

RESOLUTION PC 14-4440

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING
COMMISSION RECOMMENDING APPROVAL TO THE CITY
COUNCIL OF A TENTATIVE SUBDIVISION MAP (TSM 14-001)
FOR UP TO 93 CONDOMINIUM UNITS ON 8.98 ACRES IN THE
SPA ZONE WITHIN THE RICHLAND NEIGHBORHOOD

Case No.: TSM 14-001 (P14-0001)
The Norman SM Project Owner, LLC (Mission 316)

WHEREAS, an application was received from The Norman SM Project Owner, LLC requesting a Tentative Subdivision Map for 93 condominium units to be approved under a Specific Plan on 8.98 acres located at 316 Mission Road more particularly described as:

A portion of Lot 3 in Block 52 of the Rancho Los Vallecitos de San Marcos, in the City of San Marcos, County of San Diego, State of California, according to map thereof No. 806, filed in the office of the County Recorder of San Diego County, December 21, 1895, and, Parcel 2 of Parcel Map No. 10177, 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 said county June 27, 1980 as instrument No. 80-204014 of official records, and, A portion of Parcel B of certificate of compliance recorded September 15, 1999 as instrument No. 99-0631820, being the westerly 140.00 feet of Lot 4 in Block 52 of the Rancho Los Vallecitos de San Marcos, in the City of San Marcos, County of San Diego, State of California, according to map thereof No. 806, filed in the recorder's office of said county on December 21, 1895. Assessor's Parcel No.: 220-210-10, 41, & 46

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

WHEREAS, the Planning Commission did consider a Mitigated Negative Declaration (ND 14-007) pursuant to CEQA; and

WHEREAS, the required public hearing on November 3, 2014 was duly advertised and held in the manner prescribed by law; and

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

1. Said Tentative Map with the conditions of approval complies with current zoning in that the proposed development is approved per the design standards established under the Specific Plan.
2. The site is physically suitable for this type of subdivision with the conditions of approval in that the site can accommodate the proposed 93 residential condominiums and maintain acceptable grades and setbacks.
3. The design of this subdivision and improvements will not cause public health problems in that safe water and sanitary sewer services are provided to the site. The ongoing emergency access to this site has been provided for through compliance with the City's single access policy. On-site access as modified will

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- provide internal circulation for emergency vehicles and adequate on-site street parking.
4. The design of the subdivision and the proposed improvements will not cause significant environmental damage or substantially and avoidably injure fish or wildlife or other habitat in that the project is providing on-site and off-site mitigation as required by the agencies and will provide approximately 5.27 acres of the site as common open space lots and provide landscape buffering next to adjacent properties.
 5. The proposed Tentative Subdivision Map with the conditions of approval will not be detrimental to the public health, safety and welfare in that adequate public facilities and infrastructure including fire, water, sewer, and drainage will be provided.

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

- A. The foregoing recitals are true and correct.
- B. Said Tentative Subdivision Map complies with the requirements of the City Subdivision Ordinance, and the Subdivision Map Act.
- C. A Mitigated Negative Declaration (ND 14-007) for this project is hereby adopted pursuant to the California Environmental Quality Act.
- D. Said Tentative Subdivision Map is hereby approved pursuant to the City Subdivision Ordinance and no waiver of any requirement of said Ordinance is intended or implied except as specifically set forth in this Resolution.
- E. Said Tentative Subdivision Map is hereby approved for up to 93 condominium units on a single lot.
- F. Within ten days after the adoption of the Resolution, any person who has corresponded or spoken to the Planning Commission may appeal the foregoing finding of this Commission to the City Council. No Final Map shall be approved, no grading permit issued, and no building permits issued for permits for other temporary uses until after the expiration of the fifteenth day following the adoption of the Resolution, or if an appeal was taken, until the City Council has sustained the determination of this Commission.
- G. The approval of this Tentative Map expires within 24 months from the date of the adoption of the Resolution of conditional approval. The Final Map conforming to this conditionally approved Tentative map shall be filed with the City Council in time so that the Council may approve said map before its expiration, unless prior to that date, the Planning Commission or City Council subsequently grants a time extension for the filing of the final Map, as provided for in the City's Subdivision Ordinance and the Subdivision Map Act. It is the developer's responsibility to track the expiration date. Failure to request an extension will result in a refile of the Tentative Map and new processing of the map.
- H. Prior to submittal of any development permit (i.e. plan check, building permit, grading permit) or within 30 days of the approval of the tentative map, whichever occurs first, the revised tentative map, conceptual landscaping plan, architectural elevations, etc. shall be submitted as original mylars along with a copy of the

