within the Specific Plan area, shall prepare a site specific noise studies study shall be prepared for each development proposal. The noise study shall analyze the impact of collocating residential and commercial uses on the project site, as well as locating uses within proximity to SR-78. Mitigation measures shall be identified from among those identified herein or other feasible mitigation measures and incorporated into the Conditional Use Permits or other discretionary permits, to reduce noise impacts associated with these uses. These measures could include sound barriers/walls, noise-reducing pavement, or other mitigation measures to provide sound level reductions so that they are consistent with the CNEL levels identified in the San Marcos General Plan, including 45 dBA CNEL for interior residential areas.
10. All future/proposed sensitive land uses would be subject to compliance with CCR Title 24 interior noise abatement threshold, inclusive of the residential areas, professional and medical areas, and schools. Residential areas shall be interior mitigated to 45 dBA CNEL. Professional spaces and school uses shall be interior mitigated to 50 dBA CNEL.
11. Prior to issuance of building permits, future applicant/developers within the University District Specific Plan shall pay a fair share contribution towards the provision of 4.4 MG in water storage capacity. VWD will use those fees to construct the additional storage capacity as demand is warranted. Future developers shall coordinate and enter into an agreement with VW regarding the timing of this improvement/payment in light of the rate of buildout of the Specific Plan area. The fair share contribution shall be derived based upon the cost of the improvement

prorated over future projects that will use the improvement, based upon an equivalent dwelling unit calculation.

12. Future applicant/developers within the University District Specific Plan shall provide fair share funding for the upsizing of 31 pipes (total of 7,758 feet) as detailed in the following table and shown in Figures 3.14-3a and 3.14-3b per the Final Environmental Impact Report (FEIR) for the University District Specific Plan (UDSP) and 2014 Addendum to the FEIR for the University District Specific Plan (State Clearinghouse No. 2008101083). Future applicant/developers shall coordinate and enter into an agreement with VWD regarding the timing of these improvements in light of the rate of buildup of the Specific Plan area. The fair share contribution shall be derived based upon the cost of the improvement prorated over future projects that will use the improvement, based upon an equivalent dwelling unit calculation.
13. Prior to issuance of building permits, future applicant/developers within the University District Specific Plan shall pay a fair share contribution towards improvements to the Encina parallel land outfall. VWD will use those fees to construct the Encina parallel land outfall improvement. The fair share contribution shall be derived based upon the cost of the improvement prorated over future projects that will use the improvement, based upon an equivalent dwelling unit calculation.
14. Prior to issuance of building permits, the future applicant/developer within the University District Specific Plan shall pay a fair share contribution towards increasing solids and liquids treatment capacity at Encina Water Pollution Control Facility and MWRF by 0.79 MGD. The fair share contribution shall be derived based upon the cost of the improvement prorated over future projects that will use the improvement, based upon an equivalent dwelling unit calculation.

H. Prior to or concurrent with the recordation of a final map, the applicant/developer shall comply with the following conditions:

1. A conservation easement, pending final review and approval by the City Attorney, shall be recorded with the final map. Once the final metes and bounds of conservation easement are established the developer shall accurately identify the 150 foot fire buffer and identify all affected structures that fall within this area with the following restrictions:
  - a. All affected future development shall be deed restricted defining type of construction requirements, limitations of construction and any future expansion restrictions.
  - b. At point of sale, there shall be full disclosure and a copy of said wording submitted to the City for the administrative records.

- c. An exhibit & description of the affected future development shall be included through an amendment process to the CC&R's.
2. The Applicant/Developer shall establish Covenants, Conditions and Restrictions (CC&R's) for the future projects by establishing a Merchant Property Owner's Association (POA) to assure the continued maintenance and operation of all open space and common areas, recreational facilities and private improvements as follows:
  - a. The applicant/developer and all persons, firms or corporations owning the property subject to this subdivision at the time of the recording of the Final Maps and their heirs, administrators, executors, successors and assignees, shall operate, maintain and repair the open space, recreational facilities and private improvements for common use and benefit of the residents, approved by the City Council primarily for the benefit of the residents, and shall continue to operate, maintain and repair such open space, facilities, improvements for common use and benefit of the residents.
  - b. The City Attorney shall approve the wording of by-laws and articles of incorporation of the proposed Merchant HOA and/or Homeowner's Association in writing prior to the creation of said Merchant HOA and/or Homeowner's Association.
  - c. At the same time the Final Maps are recorded, there shall also be recorded a document, signed by all persons, firms and corporations having an interest in the property shown on the Final Maps, whereby said persons, firms and corporations accept the terms and conditions of this Tentative Subdivision map and agree with the City of San Marcos to comply therewith. Said document shall be in a form satisfactory to the City Attorney of the City of San Marcos.
3. The vacation of City held easements which are no longer necessary shall occur on the Final Map or by separate document. The applicant/developer shall compensate the City for any land owned in fee by the City. Compensation shall be in a form acceptable to the City Manager. Note that the subdivision boundary may shift depending on the underlying ownership in the easement areas.
4. This project applicant shall apply for a public improvement permit complaint with SMMC 14.16. All plans submitted for public improvements shall conform to applicable code and engineering handouts, unless explicitly superseded by the conditions contained herein. All appropriate fees shall be paid for the processing of the permit.
5. Public Improvements plans shall be approved and secured and shall include the construction of the following improvements:

