



Staff Report

File #: TMP-1681, **Version:** 1

PLANNING COMMISSION MEETING DATE:

March 7, 2022

SUBJECT:

Hollandia Dairy Remodel and Expansion

CASE NUMBER:

Conditional Use Permit (CUP) 19-0010, Variance (VAR) 19-0001, and Mitigated Negative Declaration (ND) 21-006

Recommendation

ADOPT or APPROVE the following, in the order set forth below:

1. ADOPT Mitigated Negative Declaration (ND21-006);
2. APPROVE Resolution PC22-4973 (Conditional Use Permit CUP19-0010) to demolish and reconstruct an approximately 27,372 square foot portion of the existing dairy processing facility and add approximately 48,755 square feet of new building area in the Commercial (C) Zone;
3. APPROVE Resolution PC22-4974 (Variance V19-0001) to maintain an existing reduced building setback to Mulberry Drive

Introduction

The 14.54-acre project site is located at the northeast corner of E. Mission Road and Mulberry Drive in the Richland Neighborhood and addressed as 622 E. Mission Road. The project site is developed with processing, packaging, and distribution facilities for Hollandia Dairy. The applicant has requested a Conditional Use Permit (CUP) to demolish and reconstruct an approximately 27,372 square foot portion of the existing facility and add approximately 48,755 square feet of new building area. The applicant has also requested a Variance to maintain an existing reduced building setback along Mulberry Drive.

Discussion

The proposed project is the last phase of a multiyear modernization plan by Hollandia Dairy to replace the original onsite facilities and improve existing operations of the creamery. The site is zoned Commercial (C) and designated as "Commercial" in the General Plan. The project site is bounded by Mulberry Drive to the west, E. Mission Road to the south, and Mission Hills Court to the north and east. The uses adjacent to the project site include industrial and commercial to the west of Mulberry Drive and heavy industrial uses south of E. Mission Road. Mission Hills High School is located to the east and Mission Hills Church is located to the north of the project site.

As summarized in Table 1 below, the project applicant is requesting approval of a Conditional Use Permit

(CUP) for the following actions: 1) demolish the existing cold storage; 2) construct replacement creamery and central plant; 3) update the wash rack; 4) commission the creamery; 5) demolish the existing creamery; and 6) construct the warehouse and support building. The project demolition and reconstruction will be phased, to minimize disruption to creamery operations. Once started, the Phase 1 is expected to be completed within 12 months, with Phase 2 to be completed within 18 months.

Table 1. Demolition and New Building Area	
Description	Area (sq. ft.)
Phase 1 Demolition	
Cooler Warehouse / Loading Dock	- 10,076
Utility Canopy	- 797
Phase 1 Demolition Subtotal:	- 10,873
Phase 1 New Construction	
Process Building	+ 35,418
Office/Warehouse	+ 9,168
Utility Building	+ 3,533
Phase 1 New Construction Subtotal:	+ 48,119
Phase 1 Net Building Area:	+ 37,246
Phase 2 Demolition	
Process Facility	- 15,061
Mechanical	- 1,438
Phase 2 Demolition Subtotal:	- 16,499
Phase 2 New Construction	
Warehouse	+ 28,008
Phase 2 New Construction Subtotal:	+ 28,008
Phase 2 Net Building Area:	+ 11,509
Total Demolition Area (Phases 1 + 2):	- 27,372
Total New Building Area (Phases 1 + 2):	+ 76,127
Total Net Building Area:	+ 48,755

In total, the project proposes to increase the net building area by 48,755 square feet. Although the facility is increasing in size, the processing capacity of the facility will remain at the current level, with no new production lines, additional employees, or truck trips proposed to be added. The additional building area is necessary to allow the creamery to adequately space the existing production lines so that the equipment can be operated and maintained more efficiently. The larger facility will also improve food safety by keeping the raw product

area fully separate from the pasteurized area.

Access to the project site would continue to be from two existing driveways, one on E. Mission Road and the other on Mulberry Drive; no changes to site access will result from the project. No additional offsite improvements are proposed or required as part of this project.

Conditional Use Permit

Operation of a dairy and creamery on this site predates the incorporation of the City. Previous zoning designations of the project site have included Manufacturing/Industrial (M) prior to 1988, a Specific Plan Area (SPA) prior to 1996, and Commercial (C) after 1996, when the Hollandia Dairy property was subdivided into a residential area (now Mission Hills Church), high school site, and park. In 1998, Conditional Use Permit (CUP) 98-357 was adopted, finding that the creamery is a compatible use for the Commercial (C) zone and allowing the continued operation of the creamery. The proposed project complies with the development standards of the Commercial (C) Zone, including building setbacks (with approval of the variance), height, and site coverage.

The new buildings will be concrete tilt-up construction and will incorporate a contemporary design, matching the existing remodeled buildings onsite in both height (39 to 42 feet) and form. The remodeled facility includes architectural features such as an administrative office with a glass wall facade on the Mission Road elevation and decorative stone finishes throughout. Each public-facing elevation of the building will also have wall dormer architectural features, with upward sloping roofs taller than the adjacent wall to add visual interest and break-up building plains. In addition, the existing silos will be relocated to interior of the property, screening them from public view. The proposed project also complies with the parking requirements of San Marcos Municipal Code (SMMC) Section 20.340.040, in that 225 parking spaces are required and the 234 existing parking spaces will remain.

In 2020, Hollandia Dairy installed a solar photovoltaic (PV) system on the rooftops of two buildings and on parking canopies at the project site. The system includes 2,842 panels and can produce up to 1,66MM kwh/year, which represents about 27% of the site's energy demand. Other sustainability projects recently completed onsite include a natural gas (CNG) fleet vehicle refueling pump and electric plug-in stations for delivery trucks to power the refrigeration units, reducing both emissions and noise from idling engines.

Grading and earthwork activity will be required to prepare the site for redevelopment. The project requires 5,590 cubic yards (cy) of cut and 10,986 cy of fill, for a net import of 5,396 cy. Soil import is expected to take four weeks (24 work days). Assuming a hauling truck with a 15 cubic yard capacity, this results in approximately 15 truck trips per day for soils import. The project will also construct permanent water quality treatment facilities to capture and treat polluted runoff generated from redevelopment of the site in conformance with the City of San Marcos BMP Design Manual (2016) and the requirements of the San Diego County Regional Water Quality Control Board (SDRWQCB).

Variance

The applicant requests a variance to reduce the building setback requirement along Mulberry Drive. SMMC Section 20.300.060 requires a special 52-foot building setback from the centerline of Mulberry Drive, to allow

for future roadway expansion along select General Plan routes. Approximately 20 years ago, this segment of Mulberry Drive was expanded and improved to its ultimate width, and no additional right-of-way is necessary. Additionally, when Mulberry Drive was expanded, the City acquired right-of-way from the Hollandia Dairy property, reducing the space between the edge of right-of-way and the central plant building to 6 feet, or 48 feet to the centerline of the street. The central plant has a fixed width because of the size of the mechanical equipment inside the building. Additionally, extensive underground utility connections make relocation of the building infeasible. Lastly, the plant must be separated from other buildings onsite to maintain onsite circulation. As a result, the applicant has requested a variance to reduce the required setback from the centerline of Mulberry Drive from 52 feet to 48 feet. Although the rebuilt building will encroach into the required setback, it will maintain the same setback as the existing structure and will not further encroach into the required setback.

Environmental Review

In accordance with the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration (ND21-006) was prepared for the proposed project and circulated for 30-day public review from December 6, 2021 to January 5, 2022 (Attachment D).

Tribal and Cultural Resources

In accordance with State law (SB-18 and AB-52), local Native American tribes were notified and consulted regarding the proposed project. A cultural resources study was prepared that analyzed potential prehistoric resources on the subject property. The report indicates no sites have been previously recorded on the property. A field survey was also conducted by the consultant that identified no evidence for prehistoric resources on the project site. However, there may be the potential for subsurface resources to exist if undisturbed soil is encountered during excavation; therefore, ground-disturbing work for the project, as determined by an archaeologist and Native American Monitor, will be required to be monitored per a pre-excavation agreement, as required in mitigation measures MM-CR-1a through MM-CR-1h.