approved resolutions. This title page shall include the statement "I (we), _____, the owner(s) or the owner's representative, have read, understand and agree to the conditions of the Planning Commission approving TSM 14-001." Immediately following this statement shall appear a signature block for the owner or the owner's representative which shall be signed. Signature blocks for the City's Planner and Civil Engineer shall also appear on this title page. The mylars shall be approved by the City prior to any grading plan, improvement plan or final map submittal.

- I. The Tentative Subdivision Map (TSM) and site plan shall be revised per the following conditions:
 1. Applicant must submit a fencing plan consistent with the Final Specific Plan as required by Resolution for SP 14-001 that addresses fencing type, location, and the prevention of pedestrian traffic in HOA maintenance areas. The fencing downward slopes adjacent to the streets shall be placed in the common area for Homeowners Association maintenance.
 2. As depicted on the conceptual landscape plans, the retaining walls shall be textured keystone/boulderscape and soilnail wall. designed to the satisfaction of the City Engineer and the Planning Director. The landscape design and proposed landscape application must be addressed by the applicants licensed landscape architect and the City's restoration consultant before any of the retaining walls are approved. .The slope landscape coverage shall achieve 100% coverage or as approved by Planning Director. Said area shall be provided with landscaping to provide an adequate landscape area between the project and the existing subdivision adjacent to the southeast and east which shall be maintained by the Homeowners Association.
 3. The tentative map represents a condominium map for condominium purposes with landscape maintenance easement to the HOA. Plans must address access. Fencing downward slopes adjacent to the streets shall be placed in the common area for Homeowners Association maintenance.
 4. Provide for adequate maintenance access to the HOA slope areas located above the retaining walls.
 5. The applicant shall be responsible for replacing all selected trees to be removed due to the proposed left turning lane and replacing all trees affected by line of sight safety distance. All removed trees shall be replaced with an appropriate ratio of 36 inch box trees that will be planted in a designated area within the City's right of way or at a City park
 6. Developer shall also be responsible for submitting a landscape design for the median which shall repair and replace hard surface, replacement of trees with an acceptable planting scheme, and retrofitting/replacing all irrigation to the satisfaction of the Public Works landscape inspector. Developer shall be responsible for all cost associated with the removal of all trees (median turning lane & line of sight), purchase of all new trees, and all associated installation cost or developer shall pay an in-lieu fee to the satisfaction of the Public Works Director/City Engineer.