- a. Full improvement of Discovery Street from Bent Avenue to Twin Oaks Valley Road, including the boardwalk and pedestrian improvements on the north side of the road.
- b. The realignment of Craven Road to the east of the intersection of Bent Avenue.
- c. Intersection improvements at the intersection of Discovery Street and Twin Oaks Valley Road, including elimination of the free right turns at the northwest and southwest corners of the intersection, and the addition of a 2<sup>nd</sup> through lane to both westbound Barham Drive and eastbound Discovery Street.
- d. Realignment and improvement of the urban trail within the existing Craven Road right-of-way.
- e. Signalization of the six street intersections along the extension of Discovery Street between and including Bent Avenue and Twin Oaks Valley Road. The intersection improvement at Bent and Discovery may need to include street improvements west of the intersection to match existing conditions or City approved construction documents as determined by the City Engineer should CIP project No. 88623 not be completed.

6. Prior to the final design efforts for Discovery Street and Craven Road, the applicant/developer shall meet with the City's Capital Improvement engineers and coordinate the design of Discovery Street with the City's CIP project No. 88623.
7. An improvement note shall be placed on the final map for the construction of internal streets within the subdivision boundary. The note shall address the timing of the construction of the public roads, trails, and park within the subdivision. Street "A" shall be constructed prior to occupancy of the 1<sup>st</sup> structure. Streets B and C shall be constructed prior to occupancy of any structure that takes access from those streets. All trails shall be constructed prior to occupancy of the 1<sup>st</sup> structure. The public park and trails shall be constructed prior to the occupancy of any building. No partial street construction shall be permitted.
8. A note shall be placed on the final map stating the traffic mitigation measures as outlined in the University District EIR and Traffic Study shall be satisfied as applicable.
9. The drainage study shall analyze the capacity of the existing storm drain system east of Rush Drive to ensure the project flows can be conveyed downstream. Offsite improvements may be required if downstream facilities are inadequate to convey the proposed project flows.
10. The applicant/developer shall coordinate with the North County Transit District

(NCTD) and comply with their requirements for planned facilities on the roads constructed as part of the project. Improvements required by NCTD shall be included on the construction drawings and are subject to approval by the City.

11. Unless otherwise approved by the City Manager, the Developer/Applicant shall be responsible for bearing the costs of all grading activities, on-site and off-site improvements, labor, design, mitigation, or other costs associated with, but not limited to, the project's planning, engineering, construction and/or architecture for the project.
12. The subdivider shall dedicate to the City of San Marcos easements and/or rights-of-way for all onsite public streets, utilities, trails, drainage facilities and appurtenances thereto, and all other interests in real property required by these conditions and as shown on the tentative map. All property or property interests shall be granted to the City free and clear of all liens and encumbrances and without cost to the City and free of environmental hazards, hazardous materials or hazardous wastes.
13. The subdivider shall enter into a Subdivision Improvement Agreement with the City to complete all required public improvements. Securities and applicable fees for the construction of the public improvements shall be submitted and approved in accordance with the San Marcos Municipal Code sections 19.16.070 and 19.16.080.
14. The Developer/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 – Lighting, Landscaping, Open Space and Preserve Maintenance  
CFD 2001-01 – Fire and Paramedic  
CFD 2011-01 – Congestion Management

Additionally, a Special Improvement Area shall be formed with respect to CFD 98-02 for the ongoing maintenance services provided by the city for improvements being installed above and beyond the City standards, installed by the developer as shown on the Special Improvement Area Exhibit. Such improvements may include, but are not limited to, storm water treatment devices, flood control improvements, public parkland, trails, the boardwalk, and enhanced landscaping features. No building permit or permit to construct CFD facilities 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 consentient with the pre-payment option laid out in each CFD's formation documents. The applicant 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.

