

RESOLUTION PC 17-4640

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING
COMMISSION RECOMMENDING THAT THE CITY COUNCIL
APPROVE A MAJOR CONDITIONAL USE PERMIT FOR THE
TEMPORARY USE OF A ROCK CRUSHING OPERATION IN
THE UNIVERSITY DISTRICT SPECIFIC PLAN WITHIN THE
BARHAM DISCOVERY COMMUNITY PLAN

Case No. CUP 17-004 (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 approval of a Conditional Use Permit to allow a temporary rock crushing operation and related grading located in the westerly portion of the University District San Marcos Specific Plan are for future development. The proposed project includes a grading plan involving blasting and rock processing on the north side of Discovery Street and the immediate vicinity over a one year period. The temporary rock crushing operation is located with the University District Specific Plan, south of State Route 78, west of Twin Oaks Valley Road, and east of Bent Avenue, 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 did study said request and does recommend approval of the request; and

WHEREAS, the Development Services Department held a public workshops on October 5, 2017; and

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

WHEREAS, the project is within the scope of the Final Environmental Impact Report (FEIR) for the University District Specific Plan and 2014 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 required public hearing on February 5, 2018 was duly noticed and held in the manner prescribed by law; and

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

1. The proposed Conditional Use Permit, together with the conditions of approval, is consistent with the policies and intent of the University District Specific Plan and the Barham Discovery Community Plan in that the proposed temporary rock crushing operation would allow the grading of pads and streets which are consistent with the University District Specific Plan Street Type Regulating Plan and establishment of buildable pads for future development.
2. The proposed CUP, with conditions, will not be detrimental to the public health, safety or welfare, or the surrounding land uses in the area in that the proposed temporary rock crusher will be set back a minimum of 250 feet from any sensitive receptors, or noise attenuating devices shall be constructed to reduce noise levels to 75 dBA (See Exhibit "A").
3. The proposed project would not have the potential to degrade the quality of the environment, substantially reduce the habitat or fish or wildlife species, cause a fish or wildlife population to drop to below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal.

NOW, THEREFORE, the Planning Commission resolves as follows:

- A. The forgoing recitals are true and correct.
- B. The project is within the scope of 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) pursuant to the California Environmental Quality Act (CEQA).
- C. The CUP is hereby recommended for approval subject to the following conditions stated below.
- D. Prior to reliance on the CUP, the Applicant/Developer shall comply with the following conditions:
 1. The project should utilize construction equipment with an engine designation of EPA Tier 2 or better. All rock crushing equipment should maintain applicable misting systems to eliminate fugitive dust generation. Construction equipment operating onsite shall be equipped with two to four degree engine timing retard or precombustion chamber engines (estimated 20% reduction in total emissions with retarded ignition timing and precombustion chamber).

2. The applicant/developer shall submit a cash deposit to the Planning Division in an amount, as determined by the Planning Division Manager, to pay for and ensure the facilitation of an on-site operational noise tests to verify noise levels if determined necessary by the Planning Division Manager. This study shall be done by the City's noise consultant working for the City and documentation of results shall be submitted to the Planning Division.
3. The applicant/developer shall submit any necessary permit applications to the San Diego Air Pollution Control District ("APCD") for compliance with proper equipment and operating regulations and procedures. Project-related rock crushing and power generation equipment may be subject to requirements for an air quality permit, specifically an Authority to Construct and Permit to Operate, with permit conditions to ensure compliance with air-related regulatory requirements. However, depending on the project characteristics and the length of time the equipment will be located on the project site, equipment with a Certificate of Registration pursuant to the California Air Resources Board Portable Equipment Registration Program or APCD Rule 12.1 (Portable Equipment Registration) may be used in lieu of permitting. All required permits shall be readily available at the construction trailer upon request by the agency inspectors.
4. The applicant/developer shall submit a copy of all APCD permits (and all related conditions) to the Planning Division.
5. The applicant/developer shall stockpile native topsoil on-site and utilize as a sound attenuation berm around the rock crushing operation. The native top soil shall be irrigated, landscaped, and remain in place as a sound attenuation berm until a final slope and/or pad is completed on site per the approved grading plan. The native top soil shall be applied to the final slope areas per an approved landscape plan. If necessary upon removal of the native top soil, the applicant/developer shall replace the sound attenuation berm with acceptable crushed material that will remain in place around the crushing operation until it ceases to operate. No excavation material shall be mixed with the native top soil. No native top soil shall be sold or removed from this site.
6. Noise measurements shall be conducted once the rock crusher facility is fully operational to ensure compliance with the City's thresholds.
 - a. 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 constructed to reduce noise levels to 75 dBA.
 - b. The applicant/developer shall be responsible to comply with the mitigation monitoring and reporting program per the Final Environmental Impact Report (FEIR) for the University District Specific Plan and 2014 Addendum to the FEIR (State Clearinghouse No. 2008101083) for the University District Specific Plan.