- J. Prior to recordation of the Final Map the following conditions shall be complied with:
1. A fuel management zone shall be required 150' from the perimeter of all structures. This will require the acquisition of off-site fuel management easements from adjacent properties. Said easement shall be reviewed approved by the City Engineer and Fire Marshal of San Marcos. Prior to final map recordation all fuel easement documents shall be recorded.
 2. The Applicant shall enter into a Subdivision Improvement Agreement with the City to complete the Mission Road improvements and all required off-site transitions within a specified amount of time as stated within the Subdivision Improvement Agreement, or satisfy the City Engineer that said work is in a suitable stage toward completion by the deadline.
 3. Covenants, Conditions and Restrictions (CC&R's) must be submitted to the City of San Marcos for review and approval. At a minimum, the CC&R's must describe the Home Owners Association (HOA) maintenance responsibilities, parking restrictions, fuel modification maintenance, water quality Best Management Practices (BMP's), City reporting responsibilities, and any regulatory agency permit responsibilities.
 4. The applicant/landowner shall establish and record Covenants, Conditions and Restrictions (C.C.&R.'s) for the proposed project to assure the continued maintenance and operation of all said common areas and improvements as specified in Resolutions for MFSDP & TSM. The City Attorney shall review and approve the CC&R's prior to recordation.
 5. The maintenance and operation of said common facilities, including drainage facilities, and improvements for common use and benefit of the residents shall be assured through establishment of a Homeowners Association and CC&R's capable of maintaining and operating said common areas, facilities and improvements and providing for the participation by owners of all dwelling lots within said subdivision in the cost and maintenance and operation and the enforcement of such participation.
 6. The design for "common use" shall be delineated as part of the combined master common/landscape plan for the project. All plans for common areas/improvements shall be approved by the Development Services and Community Services Department.

7. Incorporate as part of the CC&R's the provision that garages shall be utilized for the parking of vehicles and enforced by the HOA.
8. The City Attorney shall approve the wording of by-laws and articles of incorporation of the proposed homeowner's association in writing prior to the creation of said homeowner's association.
9. Maintenance of common facilities, slope areas, improvements and all other amenities on-site shall be the responsibility of the Homeowner's Association and held in perpetuity. Maintenance of all common areas shall be provided for in the CC&R's.
10. The applicant/landowner and all persons, firms, or corporations owning the property subject of this subdivision at the time of the recording of the Final Maps and their heirs, administrators, executors, successors and assignees, shall maintain and repair the common areas and improvements for benefit of the residents, and shall continue to operate, maintain and repair such common facilities and improvements, until such time as the maintenance of said facilities and improvements are assumed by some public agency or district approved by the City Council or by a Homeowners Association.
11. A boundary adjustment must be performed correcting the property lines along the subject properties, Assessor Parcel Numbers 220-210-10-00; 220-480-06-00; 220-450-39-00. The boundary adjustment shall be consistent with the Tentative Map and City Boundary Adjustment requirements.
12. The Final Map must depict a sight distance easement for the westerly driveway. Sight distance easement must be monumented.
13. Direct access rights abutting Mission Road must be relinquished to the City on the Final Map, except where the project takes its main access and emergency access as depicted on the tentative map.
14. The applicant/developer must comply with Section 66436 of the Government Code by furnishing to the City Engineer a certificate from each of the public utilities and each entity owning easements within the proposed subdivision stating that:
 - a. They have received a copy of the proposed Parcel Map from the applicant/developer.
 - b. They object or do not object to the filing of the Parcel Map without their signature.

In the case of a street dedication affected by their existing easement, they will sign a "Subordination Agreement" on the map when required by the Governing Board.
15. Applicant must work with adjacent owner, APN 220-210-42, to establish joint use of the westerly driveway through an easement or other mechanism. Should the adjacent owner choose not to participate in joint

use of westerly driveway this shall not alleviate obligations of the current or any future property owner from cooperating with the adjacent property owner for use of the westerly driveway for, at a minimum, emergency access.