MND comments were received from the Rincon Band of Luiseno Indians recommending some changes to the mitigation measures for cultural monitoring during grading operations. Revisions that were made to the mitigation measures are outlined in Section 3.0 and shown as strike-out/underlined changes in Section 2.0 of ND20-008. In addition, MND comments were received from the San Diego County Archaeological Society who indicated concurrence with the mitigation measures.

Geology and Soils

According to the soils report prepared for the project site, the majority of the onsite material is expected to have medium expansion potential. However, higher expansive soils may be encountered during the grading of the site. This represents a significant impact, and mitigation is required. Mitigation Measure MM-GEO-1 requires implementation of the geotechnical recommendations of the project soils report. These recommendations address seismic design parameters, corrosivity and sulfates, earthwork activities, foundation and slab considerations, retaining wall design, and temporary slopes. As a condition of project approval, implementation of mitigation measure MM-GEO-1 will be required, and will reduce the impact to below a level of significance.

Hazards and Hazardous Materials

The proposed project would not change operations from the existing dairy facilities. The number of vehicle trips and nature of operations would remain the same so there would be no change or increase in hazardous materials or increased likelihood of accident or upset involving a release of hazardous materials as a result of project site improvements.

However, the project includes demolition of the existing creamery and mechanical equipment building and old process facility. The potential exists for the presence of asbestos-containing material and lead-based paint. This represents a potentially significant impact, and mitigation is required. As a condition of project approval, implementation of mitigation measure MM-HAZ-1 will be required to reduce the impact to below a level of significance. With implementation of this mitigation measure to reduce potential impacts related to asbestos-containing materials and lead-based paint to below a level of significance, the project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials. Impacts would be less than significant with mitigation.

Public Comment

The City received several inquiries about the project; however these were generally informational in nature, and no written comments were received from the public. One resident inquired about potential noise from the operation of the new, expanded facility. A noise study was prepared for the project and is included as Appendix G of the Mitigated Negative Declaration (Attachment D). The study determined that the expanded facility will operate in conformance with the City's Noise Ordinance, which limits overnight noise to 55 dB Leq (from 10:00 pm to 7:00 am). The study also notes that the project is anticipated to reduce current operational noise with the replacement of older roof mount mechanical equipment and the enclosure of other equipment, that is currently outdoors.

Attachment(s)

Adopting Resolution(s):

1. Resolution PC22-4973 (Conditional Use Permit CUP19-0010) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR MODIFICATIONS TO AN EXISTING DAIRY PROCESSING FACILITY IN THE COMMERCIAL (C) ZONE.
2. Resolution PC 22-4974 (Variance V19-0001) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS APPROVING A VARIANCE TO ALLOW A REDUCTION OF SPECIAL SETBACKS FOR GENERAL PLAN ROUTES FOR MODIFICATIONS TO AN EXISTING DAIRY PROCESSING FACILITY IN THE COMMERCIAL (C) ZONE

- A. Vicinity Map
- B. Requested Entitlements
- C. Site & Project Characteristics
- D. Mitigated Negative Declaration ND21-006
- E. Project Plans

Prepared by: Sean del Solar, AICP, Senior Planner
Reviewed by: Saima Qureshy, AICP, Principal Planner
Stephanie Kellar, P.E., Principal Civil Engineer
Submitted by: Joseph Farace, Planning Division Director

RESOLUTION PC 22-4973

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR MODIFICATIONS TO AN EXISTING DAIRY PROCESSING FACILITY IN THE COMMERCIAL (C) ZONE.

CUP19-0010
Hollandia Dairy, Inc.

WHEREAS, on September 18, 2019, the City received an application from Hollandia Dairy, Inc requesting a Conditional Use Permit to allow modifications to an existing dairy processing facility on a 14.54-acre site located at 622 E. Mission Road in the Commercial (C) Zone in the Richland Neighborhood more particularly described as:

PARCEL A: PARCEL 2 OF PARCEL MAP NO. 19153, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FEBRUARY 6, 2003.

PARCEL B: PARCEL 2 OF PARCEL MAP NO. 18519, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE RECORDERS OFFICE OF SAID COUNTY ON AUGUST 4, 2000, TOGETHER WITH ALL THAT PORTION OF PARCEL MAP NO. 19538, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE RECORDERS OFFICE OF SAID COUNTY ON JULY 29, 2004, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE BOUNDARY OF SAID PARCEL MAP NO. 19538 DESIGNATED THEREON AS NORTH 88°37'42" WEST, 359.83 FEET; THENCE ALONG THE BOUNDARY OF SAID PARCEL MAP 19538, SOUTH 01°05'26" WEST, 35.29 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID BOUNDARY SOUTH 01°05'26" WEST, 46.93 FEET TO AN ANGLE POINT IN SAID BOUNDARY; THENCE CONTINUING ALONG SAID BOUNDARY, SOUTH 86°03'59" EAST, 87.31 FEET TO AN ANGLE POINT IN SAID BOUNDARY; THENCE LEAVINGS SAID BOUNDARY, NORTH 58°27'40" WEST, 101.15 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF SAID PARCEL 2 OF PARCEL MAP NO. 18519, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE RECORDERS OFFICE OF SAID COUNTY ON AUGUST 4, 2000, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 2; THENCE ALONG THE EAST LINE OF SAID PARCEL 2, SOUTH 01°05'26" WEST, 35.29 FEET; THENCE LEAVING SAID EAST LINE, NORTH 67°15'19" WEST, 96.83 FEET TO A POINT ON THE NORTH LINE OF SAID PARCEL 2, DISTANT THEREON NORTH 88°37'42" WEST, 90.00 FEET FROM THE POINT OF BEGINNING; THENCE ALONG SAID NORTH LINE, SOUTH 88°37'42" EAST, 90.00 FEET TO THE POINT OF BEGINNING.

SAID LAND IS DESCRIBED AS PARCEL 2 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED JUNE 20, 2006 AS FILE NO. 2006-0435587, OFFICIAL RECORDS.

Assessor's Parcel Number(s): 218-180-48-00; and

WHEREAS, the Conditional Use Permit is being requested in conjunction with a Variance (V19-0001 / Resolution No. PC 22-4974) to allow reduced building setbacks on Mulberry Drive.

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

WHEREAS, on March 7, 2022, the Planning Commission held a duly noticed public hearing in the manner prescribed by law to consider said request; and

WHEREAS, the Planning Commission did review and consider a Mitigated Negative Declaration (ND21-006) and SCH No. 2021120070) for said request pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the subject property has been annexed into Community Facility District (CFD) 98-01: Police and Fire and CFD 98-02: Lighting, Landscape and Street Maintenance; and

NOW, THEREFORE, the Planning Commission does hereby resolve as follows:

- A. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Resolution.

- B. The Planning Commission hereby approves this Conditional Use Permit per the submitted plans date stamped July 30, 2020 (demolition and reconstruction of an approximately 27,372 square foot portion of the existing facility, and addition of approximately 76,763 square feet of new building area on an existing 14.54-acre site, of which only 48,755 square feet would be occupied as the remaining area of the building is a floor for mechanical equipment) except as modified herein, and subject to compliance with the conditions of approval in Exhibit A attached hereto and incorporated by reference and made a part of this Resolution as though fully set forth herein.
- C. This Conditional Use Permit is approved in conjunction with the submitted Variance (V19-0001) and the mitigation measures in Mitigated Negative Declaration (ND21-006 and SCH No. 2021120070) are hereby incorporated by reference and made a part of this Resolution with the same force and effect as though fully set forth herein.
- D. The Planning Commission's decision is based on the following findings and determinations:
1. Approval of the Conditional Use Permit would not result in detrimental impacts to adjacent properties or the character and function of the neighborhood, in that the proposed project complies with all development provisions of the Commercial (C) zone (SMMC 20.220) and parking standards (SMMC 20.340). Potential impacts, including but not limited to, traffic, noise, and air quality have been analyzed and demonstrated to not have negative impacts to surrounding land uses with implementation of the mitigation measures listed in the Mitigated Negative Declaration (ND21-006). The modifications to the existing dairy processing facility are designed with quality architecture that blends with other buildings on the property. Furthermore, the existing and proposed landscaping will help screen and aesthetically compliment the project site.
 2. The design, development, and conditions associated with the Conditional Use Permit are consistent with the goals, policies, and intent of the General Plan, the purpose and intent of the applicable zone in that the proposed project helps to promote a balanced distribution and compatible mix of land uses to meet the future and present needs of all residents and the business community (Goal LU-1) and helps to maintain a supportive business climate and a healthy, sustainable economy creating additional employment opportunities (Goal LU-6).
 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 is to be located, in that the existing dairy processing facility will continue operations in a commercial zone surrounded by commercial and industrially zoned properties across the street to the east, west, and south, and buffered from an existing church on residentially zoned property to the north by an existing slope.

