

RESOLUTION PC 18-4692

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL APPROVE A CONDITIONAL USE PERMIT FOR THE TEMPORARY CRUSHING OF ROCK MATERIAL WITHIN THE MURAI SPECIFIC PLAN AREA (SPA) IN THE COLLEGE AREA NEIGHBORHOOD

CUP 15-008
(P15-0068)
ColRich California LLC

WHEREAS, on September 16, 2015 the City of San Marcos received an application from ColRich California LLC, the project applicant, requesting a Conditional Use Permit to allow for the temporary crushing of rock material in the Murai Specific Plan area for a proposed Single Family Residential Subdivision of 89 residential lots/units, four private parks, private streets, public trails and Open Space, in conjunction with General Plan Amendment (GPA 15-005), Specific Plan (SP 15-009), Tentative Subdivision Map (TSM 15-007), Grading Variance (GV15-002) Site Development Plan (SDP 16-002) and Environmental Impact Report (EIR16-001), on a 91.65 acre site located to the west of the northern terminus of N. Las Posas Road, more particularly described as:

Portions of Section 34, Township 11 South and Section 3 and Section 4, Township 12 south, all in range 3 west, San Bernardino Meridian, in the City of San Marcos, County of San Diego, State of California.

Assessor's Parcel Numbers: 184-241-03-00, 218-011-10-00, 217-050-36-00, and 217-050-38-00

WHEREAS, the Conditional Use Permit (CUP15-008) is being requested in conjunction with a General Plan Amendment (GPA 15-005) to amend the project site's designation in the Land Use and Community Design Element from "Specific Plan Area/Residential (89 lots)/OS/P" to "Murai Specific Plan Area/Open Space" and to remove the designation and description in the Park, Recreation and Community Health Element of the General Plan of a public park on the project site, a Specific Plan (SP 15-009) which will guide the orderly development on the project site, a Tentative Subdivision Map (TSM 15-007) for 89 single-family residential lots, access/private street lots, open space lots, trails, and private park lots, a Grading Variance (GV 15-002) to allow manufactured slopes to be higher than 20 feet and a Site Development Plan (SDP 16-002) to address the design of residential units and plotting of floor plans and elevations within the subdivision; and

WHEREAS, a Notice of Preparation Scoping Meeting and public workshop with the general public was held on October 5, 2016; and

WHEREAS, the Planning Commission did consider and recommend approval to the City Council of an Environmental Impact Report (EIR 16-001, SCH #2016091054 Resolution No.

PC18-4694) for said request pursuant to the California Environmental Quality Act (CEQA); and

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

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

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

1. The proposed Conditional Use Permit will not result in detrimental impacts to the public health, safety, or welfare or impacts to adjacent properties or the character and function of the neighborhood in that the proposed project has been conditioned so that noise readings must be taken if rock crushing is proposed within 900 feet of any existing adjacent residences. If noise readings show that noise generated from the rock crusher exceeds the allowable noise level for the area, a sound barrier must be installed around the rock crusher to shield residents from excessive noise.
2. The proposed Conditional Use Permit, as conditioned, is consistent with the goals, policies, and intent of the General Plan, in that applicant/developer is required to employ noise reduction techniques during construction operations (General Plan Policy N-3.1) and the hours in which the rock crusher is permitted to be operate is limited due to the adjacent noise sensitive land uses (General Plan Policy N-3.2). Furthermore, use of the rock crusher has been conditioned so that noise readings must be taken if rock crusher is proposed within 900 feet of any existing adjacent residences. If noise readings show that noise generated from the rock crusher exceeds the allowable noise level for the area, then additional measures are required such as earthen berms, temporary walls, acoustic blankets, modified crusher orientation or relocation to shield residents from excessive noise (General Plan Policy N-1.3).
3. The land use allowed in conjunction with the Conditional Use Permit is compatible with the existing and future land uses of the applicable Zone, and the general area in which the proposed use will be located

NOW, THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. The Conditional Use Permit is recommended to the City Council for approval for one (1) rock crusher per the submitted site plan, except as modified herein, and subject to compliance with the conditions of approval of this Resolution PC 18-4692.
- C. The applicant/developer must comply with all applicable conditions as set forth in Resolution PC 18-4688 (General Plan Amendment 15-005), Resolution PC 18-4689 (Specific Plan 15-009), Resolution PC 18-4690 (Tentative Subdivision Map 15-007),

Resolution PC 18-4691 (Grading Variance 15-002), Resolution PC 18-4693 (Site Development Plan 16-002) and Resolution PC18-4694 (Environmental Impact Report 16-001). All conditions are hereby incorporated by reference herein.