15. The applicant/developer shall maintain all CFD projects as outlined in the City's "Two-Year Maintenance & Establishment" guidelines. As a condition to begin this period, applicant/developer shall provide the City with a signed copy of the maintenance contract to cover the two-year requirement and also provide the City with a Maintenance Bond to cover 150% of the maintenance contract estimate.
16. A phasing plan shall be submitted and approved by the City Engineer and Planning Division Manager prior to approval of the first Final Map. The phasing plan may be subject to further conditions. Should the applicant/developer decide to develop phases out of numerical sequence with the approved phasing as shown on the plan, all conditions required of the proceeding phases shall be completed unless otherwise approved by the City Engineer and the Planning Division Manager. Additional conditions may be imposed by the City Engineer and Planning Division Manager to allow out-of-phase construction.
17. The applicant/developer shall provide a signed disclosure for the remainder parcel for this subdivision. No building permit shall be issued for the remainder parcel until it is further subdivided. This note shall be placed on a separate sheet of the Final Map.
18. The project boundaries have been reviewed and deemed by the City's Floodplain administrator as falling within the FEMA special flood hazard area. No encroachment of the development shall be allowed within this area unless approved by the City's Floodplain Administrator. The applicant/developer shall design the site to be compliant with the provisions outlined in SMMC 20.255. For design not specified by the City's Municipal code, developer shall seek guidance from the Department of Homeland Security Federal Emergency Management Agency's (DHS-FEMA) technical memoranda on design. The applicant/developer shall bear the full responsibility of complying with floodplain management requirements as well as the processing of any floodplain/floodway re-mapping. The applicant/developer shall obtain approval of a Conditional Letter of Map Revision (CLOMR) from FEMA prior to Final Map approval or issuance of a grading permit.
19. The applicant/developer shall submit a traffic control plan to the Public Works Inspection Section for all phases of construction for approval by the City Engineer. Said plan shall include all traffic control devices including traffic signals as required.
20. Discovery Street shall be dedicated by the applicant/developer to the City of San Marcos. The dedication shall be based on a right-of-way width of 104' from Bent Avenue to Rush Avenue. The right of way width from Rush Avenue to Twin Oaks Valley Road shall be a minimum of 118'.

21. Craven Road shall be dedicated by the applicant/developer to the City of San Marcos. The dedication shall be based on a right-of-way width of 102'.
22. Slope easements shall be dedicated the City of San Marcos for all slopes adjacent to Discovery Street, Grand Avenue, and Craven Road in excess of 10' in height. The easements shall extend approximately 5' from the top and/or toe of slope for maintenance purposes to the satisfaction of the City Engineer.
23. Access and maintenance easements shall be granted for to the City of San Marcos for storm water management facilities to the satisfaction of the City Engineer.
24. Public access and slope/trail maintenance easements shall be dedicated for the creek trail, Craven Road urban trail and the boardwalk trail that extend beyond the right-of-way. The creek trail shall be designed to incorporate elements as defined on page VI-4 of the University District Specific Plan. The boardwalk trail shall be designed to incorporate elements as defined on page VI-53 of the University District Specific Plan and shall be designed to the satisfaction of the Planning Manager.
25. The UDSP Creek Trail shall be designed and constructed to connect with the boardwalk trail.
26. Grand Avenue shall be dedicated to the City of San Marcos on the final map. The applicant/developer shall provide an alignment study (horizontal and vertical) in order to determine the right of way dedication widths and to verify the future construction of Grand Avenue from Discovery Road to the southerly bridge abutment will not impact the proposed regulatory agency permit areas.
27. Lot 4 of the subdivision shall be dedicated to the City of San Marcos on the final map as a public park.
28. The applicant/developer shall obtain all interests in real property for all offsite public improvements, dedicate to the City and provide evidence of such to the City. The applicant/developer shall also obtain temporary construction easements necessary to construct any offsite public improvements. If said dedication and easements cannot be secured from offsite owners, by the applicant, applicant shall submit a written request to the City to initiate condemnation proceedings in accordance with Section 19.16.110 of the City of San Marcos Municipal Code.
29. Direct access rights to all parcels, excepting the remainder lot, abutting Discovery Street shall be relinquished to the City on the Final Map.
30. Lot lines shall be as near radial as possible to street right-of-way at cul-de-sacs and knuckles as possible, and shall not exceed more than ten (10) degrees from radial from right-of-way except as approved by the City Engineer.

31. The applicant/developer shall be responsible for the design of a fiber optic traffic signal interconnect system linking all traffic signals on the project constructed and/or improved Discovery Street including and between Bent Avenue and Twin Oaks Valley Road. Pull boxes shall be designed and spaced per the City standards.
32. All new and/or upgraded traffic cabinets shown on the improvement plans shall be equipped with data aggregators to the satisfaction of the City Engineer.
33. For new traffic signals or signal modification(s), an in-lieu fee shall be paid for development of a traffic signal timing and coordination plan. The traffic signal timing plan shall encompass the Discovery Street signals from Via Vera Cruz to Twin Oaks Valley Road. Said fee shall cover 100% of the cost of the design and implementation of the plan including a 25% administration fee. The applicant/developer shall provide up to date traffic counts for those intersections included within the timing plans.
34. The applicant/developer shall submit a "Primary" street name and two (2) alternate names for each street shown on the Tentative Map. The names provided shall be subject to review and approval by the City's Street naming Committee. The selected street name(s) shall be shown on the final map(s).
35. Covenants, Conditions and Restrictions (CC&R's) shall be submitted to the City of San Marcos for review and approval. At a minimum, the CC&R's shall describe the Property Owners Association (POA) maintenance responsibilities, parking restrictions, fuel modification maintenance, water quality Best Management Practices (BMP's), City reporting responsibilities, and any regulatory agency permit responsibilities.
36. A light emitting diode street lighting system shall be shown on the street improvement plans and shall be installed at locations specified by the City Engineer at no cost to the public. All installations shall be compliant with the City's Street Lighting Standards.
37. Maintenance of private open space areas and slopes shall be the responsibility of an Individual Homeowners Association/Master Property Owners Association. All remaining open space lots, improvements and slopes that the City agrees to maintain must comply with City's criteria for maintenance for the Community Facility District No. 98-02 (Lighting, Landscaping, Open Space and Preserve Maintenance).
38. All trail systems fronting and within the project shall be designed per City of San Marcos' Master Trails Plan and the University District Specific Plan to the satisfaction of the appropriate City Departments.
39. All public trails, parks, and open space areas shall be dedicated for "general