4. All requirements of CEQA have been met, in that a Mitigated Negative Declaration has been prepared for the project (ND21-006 and SCH No. 2021120070). The document has been properly noticed pursuant to CEQA and was published for public review from December 6, 2021 to January 5, 2022.
- E. This Conditional Use Permit is within the scope of the Mitigated Negative Declaration (ND21-006 and SCH No. 2021120070) and the mitigation monitoring and reporting program, and both are hereby adopted pursuant to CEQA.
- F. Within thirty (30) days of the approval of the Conditional Use Permit (CUP19-0010) the approved site plan, architectural elevations, floor plans, and conceptual landscape plan shall be submitted as a digital file on a CD including this resolution number on the title page. The title page shall include the statement "I (we), _____, the applicant/owner(s) or the applicant/owner's representative, have read, understand and agree to the conditions of Resolution PC 22-4973." 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 Project Planner and the Project Civil Engineer shall also appear on this title page. The digital copy shall be approved by the City prior to submittal of any grading plan, improvement plan, or building permit.
- G. This Conditional Use Permit approval shall lapse and be null and void one (1) year following the date upon which the plans and drawings were approved by the review authority unless prior to the expiration of one (1) year, a grading and/or building permit is issued and construction is commenced and diligently pursued toward completion.
- H. Any future expansion to the facility shall require a modification to this Conditional Use Permit. The Conditional Use Permit application must be submitted for review and approval by the Development Services Department prior to the issuance of any building permits.
- I. The Planning Division may, but is not obligated to, inspect the premises annually to ensure compliance with all conditions of the use permit approval. If the Planning Division determines that compliance is not being achieved after a cure period, then a public hearing must be scheduled for possible use permit modification and/or revocation, in accordance with Chapter 20.545 of the San Marcos Municipal Code (SMMC).
- J. The applicant/developer shall comply with all provisions and requirements set forth in the San Marcos Municipal Code, and all City ordinances, resolutions, policies and procedures, and with all applicable state and federal regulations, as may be amended from time to time, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated by reference and made a part of this Resolution with the same force and effect as though fully set forth herein.
- K. 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, or

equipment needed, and the hiring of local residents to stimulate the San Marcos economy to the greatest extent possible.

- L. To the extent permitted by law, the applicant/developer shall defend and hold the City of San Marcos, 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. 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 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, APPROVED AND ADOPTED by the Planning Commission of the City of San Marcos, California, at a regular meeting thereof, held on this 7th day of March, 2022, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Kevin Norris, Chairman

ATTEST:

Gina Jackson, Senior Office Specialist

ATTACHMENT(S):

EXHIBIT A – Conditions of Approval

EXHIBIT A
RESOLUTION PC 22-4973
CUP19-0010
Conditions of Approval

A. General Provisions

1. All of the terms, covenants, and conditions contained herein shall run with the land and be binding on and inure to the benefit of the heirs, successors, assigns, and representatives of the applicant/developer as to any and all of the property.
2. If any of the terms, covenants or conditions contained herein shall fail to occur or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City of San Marcos (City) shall have the right to revoke or modify all approvals herein granted including issuance of building permits, deny, or further condition the subsequent approvals that are derived from the approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or see damages for their violation. The applicant/developer shall be notified ten (10) days in advance prior to any of the above actions being taken by the City and shall be given the opportunity to remedy any deficiencies identified by the City.
3. The applicant/developer shall be responsible for bearing the costs of all grading activities, on-site and off-site improvements, labor, design, mitigation, and other costs associated with, but not limited to, the project's planning, engineering, construction and/or architecture for the project.
4. The proposed new development may be subject to the payment of development fees and in-lieu fees as required by the City's Fee Ordinance at the time an application is submitted or prior to the issuance of permits as determined by the City.
5. The development must comply with the storm water regulations applicable at the time of approval of the corresponding grading permit application.
6. All design requirements and mitigation measures of the Mitigated Negative Declaration (ND21-006 and SCH No. 2021120070) shall be implemented.

- B. Prior to issuance of any grading permit, the applicant/developer shall comply with the following conditions.

Land Development Division

1. The design of all private streets and/or drainage systems for this project shall be approved by the City Engineer. The structural section of all private streets shall conform to City standards based on R-value tests. All private streets and/or drainage

systems shall be inspected by the City, and the standard plan check fees and inspection fees shall be paid and appropriate bonds shall be posted with the City prior to approval of the Final Map or Grading Permit issuance.

2. The exact depth of any new or improved street structural section and subgrade requirement shall be determined based on subgrade "R" value tests and the appropriate Traffic Index for the type of street as described in the City's "Urban Street Design Criteria" and "Street Excavation Ordinance". Tests shall be taken by a qualified engineer at locations approved by the Director of Public Works.
3. The applicant/developer shall be responsible for acquiring all associated easements required by the utility companies for such work. The permanent placement of 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.
4. 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/developer's responsibility to determine all agencies with rights of approval for the proposed development.
5. The applicant/developer shall post securities to the City, in amounts approved by the City Attorney and the City Engineer or their designees, for the construction of all public and private improvements including but not limited to the following: grading and erosion control, street improvements, traffic signals, storm drain facilities, water quality BMP's, landscaping, and off-site street repair. Said security shall be in a form acceptable to the City and shall remain in force until completion of the project and final approval by the City. Said security shall insure the construction of the "approved" public improvements within a period to be specified in the Subdivision Improvement Agreement. For grading securities, the City may require 10% of said securities to be in the form of cash.
6. The applicant/developer shall submit an application for a grading permit in accordance with SMMC Chapter 17.32 and all related Engineering Division handouts. All applicable fees and securities shall be paid prior to grading permit issuance.
7. Grading plans and activities shall be based on a comprehensive investigation of surface and subsurface conditions. Results of this investigation and recommendations arising therefrom shall be submitted in the form of a report written by a registered geotechnical engineer or registered engineering geologist.
8. If applicable, the applicant/developer shall secure letters of permission from

adjacent property owners for all graded slopes crossing property lines. In lieu of such permission, grading plans shall conform to the required grading setbacks as provided in the City's Grading Ordinance.

9. Erosion control and/or sediment control details shall be submitted with/on the grading plans to the Land Development Division for review and approval. The details shall conform to City standards, codes and ordinances, and San Diego Regional Water Quality Control Board (SDRWQCB) Municipal Storm Water Permit requirements. The details shall include landscaping and temporary irrigation systems on exposed slopes to be approved by the City Engineer and Planning Manager.
10. A hydrology and hydraulic report, including calculations, shall be prepared for the 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 project's build-out 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).
11. The applicant/developer shall be responsible for mitigating impacts created by changes in drainage runoff course, concentration, or quantity to the satisfaction of the City Engineer for both on-site and off-site drainage. This may require the applicant/developer to provide all necessary easements and improvements to accommodate drainage and flood control structures extending beyond the boundaries of the project.
12. The applicant/developer shall execute a "Hold Harmless" Agreement with the City regarding drainage across the adjacent property.
13. 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 most current requirements of SDRWQCB.
14. The applicant/developer shall enter into a Storm Water Management and Discharge Control Maintenance Agreement and Easement for the maintenance of all structural post-construction storm water management improvements. The agreement and easement shall be in a form acceptable to the City Attorney.
15. If applicable, 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.