16. Applicant shall bond for the performance of monumentation associated with the Final Map.
 17. The Applicant shall enter into a Subdivision Improvement Agreement with the City to complete the Mission Road improvements to include the turn pocket and sewer and all required off-site transitions within a specified amount of time as stated within the Subdivision Improvement Agreement, or satisfy the City Engineer that said work is in a suitable stage toward completion by the deadline.
- K. Prior to the issuance of any grading permits, the following conditions shall be complied with:
1. The landscape architect shall be responsible for the all landscape design and coordinate with the structural engineer to ensure there are no design issues with the soilnail wall or retaining walls prior to final approval of the landscape & retaining walls plans. Landscape plans must also be reviewed by the City's slope restoration consultant (paid for by the applicant/developer) to verify that the proposed final landscape plan is adequate prior to approval of the retaining walls.
 2. Permanent impacts to 3.7 acres of Diegan coastal sage scrub shall be mitigated at a 1:1 ratio. A total of 3.7 acres of Tier II habitat shall be mitigated through either preservation in the City of San Marcos, a purchase of credits from an approved mitigation bank, or a combination thereof, as approved by the Planning Division Director.
 3. During the avian breeding season (February 1 through September 15), preconstruction surveys conducted by a qualified biologist shall occur prior to issuance of grading permits or removal of trees. If active nests are identified, construction activities shall adhere to appropriate noise buffer zone restrictions. The buffer shall be maintained until the qualified biologist determines that any young birds have fledged. Written results of such surveys shall be submitted to and be approved by City staff and wildlife agencies.
 4. In the event that curation of cultural resources is required, curation shall be conducted by an approved facility and the curation shall be guided by California State Historic Resource Commissions Guidelines for the Curation of Archaeological Collections. The City of San Marcos shall provide the developer final curation language and guidance on the project grading plans prior to issuance of the grading permit, if applicable, during project construction.
 5. The developer shall verify by means of a written agreement with the Vallecitos Water District that adequate sewer facilities and treatment shall be provided and the property has been annexed to the District

L. Prior to grading, the following conditions shall be complied with:

1. If grading is scheduled to occur during the raptor breeding season (February 1 through September 15), preconstruction surveys conducted by a qualified biologist for active nests shall be completed prior to construction activities. If active nests are identified, additional mitigation in conformance with the City's Biology Guidelines shall be implemented to the satisfaction of the City and wildlife agencies (i.e., appropriate buffers, monitoring schedules, etc.). Within three months following the completion of any required monitoring, two copies of the Final Biological Monitoring Report and/or evaluation report which describes the results, analysis, and conclusions of the Biological Monitoring Program shall be submitted to the City and wildlife agencies. The report shall address findings of active/inactive nests and any recommendations for retention of active nests, removal of inactive nests, and mitigation for offsetting loss of breeding habitat.
2. The Project Applicant shall retain a San Diego County qualified archaeological monitor to monitor all ground-disturbing activities in an effort to identify any unknown archaeological resources. Any newly discovered cultural resource deposits shall be subject to cultural resources evaluation, which shall include archaeological documentation, analysis and report generation and take into account tribal customs and traditions.
3. At least 30 days prior to beginning project grading, the Project Applicant shall enter into a Cultural Resource Treatment and Monitoring Agreement (also known as a pre-excavation agreement) with a *Luiseño* Tribe. The Agreement must address the treatment of known cultural resources, the designation, responsibilities, and participation of professional Native American Tribal monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation for the monitors; and treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on site.
4. Prior to beginning project construction, the Project Archaeologist must file a pre-grading report with the City to document the proposed methodology for grading activity observation, which will be determined in consultation with the *contracted Luiseño Tribe referenced in MM-CR-3*. Said methodology shall include the requirement for a qualified archaeological monitor to be present and to have the authority to stop and redirect grading activities. In accordance with the agreement required in MM-CR-3, the archaeological monitor's authority to stop and redirect grading will be exercised in consultation the *Luiseño Native American monitor* in order to evaluate the significance of any archaeological resources discovered on the property. Tribal and archaeological monitors shall be allowed to monitor all grading, excavation, and groundbreaking activities, and shall also have the authority to stop and redirect grading activities.
5. Clearing and grubbing should include the substantial removal of vegetation, brush, grass, wood stumps, trees, tree roots greater than 1/2 inch in

diameter, and other deleterious materials from the areas to be graded. Demolition, if any, in the areas to be graded should also include the removal of building structures, foundations, reservoirs, utilities (including underground pipelines, septic tanks, leach fields, seepage pits, and cisterns, etc.) and other man-made surface and subsurface improvements. The debris generated during clearing, grubbing and/or demolition operations should be removed from areas to be graded and disposed of off-site at a legal landfill.