D. Prior to reliance on this Conditional Use Permit, the following conditions shall be complied with:

1. The mass grading permit for Tentative Subdivision Map (TSM 15-007) shall be issued.
2. The applicant/developer shall post a cash security to the City in an amount approved by the City Attorney and the City Engineer or their designees to cover the cost of any potential damage resulting from the rock crushing activities.
3. The applicant/developer shall submit a cash deposit to the Planning Division, as determined by the Planning Division Manager, to ensure the facilitation of an on-site operational noise test(s) to verify noise levels.
4. The applicant/developer shall provide proof to the City that adequate construction parking, through submittal of a construction parking plan, is provided off-street. Said construction parking plan shall be approved by the City.
5. City approval shall be required for hauling of rock crushing and other heavy equipment on City streets. The haul route shall be established per the City's direction. Truck traffic shall be limited to off-peak hours on arterial streets.
6. The applicant/developer shall submit any necessary permit applications to the San Diego County Air Pollution Control District (APCD) for compliance with proper equipment and operating regulations and procedures including:
 - a. Water sprayed on unpaved roads, parking areas, and staging areas two (2) times daily or at sufficient frequency to keep soil moist enough so visible dust plumes are eliminated.
 - b. Water sprayed on rock materials undergoing rock crushing process at sufficient frequencies. Automatic water mist or sprinkler system should be installed in areas of rock crushing.
 - c. Conformance with all conditions of approval for dust control required by the APCD permit as applicable.

The applicant/developer shall also submit a copy of said permits (and all related conditions) to the Planning Division.

7. The applicant/developer is required to comply with blasting procedures identified in the City's Municipal Code Section 17.60.060.

8. The City of San Marcos is located in Seismic Design Category "D". Buildings and structures shall be designed to adequately transmit the dynamic lateral forces in accordance with the requirements of the latest adopted California Building Code.
 9. The applicant/developer must identify the location of storage, use or handling of hazardous, toxic or flammable materials which shall be clearly indicated on the site plan or floor plans submitted for a building permit. Materials shall be identified in accordance with Health and Safety Code Section 25101.
- E. During the operation of the rock crusher(s), the following conditions shall be complied with:
1. Prior to the rock crusher operation, the applicant/developer shall coordinate with the Public Works Inspector to survey and document the existing state/condition of Las Posas Road.
 2. A maximum of one (1) rock crushers shall be allowed to operate on site at any one time.
 3. Placement of the rock crusher(s) shall be located in accordance with the approved site plan (Exhibit A).
 4. The noise levels at the nearest property line shall not exceed 60 dBA Leq measuring noise generated by the rock crusher(s).
 5. Noise measurements of the rock crushing facilities shall be conducted during the first week of operations to ensure compliance with the City's threshold of 60 dBA. If noise levels are found to be above the recommended threshold of 60 dBA at any existing single-family residential use, then mitigation would be required to reduce the sound level to 60 dBA or below at the residential uses. Mitigation could include, but is not limited to: earthen berms, temporary walls (5/8-inch plywood), 1-inch acoustic blankets, modified crusher orientation, or relocation of the rock crusher. The final mitigation design shall be reviewed and approved by the Planning Division Manager. If said mitigation is required, the rock crushing equipment shall not continue to operate until the temporary berms or walls have been installed, and compliant noise levels have been verified by the acoustical engineer. The temporary berms or walls shall not be removed until completion of the rock crushing operation.
 6. All rock crushing equipment shall be removed from the project site at time of completion of the rock crushing operations for the development.
 7. During rock crushing operations, the application of water or other means of dust control shall be performed to the satisfaction of the Building 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 Regulation, Title 8, Section 5155. Water and dust

pallative shall be used to prevent excessive dust.