16. All construction and grading related Best Management Plans (BMPs) shall be shown in detail on the construction plans submitted to the City for review and approval.
17. The applicant/developer shall submit "will-serve" letters from all affected public service and utilities agencies prior to issuance of grading permit.
18. The project applicant shall implement the geotechnical recommendations identified beginning on pages 27–41 of the Soils Report prepared for the project site by NOVA Systems, Inc. and dated June 18, 2019. These recommendations address seismic design parameters, corrosivity and sulfates, earthwork activities, foundations, and slab considerations, retaining wall design, and temporary slopes (MND 21-006: MM-GEO-1).

Planning Division

19. Under separate permit application, the applicant/developer shall submit construction landscape plans to the Planning Division for review and approval per the following requirements:
 - a. Final landscape and irrigation plans shall be prepared by a licensed landscape architect.
 - b. Separate landscape plans shall be submitted for the on-site (private) landscape areas and the off-site (CFD) landscape areas. CFD landscape plans shall be submitted to the Land Development Division as part of the street improvement plan set. Private landscape plans shall be submitted separately to the Planning Division.
 - c. This project is subject to the payment of a landscape permit and inspection fee. The landscape permit and inspection fee shall be four and one-half percent (4.5%) of the landscape architect's estimate for the completion of all landscaping shown on approved mylars. All submitted estimates shall be stamped and signed by the landscape architect, and estimate the cost of plant and irrigation materials only.
 - d. Landscape plans shall contain a mixture of trees, shrubs, and ground cover, and be provided with an irrigation system. The irrigation system shall include an automatic rain sensor switch, master valve, stainless steel enclosure for the backflow device, and stainless steel controller cabinet if in public view. The irrigation system shall be designed to prevent water run-off onto the sidewalk or street. The landscape plan shall list the

quantities of each plant type, including a legend indicating what each symbol represents; height and spread of trees (in accordance with City Minimum Tree Standards handout, City Council Resolution 2001-5747); and method of installation and irrigation.

- e. The landscape plans, including plant material and irrigation design, shall comply with the City's landscape water efficiency ordinance, SMMC Chapter 20.330, in addition to State of California water efficiency requirements.
- f. All permanent Best Management Practices (BMPs) per the approved grading plan shall be shown on the landscape plans. Landscape plans shall be reviewed and signed by the engineer-of-work that the proposed landscape design complies with the requirements of the Storm Water Quality Management Plans (SWQMP).
- g. The applicant/developer shall submit a fencing plan, in conjunction with the landscape plan, which proposes a consistent type and style of fences and/or walls. The fencing plan shall include decorative fencing with a detail of each proposed fence/wall type, and shall not include chain link fencing. Pilasters shall be spaced no more than fifty (50) feet apart and fence panels/segments shall be powder coated tubular steel or wrought iron.
- h. Landscaping for the proposed project shall avoid the use of invasive plant species. Invasive plants shall be those identified on Lists A and B of the California Exotic Plant Council's List of Exotic Plants of Greatest Ecological Concern in California, as of October 1999, and updated if applicable.
- i. Plant material shall be fire and drought tolerant.
- j. The landscape permit shall require that prior to installation, the proposed plants shall be inspected and approved by the Planning Division for plant quality and compliance with minimum size requirements. The placement of plants shall be installed in accordance with the approved landscape plans. Upon completion of installation, all landscaping/irrigation shall be inspected and approved by the Planning Division. The applicant/developer shall be responsible to contact the Planning Division for landscaping inspections.
- k. All CFD landscaping/irrigation shall be inspected and approved by the Public Works Landscape Inspector for installation in accordance with the approved CFD landscape plans. The applicant/developer shall be responsible to contact the Public Works Department for CFD landscaping inspections.

20. All exposed retaining walls shall be constructed of earth tone colored keystone, split-face, or similar textured block. The applicant/developer shall submit a material sample to the Planning Division for review and approval prior to issuance of grading permit.
21. If proposed for grading operations, the use of a rock crusher(s) on site shall require approval of a separate Conditional Use Permit (CUP) prior to issuance of grading permit.
22. The applicant/developer shall comply with the following conditions regarding cultural resources:
 - a. Pre-Excavation Agreement: Prior to the issuance of a Grading Permit, or ground disturbing activities, the Applicant/Owner shall enter into a Tribal Cultural Resources Treatment and Repatriation Agreement (Pre-Excavation Agreement) with a Traditionally and Culturally Affiliated Native American Tribe (TCA Tribe), identified in consultation with the City. The purpose of the Pre-Excavation Agreement shall be to formalize protocols and procedures between the Applicant/Owner and the TCA Tribe for the protection, treatment, and repatriation of Native American human remains, funerary objects, cultural and/or religious landscapes, ceremonial items, traditional gathering areas, and other tribal cultural resources. Such resources may be located within and/or discovered during ground disturbing and/or construction activities for the proposed project, including any additional culturally appropriate archaeological studies, excavations, geotechnical investigations, grading, preparation for wet and dry infrastructure, and other ground disturbing activities. Any project-specific Monitoring Plans and/or excavation plans prepared by the project archaeologist shall include the TCA Tribe requirements for protocols and protection of tribal cultural resources that were agreed to during the tribal consultation.

The landowner shall relinquish ownership of all non-burial related tribal cultural resources collected during construction monitoring and from any previous archaeological studies or excavations on the project site to the TCA Tribe for proper treatment and disposition per the Pre-Excavation Agreement, unless ordered to do otherwise by responsible agency or court of competent jurisdiction. The requirement and timing of such release of ownership, and the recipient thereof, shall be reflected in the Pre-Excavation Agreement. If the TCA Tribe does not accept the return of the cultural resources, then the cultural resources will be subject to curation.

- b. Construction Monitoring: Prior to the issuance of a Grading Permit or ground disturbing activities, the Applicant/Owner or Grading Contractor

shall provide written documentation (either as signed letters, contracts, or emails) to the City's Planning Division stating that a Qualified Archaeologist and Traditionally and Culturally Affiliated Native American monitor (TCA Native American monitor) have been retained at the Applicant/Owner or Grading Contractor's expense to implement the construction monitoring program, as described in the Pre-Excavation Agreement.

The Qualified Archaeologist and TCA Native American monitor shall be invited to attend all applicable pre-construction meetings with the General Contractor and/or associated subcontractors to present the construction monitoring program. The Qualified Archaeologist and TCA Native American monitor shall be present on site during grubbing, grading, trenching, and/or other ground disturbing activities that occur in areas of native soil or other permeable natural surfaces that have the potential to unearth any evidence of potential archaeological resources or tribal cultural resources. In areas of artificial paving, the Qualified Archaeologist and TCA Native American monitor shall be present on site during grubbing, grading, trenching, and/or other ground disturbing activities that have the potential to disturb more than six inches below the original pre-project ground surface to identify any evidence of potential archaeological or tribal cultural resources. No monitoring of fill material, existing or imported, will be required if the General Contractor or developer can provide documentation to the satisfaction of the City that all fill materials being utilized at the site are either: 1) from existing commercial (previously permitted) sources of materials; or 2) are from private or other non-commercial sources that have been determined to be absent of tribal cultural resources by the Qualified Archaeologist and TCA Native American monitor.

The Qualified Archaeologist and TCA Native American monitor shall maintain ongoing collaborative coordination with one another during all ground disturbing activities. The requirement for the construction monitoring program shall be noted on all applicable construction documents, including demolition plans, grading plans, etc. The Applicant/Owner or Grading Contractor shall provide written notice to the Planning Division and the TCA Tribe, preferably through e-mail, of the start and end of all ground disturbing activities.

Prior to the release of any grading bonds, or prior to the issuance of any project Certificate of Occupancy, an archaeological monitoring report, which describes the results, analysis, and conclusions of the construction monitoring shall be submitted by the Qualified Archaeologist, along with any TCA Native American monitor's notes and comments received by the Qualified Archaeologist, to the Planning Division Director for approval.