M. During grading activities, the following conditions shall be complied with:

1. The developer must install all approved soil nail walls and retaining walls as early as possible in order to start planting the exposed slopes with ground cover and trees per the approved landscape plan.
2. A qualified archeological monitor and a *Luiseño* Native American monitor shall be present during all earth moving and grading activities to assure that any potential cultural resources, including tribal, found during project grading are protected.
3. The landowner must relinquish ownership of all cultural resources collected during the grading monitoring program and from any previous archaeological studies or excavations on the project site to the appropriate Tribe for proper treatment and disposition per the Cultural Resources Treatment and Monitoring Agreement referenced in MM-CR-3. All cultural materials that are deemed by the Tribe to be associated with burial and/or funerary goods will be repatriated to the Most Likely Descendant as determined by the Native American Heritage Commission per California Public Resources Code Section 5097.98.
4. All sacred sites, should they be encountered within the project area, shall be avoided and preserved as the preferred mitigation, if feasible.
5. If human remains are encountered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the San Diego County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains must be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. Suspected Native American remains must be examined in the field and kept in a secure location at the site. If the San Diego County Coroner determines the remains to be Native American, the Native American Heritage Commission (NAHC) must be contacted within 24 hours. The NAHC must then immediately notify the "most likely descendant(s)" of the discovery. The most likely descendants(s) shall then make recommendations within 48 hours, and engage in consultation concerning treatment of remains as provided in Public Resources Code 5097.98.
6. If inadvertent discoveries of subsurface archaeological/cultural resources, not included human remains or associated burial goods which is addressed in MM-CR-7, are discovered during grading, the Developer,

the project archaeologist, and the Luiseño Tribe under agreement with the landowner described in MM-CR-3 must assess the significance of such resources and shall meet and confer regarding the mitigation for such resources. Pursuant to California Public Resources Code Section 21083.2(b) avoidance is the preferred method of preservation for archaeological resources. If the Developer, the project archaeologist and the Tribe cannot agree on the significance of mitigation for such resources, these issues will be presented to the Planning Director for decision. The Planning Director shall make a determination based upon the provisions of the California Environmental Quality Act with respect to archaeological resources and shall take into account the religious beliefs, customs, and practices of the Tribe. Notwithstanding any other rights available under law, the decision of the Planning Director shall be appealable to the Planning Commission and/or City Council.

- N. Prior to issuance of Building permit, the following conditions shall be complied with:
 - 1. The Final Map must be recorded.
- O. Prior to occupancy of any structure on the site, the following conditions shall be complied with:
 - 1. All open space areas, perimeter fencing, landscaping, open space improvements and recreational amenities shall be installed in accordance with approved landscape plans before the City will approve Certificates of Occupancy.
 - 2. The CC&R's must be approved and recorded. A recorded copy of the CC&R's must be provided to the City.
- P. Maintenance of common facilities, improvements and all other amenities on-site shall be the responsibility of the Homeowner's Association and held in perpetuity. Maintenance of all common areas shall be provided for in the CC&R's.
- Q. Applicant shall comply with all provisions and requirements set forth in the San Marcos Municipal Code, City ordinances, City policies and City resolutions, and with all applicable state and federal regulations, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated herein by reference and fully set forth at this point.
- R. The Applicant shall comply with all rules, regulations and design requirements of the respective sewer, water, utility, regional, federal or other approving agency regarding the installation, modification, development, improvement or protection of facilities within the project boundaries. It shall be the Applicant/Developers responsibility to determine all agencies with rights of approval for the proposed development.
- S. Undergrounding must accommodate the undergrounding of all pad mounted and pedestal equipment consistent with General Plan Goal LU 17.3. Where the underground of such equipment is not possible due to safety or lack of standards for such undergrounding, the Applicant shall provide an underground vault, in-building vault room, architecturally integrated screen wall around equipment, or other option approved by the planning division director. The Applicant shall be

responsible for acquiring all associated easements required by the utility companies for such work. The permanent placement of Vallecitos Water District's large meter services, detector checks, fire hydrants, etc., along circulation element streets shall be placed outside of the ultimate right-of-way and, if applicable, any trail easement, to avoid reconstruction or modification of the facility.