municipal purposes" as required by the City of San Marcos. All open space areas and lots shall be provided with adequate access for maintenance from a public street.

40. All utilities fronting, abutting or within the project shall be shown on the improvement plans to be relocated underground with the exception of sixty-nine (69) KVA or greater power lines. All utility undergrounding must be completed prior to the surfacing of the streets. Undergrounding must accommodate all pad mounted and pedestal equipment consistent with General Plan Goal LU 17.3. Where the underground of such equipment is not possible due to safety or lack of standards for such undergrounding, the [developer/applicant] shall provide an underground vault, in-building vault room, architecturally integrated screen wall around equipment, or other option approved by the Planning Division Manager.
41. The applicant/developer shall be responsible for acquiring all associated easements required by the utility companies for such work. The permanent placement of Vallecitos Water District's large meter services, detector checks, fire hydrants, etc., along circulation element streets shall be placed outside of the ultimate right-of-way and if applicable, trail easement, to avoid reconstruction or modification of same.
42. The applicant/developer shall comply with all rules, regulations and design requirements of the respective sewer, water, utility regional, federal or other approving agency regarding the installation, modification, development, improvement or protection of facilities within the project boundaries. It shall be the applicant/developers responsibility to determine all agencies with rights of approval for the proposed development.
43. A boardwalk trail shall be provided between Bent Avenue and (future) Grand Avenue. Said trail will incorporate stamped concrete / trex decking and three observation areas. Trail shall be 10' in width, meandering between a 5' to 7' landscape buffer and top of slope, consistent with the conceptual design depicted in the University District Specific Plan. The landscape buffer width shall be a minimum of 5'. In areas with obstructions, including guard rails, transformers and/or landscape irrigation, the minimum width shall be 7'. The three observation areas shall include at a minimum seating areas and interpretative signage related to biological and/or cultural components of the San Marcos Creek area.

I. Prior to issuance of a grading permit the applicant/developer shall comply with the following conditions:

1. A qualified biologist shall conduct a training session for all project personnel prior to any grading/construction activities. At a minimum, the training shall include: (1) the purpose for resources protection, (2) a description of the gnatcatcher and its habitat; (3) the conservation measures identified in the EIR that shall be in place during project construction; (4) environmentally responsible construction practices; (5)

protocol to resolve conflicts should they arise during the construction process; and (6) an overview of the ESA, the need to adhere to the provisions of the ESA and the penalties associated with violation.

2. To mitigate for potential direct and indirect impacts to sensitive vegetation communities during construction, fencing shall be placed along the Environmentally Sensitive Areas (ESA) adjacent to construction areas to prevent indirect impacts to sensitive habitats. Staging areas, including lay down areas, equipment storage, etc, to be located outside ESAs to avoid impacting sensitive areas. Installation of orange habitat fencing is recommended to avoid direct and indirect impacts to these areas. A biological monitor shall oversee the installation of fencing and erosion control measures and shall also monitor any grading activities that occur within 500 feet of sensitive habitats to prevent indirect impacts. The biological monitor shall work with the contractor to implement specific mitigation measures required while working within/adjacent to ESAs. The biological monitor shall be knowledgeable of gnatcatcher biology and ecology. The monitoring biologist's name, address, phone number, and monitoring schedule shall be submitted to USFWS at least 30 days prior to initiating the project. The biological monitor will have the authority to halt construction activities, if needed, and will report any violation to USFWS within 24 hours.
3. The monitoring biologist shall submit monthly letter reports (including photographs of impact areas) to the wildlife agencies during clearing of habitat and/or project construction within 500 feet of avoided habitat. The weekly report shall document that authorized impacts were not exceeded, work did not occur within the 500-foot setback except as approved by the USFWS, and general compliance with all conditions. The reports shall also outline the duration of gnatcatcher and vireo monitoring, the location of construction activities, the type of construction which occurred, and equipment used. The reports shall specify numbers, locations and sex of gnatcatchers and vireo (if present), observed gnatcatchers and vireo behavior, and remedial measures employed to avoid, minimize and mitigated impacts to gnatcatchers and vireo. Raw field notes shall be made available to the Wildlife Agencies upon request.
4. If clearing/grubbing is proposed during the bird nesting season (February 15 to August 31), nests of MBTA-listed species must be protected. The preferred measure to avoid disturbance is no clearing of vegetation. If clearing of vegetation is proposed during this time, a preconstruction nest survey shall be conducted. If nesting birds are identified, a 500-foot construction buffer (a smaller buffer may be acceptable if the monitoring biologist deems it acceptable to protect the nests) is required to avoid indirect impacts to nesting birds that may be protected under the MBTA.
5. At least 30 days prior to seeking a grading permit, the future developers shall contact the appropriate Native American tribe for the purpose of notifying the Tribe of the