Once approved, a final copy of the archaeological monitoring report shall be retained in a confidential City project file and may be released, as a formal condition of Assembly Bill (AB) 52 consultation, to Rincon Band of Luiseño Indians, San Luis Rey Band of Mission Indians, or any parties involved in the project specific monitoring or consultation process. A final copy of the report, with all confidential site records and appendices, will also be submitted to the South Coastal Information Center after approval by the City.

- c. Unanticipated Discovery Procedures: Both the Qualified Archaeologist and the TCA Native American monitor may temporarily halt or divert ground disturbing activities if potential archaeological resources or tribal cultural resources are discovered during construction activities. Ground disturbing activities shall be temporarily directed away from the area of discovery for a reasonable amount of time to allow a determination of the resource's potential significance. Isolates and clearly non-significant archaeological resources (as determined by the Qualified Archaeologist, in consultation with the TCA Native American monitor) will be minimally documented in the field. All unearthed archaeological resources or tribal cultural resources will be collected, temporarily stored in a secure location (or as otherwise agreed upon by the Qualified Archaeologist and the TCA Tribe), and repatriated according to the terms of the Pre-Excavation Agreement, unless ordered to do otherwise by responsible agency or court of competent jurisdiction.

If a determination is made that the archaeological resources or tribal cultural resources are considered potentially significant by the Qualified Archaeologist, the TCA Tribe, and the TCA Native American monitor, then the City and the TCA Tribe shall determine, in consultation with the Applicant/Owner and the Qualified Archaeologist, the culturally appropriate treatment of those resources.

If the Qualified Archaeologist, the TCA Tribe, and the TCA Native American monitor cannot agree on the significance or mitigation for such resources, these issues will be presented to the Planning Division Director for decision. The Planning Division Director shall make a determination based upon the provisions of CEQA and California Public Resources Code Section 21083.2(b) with respect to archaeological resources and California Public Resources Section 21704 and 21084.3 with respect to tribal cultural resources, and shall take into account the religious beliefs, cultural beliefs, customs, and practices of the TCA Tribe.

All sacred sites, significant tribal cultural resources, and/or unique archaeological resources encountered within the project area shall be avoided and preserved as the preferred mitigation. If avoidance of the

resource is determined to be infeasible by the City as the Lead Agency, then the City shall require additional culturally appropriate mitigation to address the negative impact to the resource, such as, but not limited to, the funding of an ethnographic study and/or a data recovery plan, as determined by the City in consultation with the Qualified Archaeologist and the TCA Tribe. The TCA Tribe shall be notified and consulted regarding the determination and implementation of culturally appropriate mitigation and the drafting and finalization of any ethnographic study and/or data recovery plan, and/or other culturally appropriate mitigation. Any archaeological isolates or other cultural materials that cannot be avoided or preserved in place as the preferred mitigation shall be temporarily stored in a secure location on site (or as otherwise agreed upon by the Qualified Archaeologist and TCA Tribe), and repatriated according to the terms of the Pre-Excavation Agreement, unless ordered to do otherwise by responsible agency or court of competent jurisdiction. The removal of any artifacts from the project site will be inventoried with oversight by the TCA Native American monitor.

If a data recovery plan is authorized as indicated above and the TCA Tribe does not object, then an adequate artifact sample to address research avenues previously identified for sites in the area will be collected using professional archaeological collection methods. If the Qualified Archaeologist collects such resources, the TCA Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the Qualified Archaeologist does not collect the cultural resources that are unearthed during the ground disturbing activities, the TCA Native American monitor may, at their discretion, collect said resources for later reburial or storage at a local curation facility, as described in the Pre-Excavation Agreement.

In the event that curation of archaeological resources or tribal cultural resources is required by a superseding regulatory agency, curation shall be conducted by an approved local facility within San Diego County and the curation shall be guided by California State Historical Resources Commission's Guidelines for the Curation of Archaeological Collections. The City shall provide the Applicant/Owner final curation language and guidance on the project grading plans prior to issuance of the grading permit, if applicable, during project construction. The Applicant/Owner shall be responsible for all repatriation and curation costs and provide to the City written documentation from the TCA Tribe or the curation facility, whichever is most applicable, that the repatriation and/or curation have been completed.

- d. Human Remains: As specified by California Health and Safety Code Section 7050.5, if human remains, or remains that are potentially human, are found on the project site during ground disturbing activities or during

archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Medical Examiner's Office by telephone. No further excavation or disturbance of the discovery or any nearby area reasonably suspected to overlie adjacent remains (as determined by the Qualified Archaeologist and/or the TCA Native American monitor) shall occur until the Medical Examiner has made the necessary findings as to origin and disposition pursuant to Public Resources Code 5097.98.

If such a discovery occurs, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected (as determined by the Qualified Archaeologist and/or the TCA Native American monitor), and consultation and treatment could occur as prescribed by law. As further defined by State law, the Medical Examiner will determine within two working days of being notified if the remains are subject to his or her authority. If the Medical Examiner recognizes the remains to be Native American, and not under his or her jurisdiction, then he or she shall contact the Native American Heritage Commission by telephone within 24 hours. The Native American Heritage Commission will make a determination as to the Most Likely Descendent, who shall be afforded 48 hours from the time access is granted to the discovery site to make recommendations regarding culturally appropriate treatment.

If suspected Native American remains are discovered, the remains shall be kept in situ (in place) until after the Medical Examiner makes its determination and notifications, and until after the Most Likely Descendent is identified, at which time the archaeological examination of the remains shall only occur on site in the presence of the Most Likely Descendent. The specific locations of Native American burials and reburials will be proprietary and not disclosed to the general public. According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). In the event that the Applicant/Owner and the Most Likely Descendant are in disagreement regarding the disposition of the remains, State law will apply, and the mediation process will occur with the NAHC. In the event that mediation is not successful, the landowner shall rebury the remains at a location free from future disturbance (see Public Resources Code Section 5097.98(e) and 5097.94(k)).

23. Prior to grading the site or causing any impact to the site, grading and/or construction activities on site must be avoided during the nesting season which extends from February 1st to September 15th to prevent potential impacts to nesting of any migratory, songbirds, or raptors. In order to begin grading or construction activities within the nesting season, a nesting survey from a qualified biologist or

other expert in the field must be submitted to the Planning Division to verify there are no active nests on the subject site. This survey must be submitted prior to any disturbance or impact of the site. If any active nests are detected, the area shall be flagged and mapped on the construction plans along with a minimum of a twenty-five (25) foot buffer and up to a maximum buffer of 300 feet for raptors, as determined by the project biologist, and shall be avoided until the nesting cycle is complete.

24. Notes shall be added to the Grading Plans indicating that heavy diesel construction equipment shall be rated Tier IV or better.

Building Division

25. If the project is to be phased, the applicant/developer shall submit a phasing plan to the Building Division for review and approval. Said phasing plan shall graphically depict the order in which the buildings (including models) will be occupied and depict which public and private infrastructure and amenities will be completed prior to each building occupancy. Once approved, any deviations from the phasing plan must be reviewed and approved by the Building Division, Planning Division, Land Development Division, Fire Department and the Public Works Construction Inspection Division.
26. The project is subject to the approval of the applicable water/sewer district(s) for water and sewer services and all applicable fees and charges shall be paid to the satisfaction of the water/sewer district(s) prior to issuance of grading or building permit.
27. The applicant/developer shall obtain a demolition permit from the Building Division prior to demolition of the existing structures on site.
 - a. Prior to issuance of a demolition permit from the Building Division, the structures proposed for demolition shall be inspected for the presence of asbestos-containing materials and lead-based paint. Should asbestos-containing materials or lead-based paint be identified, they shall be properly abated and disposed of by a contractor that is licensed to perform the work. Results of the inspection and abatement (if required) shall be provided to the Building Division (MND 21-006: MM-HAZ-1).