- T. This project is required to apply for a grading permit compliant with SMMC 17.32. The plans submitted for the grading activities shall conform to applicable code and applicable engineering handouts.
- U. This project is required to apply for a public improvement permit compliant with SMMC 14.16. All plans submitted for public improvements shall conform with applicable code, standards and engineering handouts, unless explicitly superseded by the conditions contain herein.
- V. The alignment and terminal point of storm drains and roadways shown on the tentative map, site plan, or other exhibit approved as part of this project shall not be considered final. These drains shall be subject to precise design considerations and approval by the City Engineer.
- W. This project shall be responsible for full compliance with the latest adopted Standard Urban Stormwater Management Plan (SUSMP), latest adopted stormwater quality permit, General Construction Permit and conditions the conditions contained herein. Changes to the project that affect the projects SUSMP or Risk Level designation shall require approval of the City Engineer and may be subject to further conditions at the time of approval.
- X. This Project shall be required to annex into the City's Community Facilities District(s) No. 98-01 (Police), 98-02 (Lighting, Landscaping, Open Space and Preserve Maintenance), 2001-01 (Fire and Paramedic), and 2011-01 (Congestion Management).
- Y. Applicant shall be responsible for bearing the costs of all grading activities, on-site and off-site improvements, labor, design, mitigation, or other costs associated with the projects' planning, engineering, construction or architecture for the project.
- Z. Prior to release of any securities, a digital copy of all as-built drawings, maps, Landscape Plans, reports, and supporting documentation (e.g. hydrology report, drainage report, geotechnical evaluations, structural reports, etc.) shall be required. All drawings and maps shall be in a Computer Aided Design file as specified by the City Engineer and shall be on the correct coordinate system. All reports and supporting documentation shall be in the media format acceptable to the City). Digital copies of documents shall not be taken in-lieu of paper copies unless approved by the City Engineer and Planning Division Director.
- AA. Prior to the release of any securities "As-Built" reproducible grading and improvement plans shall be submitted and approved by the Public Works Director and the City Engineer. "As-Built" plans shall reflect minor field changes and approved construction changes in accordance with the City's "As-Built" policy. The plan set shall also include the as-built layout for all utilities (gas, telephone, electric, television, and street lighting) as depicted on the individual utilities plan sheets.

- BB. Prior to developer turning over the landscape slopes to the Homeowners Association, the slopes must be accepted by the City pending review and approval by the City's restoration consultant.
- CC. To the extent feasible and as permitted by law, developers and contractors are requested to first consider the use of San Marcos businesses for any supplies, materials, services, and equipment needed, and the hiring of local residents in order to stimulate the San Marcos economy to the greatest extent possible.
- DD. To the extent permitted by law, applicant/developer shall defend and hold the City of San Marcos ("City"), its agents and employees harmless from liability from: (i) any and all actions, claims damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permit arising from the project as defined in the Tentative Subdivision Map; (ii) any damages, liability and/or claims of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operation of applicant/developer or its contractors, subcontractors, agents, employees or other persons acting on applicant/developer's behalf which relate to the project and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. Applicant/developer further agrees that such indemnification and hold harmless shall include all defense-related fees and costs associated with the defense of City by counsel selected by City. This indemnification shall not terminate upon expiration of the Tentative Subdivision Map, but shall survive in perpetuity.
- EE. All conditions of Resolution GPA 14-001, R 14-001, SP 14-001, MFSDP 14-001, CUP 14-016 are hereby incorporated by reference and shall be complied with.

PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, State of California, at a regular meeting thereof, this 3rd day of November 2014 by the following vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:

APPROVED:

Eric Flodine, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

Lisa Kiss, Office Specialist III
SAN MARCOS CITY PLANNING COMMISSION

RESOLUTION PC 14-4441

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A MAJOR CONDITIONAL USE PERMIT FOR A TEMPORARY ROCK CRUSHER FOR THE PROJECT LOCATED IN THE RICHLAND NEIGHBORHOOD

Case No.: CUP 14-016 (P14-0001)
The Norman SM Project Owner, LLC (Mission 316)

WHEREAS, the City of San Marcos received an application from The Norman SM Project Owner, LLC requesting approval of a Conditional Use Permit to allow the temporary crushing of onsite material for the project, located in the City of San Marcos, generally north of Mission Road between Woodward Street and Falcon Place, more particularly described as:

A portion of Lot 3 in Block 52 of the Rancho Los Vallecitos de San Marcos, in the City of San Marcos, County of San Diego, State of California, according to map thereof No. 806, filed in the office of the County Recorder of San Diego County, December 21, 1895, and, Parcel 2 of Parcel Map No. 10177, 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 said county June 27, 1980 as instrument No. 80-204014 of official records, and, A portion of Parcel B of certificate of compliance recorded September 15, 1999 as instrument No. 99-0631820, being the westerly 140.00 feet of Lot 4 in Block 52 of the Rancho Los Vallecitos de San Marcos, in the City of San Marcos, County of San Diego, State of California, according to map thereof No. 806, filed in the recorder's office of said county on December 21, 1895. Assessor's Parcel No.: 220-210-10, 41, & 46

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

WHEREAS, the Planning Commission did consider a Mitigated Negative Declaration (ND #14-007) for this project pursuant to CEQA as well as the supplemental traffic, noise, and air quality analyses of the minor changes to the construction activities, including the temporary crushing operation; and

WHEREAS the required public hearing held on November 3, 2014 was duly noticed and held in the manner prescribed by law; and

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

1. The proposed Conditional Use Permit, together with the proposed staff conditions of approval, is consistent with the policies and intent of the Heart of the City Specific Plan and General Plan in that the proposed debris crushing operation will allow for the reuse of graded material on-site to create buildable pads on site establishment of buildable pads that will provide a variety of housing type to serve the City of San Marcos housing market.

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2. The proposed CUP, with the proposed staff conditions, will not be detrimental to the public health, safety or welfare, the surrounding land uses in the area, in that the proposed debris crushing operation will; be set back a sufficient distance, from the adjacent residential to the north and northeast is significantly below the grade of the adjacent residential neighborhood. The placement of the rock crushing equipment will be required for the crusher to break line of site from the crusher to nearby residences to ensure noise at the adjacent residential dwelling units will not exceed 60 dBA at the property line. Also, allowing the crusher on site will reduce construction truck trips on the City streets to and from the site, as well as the duration of the construction phase.