grading, excavation and monitoring program, and to coordinate with the City of San Marcos and the Tribe to develop a Cultural Resources Treatment and Monitoring Agreement. The Agreement shall address the treatment of known cultural resources, the designation, responsibilities, and participation of Native American monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation; and treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on the site. The City of San Marcos shall be the final arbiter of any disputes concerning the conditions included in the Agreement.

6. Prior to issuance of grading permits within the project area, the City shall confirm that current biological surveys have been conducted for the area proposed to be graded and any additional consultation and permits required from the Wildlife Agencies have been obtained, if required. Biological surveys shall be deemed as current if they are less than one year old.
7. The applicant/developer shall comply with all regulatory permit requirements associated with this development project and satisfy the habitat creation both on and offsite to meet the required mitigation amounts as follows:
  - a. Permanent impact to 0.54 acre and temporary impact to 0.49 acre of southern arroyo willow riparian forest shall be mitigated at a 3:1 and 2:1 ratio respectively, for a total of 2.57 acres. Mitigation within the San Marcos Creek watershed is preferred. Proof of habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit that would impact southern arroyo willow riparian forest.
  - b. Permanent impact to 0.84 acre and temporary impact to 0.82 acre of southern cottonwood willow riparian forest shall be mitigated at a 3:1 and 3:1 ratio respectively, for a total of 4.16 acres. Mitigation within the San Marcos Creek watershed is preferred. Proof of habitat acquisition and proof of all required State and Federal permits related to wetlands (i.e., State 1602 Agreement and 401 Certification and Federal 404 permit) shall be provided to the Planning Director prior to issuance of a grading permit that would impact southern cottonwood willow riparian forest.
  - c. Permanent impact to 0.13 acre and temporary impact to 0.14 acre of southern willow scrub shall be mitigated at a 3:1 and 4:1 ratio respectively, for a total of 0.67 acre. Mitigation within the San Marcos Creek watershed is preferred. Proof of habitat acquisition and proof of all required State and Federal permits related to wetlands (i.e., State 1602 Agreement and 401 Certification and Federal 404 permit) shall be provided to the Planning Director prior to issuance of a grading permit that would impact southern willow scrub.

- d. Permanent impact to 0.40 acre and temporary impact to 0.19 acre of coastal valley freshwater marsh shall be mitigated at a 3:1 and 1:1 ratio respectively, for a total of 1.39 acres. Mitigation within the San Marcos Creek watershed is preferred. Proof of habitat acquisition and proof of all required State and Federal permits related to wetlands (i.e., State 1602 Agreement and 401 Certification and Federal 404 permit) shall be provided to the Planning Director prior to issuance of a grading permit that would impact coastal valley freshwater marsh.
- e. Permanent impact to 1.71 acres and temporary impact to 0.36 acre of emergent (herbaceous) wetland shall be mitigated at a 3:1 and 1:1 ratio respectively, for a total of 5.49 acres. Mitigation within the San Marcos Creek watershed is preferred. Proof of habitat acquisition and proof of all required State and Federal permits related to wetlands (i.e., State 1602 Agreement and 401 Certification and Federal 404 permit) shall be provided to the Planning Director prior to issuance of a grading permit that would impact emergent (herbaceous) wetland.
- f. Permanent impact 0.21 acre of disturbed wetland shall be mitigated at a 3:1 ratio for a total of 0.63 acre. Mitigation within the San Marcos Creek watershed is preferred. Proof of habitat acquisition and proof of all required State and Federal permits related to wetlands (i.e., State 1602 Agreement and 401 Certification and Federal 404 permit) shall be provided to the Planning Director prior to issuance of a grading permit that would impact disturbed wetland.
- g. Permanent impact to 0.23 acre and temporary impact to 0.07 acre of eucalyptus woodland-wetland shall be mitigated at a 3:1 and 1:1 ratio respectively, for a total of 0.79 acre. Mitigation within the San Marcos Creek watershed is preferred. Proof of habitat acquisition and proof of all required State and Federal permits related to wetlands (i.e., State 1602 Agreement and 401 Certification and Federal 404 permit) shall be provided to the Planning Director prior to issuance of a grading permit that would impact eucalyptus woodland-wetland.
- h. Permanent impact to 17.65 acres and temporary impact to 2.78 acres of Diegan coastal sage scrub shall be mitigated at a 2:1 and 1:1 ratio respectively, for a total of 39. 7 acre. Proof of habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit that would impact Diegan coastal sage scrub.
- i. Permanent impact to 65.95 acres and temporary impact to 7.05 acres of non-native grassland shall be mitigated at a 0.5:1 ratio for a total of 36.51 acres. Uptiering through acquisition of chaparral or Diegan coastal sage scrub shall also be permitted. Proof of habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit that would impact non-native grassland.