Fire Department

28. Fire apparatus access roads shall have an unobstructed improved width of not less than 24 feet (curb line to curb line), and an unobstructed vertical clearance of not less than 13 feet 6 inches. Access roads shall be all weather surface and designed to support imposed loads of not less than 75,000 pounds in accordance with California Fire Code (CFC) Section 503.2.1, SMMC Section 17.64.120. For single-

family residential driveways serving no more than one single-family dwelling, access roads shall have minimum width of 16 feet (curb line to curb line).

29. The gradient for a fire apparatus roadway shall not exceed 20 percent. Grades exceeding 12 percent (incline or decline) shall not be permitted without mitigation: Minimal surface of Portland cement concrete (PCC) with a deep broom finish perpendicular to the entire direction/length of travel and grade. The angle of departure and approach of fire access roads shall not exceed 7 degrees (12 percent) as required by CFC Section 503.2.7, as amended.
 30. All roads in the project shall have adequate turn radius to accommodate all Fire Department apparatus including frontline and reserve fire engines and frontline and reserve trucks (engine and tiller ladder trucks). The required inside turn radius shall be 28 feet for engine and tiller ladder truck. No curb deflection or other features shall interfere with fire apparatus ability to navigate any street. The Land Development Division shall maintain the proper templates for turn radius of all Fire Department apparatus.
 31. All dead end fire apparatus access roadways in excess of 150 feet in length shall be provided with an approved area for turning around of all San Marcos Fire apparatus. A hammerhead turn-around or cul-de-sac will be required by the Fire Department.
- C. Prior to issuance of any building permit, the applicant/developer shall comply with the following conditions:

Land Development Division

1. The approved precise grading plans shall be attached to the building plans.
2. All grading shall be observed by a licensed 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.
3. A certification of line and grade for the building pad, signed and stamped by the engineer of work, shall be provided to the Public Works Inspector. The certification shall be in a form acceptable to the City Engineer.
4. The base lift of asphalt on all roads serving the area under construction shall be completed. All proposed fire hydrants shall be operational prior to the delivery of combustible materials to the project site.

Planning Division

5. Future tenant improvements shall require issuance of a building permit(s). Tenant improvement plans shall include a parking calculation to substantiate that the subject parcel contains the required amount of parking spaces for the proposed use in accordance with the City's Off-Street Parking Ordinance (SMMC Ch. 20.340).
6. All exterior lighting shall comply with City standards for high energy-efficient fixtures, except for low-wattage architectural lighting. All exterior fixtures shall be approved by the City.
7. All exterior lighting shall use cut-off fixtures and shielded in order to direct the illumination downward and reduce the visibility of any glare.
8. Architectural lighting plan shall be included with the building plans that show the type, style, and location of all exterior building and parking lot lights. Plans shall include photo of fixture and manufacturer specifications indicating dimensions, materials, colors, bulb type, etc.
9. The applicant/developer shall submit a comprehensive sign program to the Planning Division for review and approval. Following review and approval of the comprehensive sign program, all proposed signage requires approval of a separate sign permit.
10. All rooftop mechanical units, vents, ducts, etc. shall be screened by parapet walls or other architectural features from street grade view and adjacent properties as approved by the Planning Division Director. A roof plan and cross sections showing lines of sight shall be submitted with construction drawings illustrating that roof equipment will be screened. Screening plan shall be approved by the Planning Division prior to issuance of a building permit.
11. Rain gutter downspouts shall be internal or architecturally screened from view where feasible as determined by the Planning Division.
12. Gas meters shall be architecturally screened from view by low screening walls. Wall materials shall be architecturally compatible with the building(s). Screening plan shall be approved by the Planning Division prior to issuance of building permit.
13. The trash enclosure (minimum dimensions of fourteen (14) feet wide by ten (10) feet deep by six (6) feet high) for trash and recycling containers shall be constructed to match the main buildings in color and texture. In addition, the enclosure shall have solid view-obscuring, double swinging gates; must have a flat impervious, concrete slab designed not to allow run-on from adjoining areas; contain attached

lids on all trash and recycling containers; and a roof to minimize direct precipitation. Trash enclosures shall be architecturally compatible with the proposed buildings.

14. A Transportation Demand Management (TDM) Plan shall be submitted for review and approval by the City Engineer and Planning Division Director. Said TDM plan shall address coordination with local transit districts regarding existing and future bus routes and stops, shuttle service to rail stations and incentives for bus & rail passes. The TDM plan shall also include investigations into staggered work hours, carpools, education and financial incentives. The TDM plan shall be implemented at occupancy. The applicant/developer will be responsible for the submission of an annual report consistent with the TDM goals and general strategies for review by the City Engineer and Planning Division Director.

Building Division

15. New buildings and remodeled structures shall be designed to conform to the latest design standards adopted by the State of California in the California Building Code (CBC), Part 2, Title 24, California Code of Regulations.
16. Building plans and instruments of service submitted with a building permit application shall be signed and sealed by a California licensed design professional as required by the State Business and Professions Code.
17. The City 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.
18. The proposed development shall comply with the latest adopted California Green Building Code Standards. The City has adopted the mandatory standards and does not enforce the voluntary standards.
19. The handling, storage, use and disposal of hazardous, toxic or flammable materials shall be clearly indicated on all floor plans submitted for a building permit and shall be in compliance with any and all Federal, State, County and City rules, regulations, and requirements for hazardous waste control, including but not limited to the Hazardous Waste Control Act of 1973 (HWCA) (Health & S C §25100 *et seq.*), as may be amended from time to time, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated by reference and made a part hereof with the same force and effect as though fully set forth herein.
20. The project shall comply with the latest Federal Law, Americans with Disabilities Act, and State Law, California Code of Regulations, Title 24, for accessibility standards.

21. The applicant/developer shall pay Public Facilities Fees as established by the latest adopted Public Facilities Fee, based on the proposed land use, and shall be paid prior to the issuance of the first permit for the development.
22. The project is subject to the payment of school fees as required by law. The applicant/developer shall submit a Certificate of Compliance from the school district prior to the issuance of the first building permit from the City.
23. Roof drain systems shall be designed for 3-inches of rainwater per hour. Rain gutters, down drains and other devices shall be installed to prevent erosion at the point of discharge and shall discharge to landscaped areas when feasible. Interceptor drains, yard drains and drainage devices shall be installed to mitigate erosion and create positive drainage away from foundations. Roof drainage shall comply with the City's storm water management measures.
24. A phasing plan shall be submitted to Development Services Department for review and approval prior to the issuance of any building permits for projects with phased construction. The phasing plan shall identify the extent of on-site and off-site improvements and the location of all buildings in each phase. Occupancies shall not be approved until the City and other agencies have accepted the improvements in compliance with these conditions of approval.
25. Sewer and water utilities shall be located wholly on the lot that serves the building in accordance with the latest adopted edition of the California Plumbing Code.
26. The outer boundary of schools (grades K through 12) as listed in the current California Private School Directory shall comply with Education Code Section 33190 relating to the location of a school facility within 1,000 feet of businesses that are regulated for the storage, use and handling of hazardous materials as defined by the California Health and Safety Code.

Fire Department

27. Any new development, which necessitates updating of emergency response maps by virtue of new structures, hydrants, roadways or similar features, shall be required to provide map updates. The applicant/developer shall provide a copy of building plans in Geo-Referenced format to be used by the Fire Department for pre-fire planning purposes.
28. The project shall include an automatic fire extinguishing system in accordance with the latest adopted California Building Code, California Residential Code and/or San Marcos Fire Code Ordinance. Fire suppression systems shall conform to the standards adopted by the National Fire Protection Association and the San Marcos Fire Marshal.