8. The rock crusher equipment shall have an operating water spray system to maintain adequate moisture on both the raw material feed and finished material discharge.
9. During the operation of the rock crusher(s), the applicant/developer shall not create dust clouds that are visible beyond the property line and that a sign shall be posted that indicates the name and phone number of the contractor/builder representative for dust control, as well as for the San Diego County APCD for requesting inspection in case of violation of the opacity regulation.
10. The rock crushing operation shall be limited to the hours of 9:00 a.m. to 4:00 p.m., Monday through Friday. No work shall be allowed on Saturdays, Sundays and holidays observed by the City of San Marcos. Failure to comply will result in the issuance of STOP WORK NOTICES, REVOCATION OF PERMITS and the issuance of citations as appropriate. Citations for hours of work violations require a mandatory court appearance in North County Superior Court.
11. The applicant/developer shall utilize sediment controls only as a supplement to erosion prevention for keeping sediment on-site during construction – NEVER as a single or primary method.
12. The applicant/developer shall minimize exposure time of disturbed soil areas.
13. The contractor, applicant/developer or property owner shall be responsible for continual maintenance of erosion control devices as shown on the erosion control plan or per City standards. The City may revoke the grading permit for non-compliance with the City's Storm Water Management Program. The permits shall not be renewed until the erosion control system complies with City standards.
14. No rock material shall be imported from outside the project site to be process by the rock crusher.
15. No sale for export of crushed rock material shall be allowed from the project site.
16. A construction sign must be placed at a conspicuous location onsite with a telephone number and contact to report any construction related complaints associated with the project. The size, location, and placement of the sign must be reviewed and approved by the Planning Division Manager.
17. If the project requires a blasting permit, all blasting can only proceed on those properties owned by the applicant/developer. All blasting activities shall comply with the San Marcos Blasting Ordinance.

18. The applicant shall comply with all requirements of the San Marcos Fire Department including the following:
 - a. A minimum of 24-foot wide roadway must be provided for emergency access to the rock processing equipment.
 - b. Adequate fire truck turn-around area must be provided, to the satisfaction of the San Marcos Fire Department.
 - c. A permit shall be obtained from the San Marcos Fire Department for the storage of any flammable liquid material.
- F. The applicant/developer shall obtain any required OSHA permits in accordance with California Code of Regulations, Title 8, Section 1503.
- G. The applicant/developer shall be responsible for conducting the 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.
- H. The applicant/developer shall comply with all City ordinances and regulations applicable to the rock crushing operations authorized by the Conditional Use Permit, except that the conditions of this Conditional Use Permit shall apply if they are deemed more restrictive than those contained in the City ordinances and regulations.
- I. This Conditional Use Permit shall be valid only during the grading operation and shall expire six (6) months from the date of issuance of the mass grading permit for its phase of development, or the rock crusher shall not operate after the issuance of the first building permit for residential homes of the same phase, whichever occurs first. Any request for permit extension shall be applied for by the permittee in writing fourteen (14) days prior to expiration, and may be administratively authorized by the City Manager or his designee. The applicant shall contact the Planning Division prior to commencement.
- J. This Conditional Use Permit shall become null and void if not acted upon within two (2) years of the adoption of this resolution consistent with the expiration date of TSM 15-007 (Resolution PC 18-4690).
- K. Per Building Code Section 104.2.4, the City may order work stopped by written notice when the project violates the Grading Ordinance, Storm Water Management Program, or conditions contained within this Resolution. No work shall be allowed on the project until the City authorizes the work to proceed.
- L. The applicant/developer shall be responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.
- M. To the extent feasible and as permitted by law, applicant/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, the 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 permits arising from the project as defined in the conditions of approval, or issuance of grading or building permits; (ii) any damages, liability and/or claim 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 operations of the 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 the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project, 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 March, 2018, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

APPROVED:

Kevin Norris, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

Sandra Gallegos, Senior Office Specialist
SAN MARCOS CITY PLANNING COMMISSION

Attachment: Exhibit "A" (Rock crusher location)

EXHIBIT "A"