7. A construction phasing plan shall be submitted for all phases requiring crushing activities. The phasing plan shall be submitted and approved by the City Engineer and Planning Division Manager. The phasing plan may be subject to further conditions.
8. The project boundaries have been reviewed and deemed by the City's Floodplain administrator as falling within the FEMA special flood hazard area (SFHA). Rock crushing activities shall not occur within the existing SFHA.

E. Prior to operation of the temporary rock crushing equipment, the following conditions shall apply:

1. A grading permit shall be issued on the project site prior to operation of the temporary portable rock crusher.
2. The grading plans shall establish pre-grades for the crusher location to a minimum of 10 feet below the finished grade surrounding the rock crushing pad prior to placing any crushing equipment on site. The rock crushing pad shall be a minimum of 10 feet below the lowest final elevation outside the perimeter of the rock crushing area.
3. The applicant/developer shall submit a certificate of insurance and endorsements thereon satisfactory to the City Attorney for Commercial General Liability insurance coverage, with products/completed operations coverage, such insurance to be primary and without contribution from City's insurance, and shall include a waiver of subrogation rights as against additional insured's, naming the City of San Marcos and the San Marcos Fire District as additional insured's for both personal injury and property damage as a result of the operation and transport of material to and from the site, and/or any activities of permittee, its employees, contractors and agents related to the reclamation process. The amount of insurance coverage shall be determined by the City Attorney and Risk Director. Cross-liability exclusions shall be prohibited and such policy and endorsements may not contain any provision which prohibits named additional insured's from paying a self-insured retention or deductible in the event of the insured's failure to do so. The liability insurance amount shall be reviewed yearly based for changes in inflation rates and/or reassessment of insurance requirements by the City Engineer and City Attorney and upgraded if deemed necessary.
4. The applicant/developer shall post a sign at visible locations along Twin Oaks Valley Road, Discovery Street, Santa Barbara Drive and Craven Road for the public to call if there is a complaint or issue related to the rock crushing operation.
5. All debris shall be disposed of off-site, in accordance with current local, state, and federal disposal regulations. When debris is removed, care shall be taken to look for potential hidden hazardous materials within the piles. Should hazardous materials be identified, disposal shall be in accordance with all federal and state regulations.

6. The applicant/developer shall submit a copy of the APCD "Authority to Construct." The permittee shall submit a copy of the APCD "Permit to Operate." All APCD "Authority to Construct" and "Permit to Operate" conditions of approval are hereby incorporated by reference and shall be on file with the conditions of approval.
- F. During the operation of the rock crushing equipment, the following conditions shall apply:
 1. All contractors shall adhere to the San Diego Air Pollution Control District rules and regulations.
 2. The application of water or other means of dust control shall be performed to the satisfaction of the Engineering Inspector and the Public Works Director. Dust and dust producing materials shall be controlled within the maximum acceptable concentrations for silica and silicates in accordance with the California Code of Regulations, Title 8, Section 5155. Water and dust palliative shall be used to prevent excessive dust.
 3. Fugitive dust shall be controlled as required by the latest adopted Air Pollution Control District fugitive dust restrictions.
 4. The project engineer shall submit a dust report that identifies mitigation measure to prevent dust generated by rock crushing, grading and blasting from affecting adjacent properties. The report shall include the supervision of operations when wind speeds will carry dust to the highway and surrounding properties.
 5. The applicant/developer shall comply with all requirements from the San Marcos Fire District and the City of San Marcos Building Division.
 6. Weed, natural brush and other combustible vegetation shall be kept in an abated state at all times on site and adjacent to existing residential neighborhoods.
 7. The Applicant/Developer shall submit and obtain approval from the Engineering Official for dust mitigation measures. The applicant/developer shall submit a dust mitigation program to the Engineering Official for approval. Access road shall be watered as often as required to keep the access road from drying and generating dust during the grading process.
 8. The applicant/developer shall be responsible to comply with the mitigation monitoring and reporting program per the Final Environmental Impact Report(FEIR) for the University District Specific Plan and 2014 Addendum to the FEIR (State Clearinghouse No. 2008101083) for the University District Specific Plan.
 9. All construction operations authorized by grading permits, including the delivery, setup, and use of equipment shall be conducted on premises during the hours of 7:00 AM to 4:00 PM on Monday through Friday. No work shall be conducted on weekends