- j. Permanent impact to 3.06 acres and temporary impact to 2.06 acres of USACE Jurisdictional wetlands shall be mitigated at a 3:1 and 2:1 ratio respectively, for a total of 14.92 acres. Mitigation requirements can be met through a combination of onsite restoration or offsite habitat acquisition. Proof of on-site restoration and/or habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit that would impact USACE Jurisdictional Wetlands.
- k. Permanent impact to 0.03 acre and temporary impact to 0.32 acre of Jurisdictional Waters of the U.S. shall be mitigated at a 1.5:1 and 1:1 ratio, respectively, for a total of .371 acres. Mitigation requirements can be met through a combination of onsite restoration or offsite habitat acquisition. Proof of on-site restoration and/or habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit that would impact Jurisdictional Waters of the U.S.
- l. Permanent impact to 4.07 acres and temporary impact to 2.06 acre of State Jurisdictional Wetlands shall be mitigated at a 3:1 and 2:1 ratio respectively, for a total of 16.33 acres. Mitigation requirements can be met through a combination of onsite restoration or offsite habitat acquisition. Proof of on site restoration and/or habitat acquisition shall be provided to the Planning Director prior to issuance of a grading permit that would impact State Jurisdictional Wetlands.
- m. Prior to issuance of any grading permit, the project archaeologist shall file a pre-grading report with the City to document the proposed methodology for grading activity observation. Said methodology shall include the requirement for a qualified archaeological monitor to be present and to have the authority to stop and redirect grading activities. In accordance with the Agreement required in CR-2, the archaeological monitor's authority to stop and redirect grading will be exercised in consultation with the appropriate Native American tribe in order to evaluate the significance of any archaeological resources discovered on the property. Tribal monitors shall be allowed to monitor all grading, excavation and groundbreaking activities, and shall also have the authority to stop and redirect grading activities in consultation with the project archaeologist.

8. A detailed landscape and irrigation plan prepared by a licensed landscape architect shall be submitted to the City of San Marcos for review and approval for mass graded area affecting CFD, HOA, POA and private landscape areas. Upon completion of the separate landscape improvements areas, the licensed professional shall submit a letter to the City stating that all materials have been installed in accordance with the approved plans.
9. The applicant/developer shall submit separate CFD, POA, & private landscape plan(s) that complies with all requirements stated in the Water Efficiency Landscape Ordinance (WELO) and comply with the latest State adopted WELO. Additionally, the landscape plans are required to install water efficient non-spray irrigation in all planting areas

adjacent to roadways and travel lanes.

10. Any landscape area adjacent to a conservation easement, open space, or within the Brush Management Plan (BMP) area must be signed off by the project biologist and design/installation shall comply BMP to the satisfaction of the Fire Marshal.
11. Landscape plan submittals are to be prepared and signed by a licensed professional. Landscape plan check fees shall be paid based on 2% of the landscape professional's estimate (cost of materials & installation) for initial plan check and 2.5% of the landscape professional's estimate for the landscape permit and one field inspection.
12. In those areas where grading variances are approved, increased development standards for landscape and special grading techniques shall be applied. Graded slopes shall be contoured to provide a smooth transition with existing slopes. All slopes shall be designed and graded in accordance with the City's Grading Ordinance, particularly with respect to terraces, drainage, access, erosion control and setbacks.
13. All conditions applicable to rock crushing activities shall be satisfied.
14. The applicant shall submit application for a grading permit in accordance with the San Marcos Municipal Code section 17.32 and all related Engineering Division handouts. All applicable fees and securities shall be paid prior to grading permit issuance.
15. Erosion control and/or sediment control details shall be submitted with/on the grading plans to the City's Engineering Division for review and approval. The details shall conform to City standards, codes, SDRWQCB Municipal Stormwater Permit requirements, and ordinances. The details shall include landscaping and temporary irrigation systems on exposed slopes to be approved by the City's Engineering and Planning Divisions.
16. A hydrology and hydraulic report, including calculations, shall be prepared for the proposed project to determine the existing and post-development runoff for the 100-year storm conditions. Storm drains and drainage structures shall be sized for build-out according to the approved hydrology report. All surface runoff originating within the project and all surface waters that may flow onto the project from adjacent properties shall be accommodated by the drainage system. The report shall also determine the buildout runoff into existing off-site natural drainage swales and storm drain systems, and shall address any need for off-site improvements, including upsizing of existing facilities. Blocking, concentrating, lowering or diverting of natural drainage from or onto adjacent property shall not be allowed without written approval of the affected property owner(s).
17. A Storm Water Quality Management Plan (SWQMP) shall be submitted in