29. The applicant/developer shall provide a Construction Staging/Site Phasing Plan for approval prior to permit issuance.
 30. Access roads shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building.
 31. Access gate(s) at Mulberry Drive and E. Mission Road shall be equipped with a Knox Key switch with cover and all drive gates shall be equipped with approved emergency traffic strobe sensor(s), which opens the gate on approach of emergency vehicles. Access gate shall be a minimum of twenty-four (24) feet wide as determined by the City Fire Marshal.
 32. The proposed development is subject to the requirements of the City Fire Code Mid-Rise Ordinance (SMMC Section 17.64.210).
 33. Building plans shall indicate where elevators are installed, and shall meet the following conditions of California Fire Code (CFC) Section 607 and California Building Code (CBC) Chapter 30 which comply with the following:
 - a. At least one (1) elevator that extends to the top floor of a structure shall accommodate the loading and transport of an ambulance gurney or stretcher (maximum size 24 inches by 76 inches) in the horizontal position.
 - b. The elevator car shall be of such a size and arrangement to accommodate a 24-inch by 84-inch ambulance gurney or stretcher in the horizontal, open position, shall be provided with a minimum clear distance between walls or between walls and door excluding return panels not less than 80 inches by 54 inches, and a minimum distance from wall to return panel not less than 51 inches with a 42-inch side slide door.
 - c. A minimum of four (4) keys shall be provided for fire dept. use.
- D. During the grading and construction phase, the applicant/developer shall comply with the following conditions:

Public Works Construction Inspection Division

1. Prior to any construction activities, a pre-construction meeting shall be held with the Public Works Construction Inspection Division. The applicant/developer shall provide the inspector with a detailed construction schedule which depicts when building occupancy or occupancies will occur and when key public and private infrastructure improvements will be completed. Schedule updates shall be provided to the Building and Public Works Inspectors at a minimum monthly basis throughout the life of the project.

2. Heavy diesel construction equipment shall be rated Tier IV or better.

Land Development Division

3. Grading, excavation or other related earth moving operations, including warm-up and maintenance activities, shall be limited to the hours of 7:00 a.m. to 4:30 p.m., Monday through Friday. No work shall be allowed on Saturdays, Sundays and holidays.
4. During construction activities, the applicant/developer shall maintain public and private driveway and/or road access to neighboring properties at all times unless previous arrangements have been made with the private parties affected. Copies of said agreements shall be provided to the City Engineer.
5. The applicant/developer shall submit a traffic control plan to the Public Works Inspector for all phases of construction for approval by the City Engineer. Said plan shall include all traffic control devices including traffic signals as required.
6. Construction haul routes must be designed to avoid noise sensitive uses (e.g., residences, convalescent homes, etc.), to the extent feasible.
7. At the discretion of the Public Works Inspector, the applicant/developer shall document the pre-construction condition of existing roads or offsite properties which may be impacted by construction activities. The applicant/developer shall be responsible in repairing any construction related damages prior to occupancy.
8. A Right-of-Way permit shall be required prior to commencement of any work within the City right-of-way.
9. The applicant/developer shall implement and maintain storm water pollution prevention measures as required on the approved plans. Violations of the City's Storm Water Management Ordinance (Ch. 14.15 S.M.M.C.) will result in Stop Work Orders, Notices of Violations and/or citations with fines. Work on the project may be delayed until the City determines that compliance with storm water requirements has been achieved.

Planning Division

10. At least one copy of the approved plans, approval letters and conditions of approval shall be available for review at the job site at all times.
11. The project shall comply with Regional Air Quality Standards.
12. A test sample of the proposed exterior colors shall be applied to a mock-up with an area large enough to be representative of the finished color scheme and exposed to

direct sunlight. This sample shall be inspected and approved by the Planning Division prior to painting of the buildings. If determined necessary upon inspection, the color scheme may be required to be modified at the discretion of the Planning Division Director. The applicant/developer shall be responsible to contact the Planning Division for inspection.

Building Division

13. The applicant/developer shall obtain the required OSHA permits for blasting, construction, demolition, excavation, grading operations, rock drilling and the construction of buildings over 3 stories in height in accordance with the California Code of Regulations, Title 8, Section 1503.
14. Water wells shall be reconstructed or abated in strict compliance with SMMC Sections 8.44.130 through 8.44.170 and the latest adopted State Water Code and Health and Safety Code Section 24400. Water well permits are issued by County of San Diego Environment Health Department.
15. 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 during blasting, construction and grading operations. Projects are required to comply with the Air Pollution Control District's standards for mitigating fugitive dust during all phases of construction.
16. The demolition of buildings shall not commence until the proper testing of asbestos, lead paint and hazardous materials has been performed and the abatement of the hazardous materials has been completed. The recycling of materials shall comply with state law and all utilities shall be disconnected and safely abandoned.
17. All construction operations authorized by building permits, including the delivery, setup and use of equipment must be conducted on premises during the hours of 7:00 AM and 6:00 PM on Monday through Friday, and on Saturday between 8:00 AM and 5:00 PM. No work shall be conducted on Sundays or Holidays observed by the City. Failure to comply will result in the issuance of STOP WORK NOTICES, REVOCATION OF PERMITS and the issuance of citations and fines as appropriate. Citation for hours of work violations requires a mandatory court appearance in North County Superior Court.
18. During construction the applicant/developer shall implement and maintain the storm water pollution prevention measures as required on the approved plans. Violations of the City's Storm Water Management Ordinance will result in Stop Work Orders, Notices of Violation and citations with fines. Work on the project may be delayed until the City determines that the project is in compliance with the storm water requirements.

Fire Department

19. Prior to the delivery of combustible building construction materials to the project site, the following conditions shall be completed to satisfaction of the Fire Department: 1) fire hydrants(s) shall be installed, approved, and usable, and 2) fire lane or access roads shall be in place and provide a permanent all weather surface for emergency vehicles that support weight of fire apparatus (75,000 lbs.).
- E. Prior to the occupancy of any structure, the applicant/developer shall comply with the following conditions:

Land Development Division

1. All improvements shall be completed in accordance with the approved project plans prior to issuance of the first market rate Certificate of Occupancy.
2. All applicable easements and agreements shall be recorded prior to occupancy.
3. Redline 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.
4. Any existing broken pavement, concrete curb, gutter or sidewalk or any other facilities damaged during construction of the project, shall be repaired or replaced as directed by the Public Works Inspector.
5. Water and sewer improvements in accordance with the project water/sewer study shall be constructed for the project as determined necessary by the applicable water/sewer district(s).

Planning Division

6. All rooftop mechanical units, vents, ducts, etc. shall be screened from view from street grade & adjacent properties. Said screening mechanism shall be inspected by the Planning Division, and if determined necessary, additional screening may be required, as determined acceptable by the Planning Division Director.
7. All landscaping shall be installed, inspected, and approved by the Planning Division. Landscaping shall be established and flourishing in a healthy manner.
8. The applicant/developer shall submit a Certificate of Completion by the landscape architect and engineer-of-work to the Planning Division certifying that the plant

materials and irrigation system have been installed in accordance with the approved landscape plans and the Water Quality Technical Report, respectively.

Building Division

9. The applicant/developer shall obtain approval from all City departments and other agencies before requesting a Certificate of Occupancy from the Building Official. For phased developments, the conditions of approval shall be satisfied prior to requesting the first occupancy in the phase.

Fire Department

10. Building addresses shall be clearly labeled for day and night-time emergency responses. In addition, adequate lighting shall be provided to deter potential criminal activities (i.e.: vehicle burglaries, prowlers, loitering, etc).
 11. The applicant/developer shall comply with the Fire Department for hydrants and on-site access for emergency vehicles.
 12. The project shall include “NO PARKING FIRE LANE” signs. The number of, placement and wording for all fire lane signs and/or red curbs shall be as required by California Vehicle Code, Sections 22500.1 and 22658(a) and San Marcos Fire Department Standards.
- F. Reliance on this Conditional Use Permit shall comply with the following operational standards:
1. The applicant/developer shall maintain a City Business License for the duration of the business operations.
 2. Trash dumpsters shall be kept within the existing enclosure(s) on site, and gates shall be closed to screen the dumpsters from view. When not in use, dumpster lids shall remain closed in order to prevent rainfall from entering the dumpsters in compliance with the City’s Storm Water Management requirements.
 3. The facility must comply with all applicable provisions of San Marcos Municipal Code (SMMC) Chapter 14.15 (Storm Water Management and Discharge Control) and other State and regional permits/standards for the protection of storm water quality.
 4. Non-storm water discharge into the City’s storm drain conveyance system is considered an illicit discharge and is prohibited during construction, operation and maintenance of the business in accordance with SMMC Chapter 14.15.