or holidays observed by the City of San Marcos. Failure to comply with result in the issuance of citations. Citations required a mandatory court appearance in North County Superior Court and courts costs up to \$1,000 per offense. Repeat violations will result in suspension of all work on premises until the City determines that appropriate measures are in place too insure that hours of work violations will not occur.

10. The applicant/developer shall cover all equipment surface areas with a rubberized material impacted by rock impact, except for the metal deck screens.
11. All hydraulic breaking of oversized materials requiring to be sized for processing through the crushing equipment shall be processed within a bermed area to attenuate noise.
12. An operational noise test shall be performed with the results submitted to the Planning Division Manager to verify noise levels are in compliance.
13. The rock crusher shall have an automatic operating water spray system to maintain adequate moisture on raw material feed and finished material discharge. Adjustments to the spraying system may be deemed necessary by the Public Works Inspector to affectively reduce dust.
14. During the operation of the temporary rock crusher, the applicant/developer shall not create dust clouds that are visible beyond the property line and that a sign be posted that contains both the name and phone number of the contractor/builder representative for dust control, as well as for the San Diego County APCD to send an inspector in case of violations of the opacity regulation.
15. Upon field verification, once all temporary rock crushing equipment is set in place, additional screening may be deemed necessary by the Planning Division Manager.
16. The berm shall remain in place for the entire time frame that the temporary rock crusher and material separator is in operation to attenuate the noise. At the appropriate time, this berm will be removed concurrently with the rock crusher and the material separator.
17. The applicant/developer shall be responsible for conducting the temporary rock crusher use in a manner as not to become obnoxious by reason of noise, refuse matter, odor, dust, smoke, maintenance of grounds and buildings, or to have a detrimental effect on the surrounding properties and improvements.
18. No rock material shall be imported from outside the area covered by the grading permit "Project Area" to be processed by the rock crusher.

19. The applicant/developer is prohibited from selling any crushed material from this site.
20. If exterior slopes are completed and the rock crusher is still operating, the applicant shall be required to irrigate and plant the southerly and easterly slopes to additionally screen the rock crushing operation.
21. 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 (See Exhibit "A").
22. 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.
23. Rock crushing activities shall be located a minimum of 250 feet from any sensitive receptors, or noise attenuating devices shall be construction to reduce noise level to 75 dBA Leq-8h (See Exhibit "A").
24. A permit shall be obtained from the San Marcos Fire Department for the storage of any flammable liquid material. An all-weather access road shall be constructed to the storage location to the satisfaction of the Fire Marshal.

G. The applicant/developer shall obtain any required OSHA permits in accordance with the California Code of Regulations, Title 8, Section 1503.

H. The applicant/developer shall comply with all City ordinances and regulations applicable to the rock crushing operations authorized by the CUP, except that the conditions of this CUP shall apply if they are deemed more restrictive than those contained in the City ordinances and regulations.

I. The permitted uses shall be conducted in such a manner as not to become detrimental; for reasons of noise, traffic, odor, or dust; to the health, safety, and general welfare of the persons residing or working in the vicinity.

J. All maintenance and repair shall be limited to after operations up to 8:30 p.m., Monday through Friday and 11:00 a.m. to 3:00 p.m. on Saturday. Any complaints regarding excessive noise coming from the site associated with maintenance and repair shall be reviewed and investigated by the City. If it is determined necessary, the Planning Manager shall have the authority to further reduce or eliminate the hours of maintenance and repair.

- K. The applicant/developer must comply with all conditions of approval for dust control required by the APCD permit.
- L. The applicant/developer shall comply with all relevant sections of the San Marcos Municipal Code.
- M. 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.
- N. 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 Conditional Use Permit; (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. 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 Conditional Use Permit, but shall survive in perpetuity.

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:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

Sandra Gallegos, Senior Office Specialist
SAN MARCOS CITY PLANNING COMMISSION

Exhibit "A"