accordance with the most current version of the City adopted BMP design manual and meet the requirements of California Regional Water Quality Control Board, San Diego Region, Order No. R9-2013-0001.

18. The SWQMP shall account for a portion of the future extension of Grand Avenue. Calculations to preliminarily size storm water facilities for treatment and hydromodification management for the extension shall be to the satisfaction of the City Engineer.
19. Proof of coverage under the State of California's General Construction Permit shall be provided to the Engineering Division. A copy of the Storm Water Pollution Prevention Plan (SWPPP) submitted with the State's permit shall be submitted.
20. Developer shall obtain all necessary permits from the resource agencies for construction activities in San Marcos Creek. No portion of the bioretention basin may serve as a channel improvement.
21. A letter of permission shall be provided from the property owner for any grading or improvements outside of the subdivision boundary.
22. Construction within 500 feet of suitable least Bell's vireo habitat should occur outside the least Bell's vireo breeding season (March 15 to September 15). In the event that it is infeasible to avoid construction within 500 feet of least Bell's vireo habitat during the breeding season, a preconstruction clearance survey would be required. If individuals are identified within 500 feet of construction, construction shall be restricted within a 500 foot buffer of any occupied nests, or noise levels shall not exceed 60 dBA hourly Leq at the nest site. Biological monitoring shall be required during all construction activities within 500 feet of an occupied nest to confirm that noise levels (60 dBA hourly Leq) are not exceeded.
23. To minimize parasitism of vireo nests by cowbird, the following trash control measures shall be implemented to minimize the attraction of cowbirds. Such measures shall include, but not be limited to: (1) regular trash removal from the project site, including park areas; (2) secured lids on all trash receptacles; and (3) placement of signage in parks to remind park users to properly dispose of their trash.

J. During grading activities, the applicant/developer shall comply with the following conditions:

1. Construction activities shall be buffered at least 278 feet from existing and future residential uses. In the event that a 278-foot buffer cannot be maintained, noise attenuating devices shall be construction to reduce noise level to 75 dBA Leq-8h.

2. Blasting operations shall be buffered 400 feet from sensitive receptors. Should site conditions require blasting within 400 feet of sensitive receptors, a site-specific vibration analysis shall be performed prior to the blasting activities to evaluate impacts and identified mitigation measures to reduce impacts to levels consistent with the ISO Human Vibration Standards.
3. If inadvertent discoveries of subsurface archaeological resources are discovered during grading, the applicant/developer, the project archaeologist, and the appropriate Tribe shall assess the significance of such resources and shall meet and confer regarding the mitigation for such resources. If the Developer and the Tribe cannot agree on the significance or the mitigation for such resources, these issues will be presented to the City Planning Director for decision. The Planning Director shall make the determination based on the provisions of *CEQA* with respect to archaeological resources and shall take into account the religious beliefs, customs, and practices of the Tribe. The decision of the Planning Director shall be appealable to the Planning Commission.
4. If human remains are encountered during project grading, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.
5. Construction within 300 feet Diegan coastal sage scrub shall be scheduled to avoid the CAGN breeding season (typically February 15 – August 31). If construction should occur during the breeding season, a preconstruction nest survey is recommended. The preconstruction survey shall include three focused surveys, on separate days, to determine the presence of gnatcatcher on the project site. Surveys will begin a maximum of seven days prior to vegetation clearing/grubbing and one of the three surveys shall be conducted the day before proposed clearing/grubbing. Should nests be identified, a 300-foot buffer shall be established between construction activities and any occupied habitat.
6. If construction occurs during the raptor breeding season (January 15 to September 15) a preconstruction bird survey shall be conducted. If nesting birds are identified, a 300-foot construction buffer is recommended to avoid indirect impacts to raptors. For construction activities within urbanized areas, the monitoring biologist may reduce buffer widths depending on the level of tolerance of the bird species.