5. Use of the site must be conducted so as not to become obnoxious by reason of noise, odor, refuse, parking impacts, or maintenance of grounds and in such a manner as will not detrimentally affect adjoining properties and uses.
6. All trees and landscaping shall be maintained in a healthy, thriving manner. If any trees/landscaping shall die or become diseased, the trees/landscaping shall be replaced in numbers and quantity to provide the same landscaping and screening value.
7. Publicly visible outdoor storage shall be prohibited on site.
8. Materials and supplies stored outside shall not be stacked higher than the perimeter screening fence.
9. All loading/unloading shall occur on site; loading/unloading is prohibited on the public street.

RESOLUTION PC 22-4974

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS APPROVING A VARIANCE TO ALLOW A REDUCTION OF SPECIAL SETBACKS FOR GENERAL PLAN ROUTES FOR MODIFICATIONS TO AN EXISTING DAIRY PROCESSING FACILITY IN THE COMMERCIAL (C) ZONE

V19-0001
Hollandia Dairy, Inc.

WHEREAS, on September 18, 2019, the City received an application from Hollandia Dairy, Inc. requesting a Variance to allow a reduction of the special setbacks for General Plan routes for modifications to an existing dairy processing facility on a 14.54-acre site located at 622 E. Mission Road in the Commercial (C) Zone in the Richland Neighborhood more particularly described as:

PARCEL A: PARCEL 2 OF PARCEL MAP NO. 19153, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FEBRUARY 6, 2003.

PARCEL B: PARCEL 2 OF PARCEL MAP NO. 18519, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE RECORDERS OFFICE OF SAID COUNTY ON AUGUST 4, 2000, TOGETHER WITH ALL THAT PORTION OF PARCEL MAP NO. 19538, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE RECORDERS OFFICE OF SAID COUNTY ON JULY 29, 2004, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EASTERLY TERMINUS OF THAT CERTAIN COURSE IN THE BOUNDARY OF SAID PARCEL MAP NO. 19538 DESIGNATED THEREON AS NORTH 88°37'42" WEST, 359.83 FEET; THENCE ALONG THE BOUNDARY OF SAID PARCEL MAP 19538, SOUTH 01°05'26" WEST, 35.29 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID BOUNDARY SOUTH 01°05'26" WEST, 46.93 FEET TO AN ANGLE POINT IN SAID BOUNDARY; THENCE CONTINUING ALONG SAID BOUNDARY, SOUTH 86°03'59" EAST, 87.31 FEET TO AN ANGLE POINT IN SAID BOUNDARY; THENCE LEAVINGS

SAID BOUNDARY, NORTH 58°27'40" WEST, 101.15 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF SAID PARCEL 2 OF PARCEL MAP NO. 18519, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE RECORDERS OFFICE OF SAID COUNTY ON AUGUST 4, 2000, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 2; THENCE ALONG THE EAST LINE OF SAID PARCEL 2, SOUTH 01°05'26" WEST, 35.29 FEET; THENCE LEAVING SAID EAST LINE, NORTH 67°15'19" WEST, 96.83 FEET TO A POINT ON THE NORTH LINE OF SAID PARCEL 2, DISTANT THEREON NORTH 88°37'42" WEST, 90.00 FEET FROM THE POINT OF BEGINNING; THENCE ALONG SAID NORTH LINE, SOUTH 88°37'42" EAST, 90.00 FEET TO THE POINT OF BEGINNING.

SAID LAND IS DESCRIBED AS PARCEL 2 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED JUNE 20, 2006 AS FILE NO. 2006-0435587, OFFICIAL RECORDS.

Assessor's Parcel Number(s): 218-180-48-00; and

WHEREAS, the Variance is being requested to reduce the General Plan building setback along Mulberry Drive from fifty-two (52) feet from centerline to forty-eight (48) feet from centerline of the street; and

WHEREAS, the Variance would also reduce the Commercial (C) zone side street setback along Mulberry Drive from ten (10) feet from property line to six (6) feet from the property line; and

WHEREAS, the Variance is being requested in conjunction with a Conditional Use Permit (CUP19-0010 / Resolution No. PC 22-4973) to allow modifications to an existing dairy processing facility; and

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

WHEREAS, on March 7, 2022, the Planning Commission held a duly noticed public hearing in the manner prescribed by law to consider said request; and

WHEREAS, the Planning Commission did review and consider a Mitigated Negative Declaration (ND21-006) and SCH No. 2021120070) for said request pursuant to the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, the Planning Commission does hereby resolve as follows:

- A. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Resolution.
- B. The Planning Commission hereby approves this Variance, as shown on Exhibit A attached hereto and incorporated by reference and made a part of this Resolution as though fully set forth herein.
- C. This Variance is approved in conjunction with the submitted Conditional Use Permit (CUP19-0010) and all conditions of approval specified in PC 22-4973 (CUP 19-0010), which documents are incorporated herein by this reference; and the mitigation measures in Mitigated Negative Declaration (ND21-006 and SCH No. 2021120070) are hereby incorporated by reference and made a part of this Resolution with the same force and effect as though fully set forth herein.
- D. The Planning Commission's decision is based on the following findings and determinations:
 1. There are exceptional and extraordinary circumstances or conditions applicable to the property or the intended use of the property that do not apply generally to the property or class of use in the same vicinity and Zone, in that the intent of the Specific Setbacks for General Plan Routes is to implement the City's General Plan Mobility Element, which calls for Mulberry Drive to be a four-lane arterial with Class II bicycle lanes. Currently, Mulberry Drive is already constructed as a four-lane arterial with Class II bicycle lanes and has already been developed to the necessary width, with no need for acquisition of additional right-of-way.
 2. The granting of the Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and Zone, and denied to the property for which the Variance is sought, in that in addition to existing buildings on the project site, existing buildings along this segment of Mulberry Drive observe reduced setbacks.
 3. The granting of the Variance will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvements in such vicinity and Zone in which the property is located, in that the project will be consistent with existing setbacks on the property as well as other developments in the vicinity.
 4. The granting of the Variance will not adversely affect the implementation of the General Plan for the Richland Neighborhood, in that the Mobility Element of the

General Plan has identified this segment of Mulberry Drive between E. Mission Road and Borden Road as a four-lane arterial with Class II bicycle lanes, which are existing and no further acquisition of right-of-way is necessary.

5. Compliance with the conditions of approval PC 22-4973 (CUP19-0010), assures that the granting of the Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and Zone in which the property is located.
 6. All requirements of CEQA have been met, in that a Mitigated Negative Declaration (ND21-006) has been prepared for the proposed project and all potential impacts related to cultural resources, geology and soils, hazards and hazardous materials, and tribal cultural resources will be mitigated to a level less than significant.
- E. This Variance is within the scope of the Mitigated Negative Declaration (ND21-006 and SCH No. 2021120070) and the mitigation monitoring and reporting program pursuant to CEQA.
- F. The applicant/developer shall comply with all provisions and requirements set forth in the San Marcos Municipal Code, and all City ordinances, resolutions, policies and procedures, and with all applicable state and federal regulations, as may be amended from time to time, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated by reference and made a part of this Resolution with the same force and effect as though fully set forth herein.
- G. 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, equipment needed, and the hiring of local residents to stimulate the San Marcos economy to the greatest extent possible.
- H. To the extent permitted by law, the applicant/developer shall defend and hold the City of San Marcos, 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. 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 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, APPROVED, AND ADOPTED by the Planning Commission of the City of San Marcos, California, at a regular meeting thereof, held on this 7th day of March, 2022, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Kevin Norris, Chairman

ATTEST:

Gina Jackson, Senior Office Specialist

Attachment(s):

Exhibit A – Variance Exhibit

EXHIBIT A

Variance Exhibit