7. Erosion control measures shall be implemented ensure that areas disturbed by the project grading remain stable and do not erode during rain events. Future development that impacts wetland habitat (southern arroyo willow riparian forest, southern cottonwood willow riparian forest, southern willow scrub, coastal valley freshwater marsh, emergent/herbaceous wetland, disturbed wetland and eucalyptus woodland-wetland) shall be carried out with the Standard Best Management Practices identified in of the MHCP.
8. Silt fencing or other sediment trapping devices shall be installed and maintained in order to prevent run-off from entering the water systems during construction activities.
9. No equipment maintenance and/or fueling shall be done within 100 feet of any drainage or riparian where petroleum products or other pollutants from the equipment may enter these areas under any flow.
10. The following conditions will be included as notes on the construction plans and shall be enforced during project construction: (1) employees will strictly limit their activities vehicles, equipment, and construction materials to the fenced project footprint; (2) to avoid attracting predators, the project site will be kept as clean as possible, with all food-related trash contained in closed receptacles; (3) pets of project personnel shall not be allowed on site; (4) disposal or temporary placement of excess fill, brush, or other debris will not be allowed in waters of the U.S. or their banks; and (5) all equipment maintenance, storage, and dispensing of fuel shall occur in designated areas, at least 100 feet away from waters of the U.S.
11. Prior to any construction, the Public Works Inspector shall conduct a pre-construction meeting in which a representative from the Planning Division and the project biologist and archeologist shall attend.
12. All grading shall be supervised by a Geotechnical Engineer, who shall prepare a written report to the satisfaction of the City Engineer certifying that the work has been performed in compliance with the recommendations contained within the geotechnical report and on the approved project plans. If not so done, the report shall describe the actual work performed and any deficiencies observed. The final report shall specifically detail conditions and remedial work performed that was not specifically identified in the initial report of subsurface conditions.
13. The applicant/developer shall submit a traffic control plan to the Public Works Inspection Section for all phases of construction for approval by the City Engineer. Said plan shall include all traffic control devices including traffic signals as required.
14. Prior to any blasting, the applicant/developer shall comply with all applicable requirements per San Marcos Municipal Code Section 17.60 Blasting Operation.

K. Prior to acceptance of public improvements or release of securities, the applicant/developer shall comply with the following conditions:

1. A final geotechnical report, certifying the work has been performed in compliance with the recommendations contained within the geotechnical report and on the approved project plans shall be provided.
2. A certificate of line and grade, signed and stamped by the engineer of work, shall be provided to the engineering inspector prior to security release. The certificate shall be in a form acceptable to the City Engineer.
3. The applicant/developer shall file a Letter of Map Revision (LOMR) with FEMA and provide all supporting documentation provided to DHS-FEMA to the City's Floodplain Administrator within 180 days of completion of grading activities.
4. All applicable easements and agreements shall be recorded prior to release of project securities.
5. As-Built drawings shall be submitted to the Engineering Division for review and approval. All improvements identified on the plans and all undergrounding of utilities shall be completed in accordance with the project plans and these conditions of approval. Record drawing mylar plans shall be submitted and approved prior to the release of any project securities.
6. Landscape maintenance for publicly dedicated open space, multi trail systems, and parks shall be accomplished by the applicant/developer or property owners association for a minimum period of two (2) years, which may be extended at the sole discretion of the City, until such time as accepted by the City. Prior to acceptance by the City, the applicant/developer shall be required to submit a detailed irrigation and maintenance schedule and a detailed estimate of the anticipated annual costs for maintenance and utilities. The purpose of this provision is to ensure that landscaping is well established and thriving prior to the City accepting maintenance responsibilities.

L. The applicant/developer shall comply with adopted conditions per TSM 16-001 (PC Resolution 17-4639), CUP 17-004 (PC Resolution 17-4640), GV 17-005 (PC Resolution 17-4641), and mitigations as adopted in the Final Environmental Impact Report (FEIR) for the University District Specific Plan (UDSP) and 2014 and 2017 Addendum to the FEIR for the University District Specific Plan (State Clearinghouse No. 2008101083).

M. To the extent permitted by law, applicant/developer shall defend and hold the City of San Marcos ("City"), its agents and employees harmless from liability from: (i) any and all actions, claims damages, injuries, challenges and/or costs of liabilities arising from the City's

approval of any and all entitlements or permit arising from the project as defined in the Tentative Subdivision Map; (ii) any damages, liability and/or claims of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operation of applicant/developer or its contractors, subcontractors, agents, employees or other persons acting on applicant/developer's behalf which relate to the project and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. The applicant/developer further agrees that such indemnification and hold harmless shall include all defense-related fees and costs associated with the defense of City by counsel selected by City. This indemnification shall not terminate upon expiration of the Tentative Subdivision Map, but shall survive in perpetuity.

N. To the extent feasible and as permitted by law, developers and contractors are requested to first consider the use of San Marcos businesses for any supplies, materials, services and equipment needed and the hiring of local residents in order to stimulate the San Marcos economy to the greatest extent possible.

PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, State of California, at a regular meeting thereof, this 5th day of February 2018 by the following roll call vote:

YES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

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, Chairman  
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

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Sandra Gallegos, Senior Office Specialist  
SAN MARCOS CITY PLANNING COMMISSION