NOW, THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. The supplemental traffic, noise, and air quality analyses show that minor changes to the construction activities, including the temporary crushing operation, will not result in any significant impacts or otherwise contradict the conclusions in Mitigated Negative Declaration (ND #14-007), and such Mitigated Negative Declaration remains the appropriate CEQA clearance for the proposed project, and the subject CUP, is hereby approved.
- C. The CUP is hereby approved subject to the following conditions:
 1. Prior to reliance on the CUP and operation of the rock crushing, the following conditions shall be complied with:
 - a. The applicant shall post cash securities to the City of San Marcos, in amounts approved by the City Attorney and the City Engineer or their designees to cover cost of any potential damage resulting from the debris crushing activities.
 - b. The applicant 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.
 - c. The City of San Marcos is located in Seismic Design Category "D". All demolition activities shall adequately address the transmission and dynamic lateral forces in accordance with the requirements of the latest adopted California Building Code.
 - d. The applicant 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. City approval is required for hauling of building materials on City streets. The haul route shall be established per City's direction. Truck traffic shall be limited to off peak hours on arterial streets.
- f. The applicant shall incorporate rock crushing activities into the Storm Water Pollution Prevention Plan (SWPPP), on file at the City to include the debris crushing operation for the project.
- g. An operational noise test shall be performed with the results submitted to the Planning Division to verify noise levels are consistent with those indicated in the noise report.
- h. At least 30 days prior to project grading, the Project Applicant shall enter into a member Cultural Resource Treatment and Monitoring Agreement (also known as a pre-excavation agreement) with a member of the Luiseño Tribe. The Agreement shall address the treatment of known cultural resources, the designation, responsibilities, and participation of professional Native American Tribal monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation for the monitors; and treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on site.
- i. Prior to beginning project construction, the Project Archaeologist shall file a pre-grading report with the City to document the proposed methodology for grading activity observation, which will be determined in consultation with the contracted Luiseño Tribe referenced in MM-CR-3. Said methodology shall include the requirement for a qualified archaeological monitor to be present and to have the authority to stop and redirect grading activities. In accordance with the agreement required in MM-CR-3, the archaeological monitor's authority to stop and redirect grading will be exercised in consultation the Luiseño Native American monitor in order to evaluate the significance of any archaeological resources discovered on the property. Tribal and archaeological monitors shall be allowed to monitor all grading, excavation, and groundbreaking activities, and shall also have the authority to stop and redirect grading activities.
- j. Noise mitigation will be required for the crusher to break line of site from the crusher to nearby residences. Shielding can be achieved through an earthen berm, 5/8-inch plywood, 1-inch acoustical blankets, or a combination of these strategies. Earthen berm and/or plywood shall be one to two feet above the top of the crushing equipment to break line-of-site between the crusher and off-site residences. The reductions shall achieve 60 dBA Leq. Noise measurements shall be conducted once the crusher is in place and noise mitigation is implemented to ensure the 60 dBA Leq

requirement is met. noise levels are found to be above the established thresholds of 60 dBA at any existing single family residential use, 65 dBA for any multifamily use or 70 dBA at a commercial use then additional mitigation in the form of higher barriers, sound absorbing materials or operational limits on the crushers usage will need to be incorporated to meet the required thresholds.

2. During the operation of the rock crusher, the following conditions shall be complied with:
 - a. The applicant/developer shall not create dust clouds that are visible beyond the property line and that a sign be posted that contains both the name and phone number of the contractor and builder representative for dust control complaints, as well as for the San Diego County APCD to send an inspector in case of violations of the opacity regulation.
 - b. The applicant 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.
 - c. The rock crusher shall contain an operating water spray system to maintain adequate moisture on both the raw material feed and finished material discharge.
 - d. The applicant shall comply with all requirements of the San Marcos Fire Department including the following:
 - (i) A minimum of 24-foot wide roadway must be provided for emergency access to the rock processing equipment.
 - (ii) Adequate fire truck turn-around area must be provided, to the satisfaction of the San Marcos Fire Department.
 - (iii) A permit shall be obtained from the San Marcos Fire Department for the storage of any flammable liquid material.
 - e. The applicant shall obtain any required OSHA permits in accordance with the California Code of Regulations, Title 8, Section 1503.
 - f. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented during rock crushing operation.
 - g. The construction contractor shall be required to implement a SWPPP and any amendments thereafter. The SWPPP shall include site-specific best management practices (BMPs) such as sand bagging to prevent siltation of surface runoff from stockpile of all material.
 - h. During the debris crushing operation, 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 Regulations, Title 8, Section 5155. Water and dust palliative shall be used to prevent excessive dust.

- i. The applicant 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.
 - j. No rock or additional construction debris material shall be imported from off-site to be processed by the debris crusher.
 - k. No sale for export of debris crushed construction material shall be allowed from the site.
3. The applicant shall comply with all City ordinances and regulations applicable to the rock crushing operations authorized by the CUP, except that the conditions of this CUP shall apply if they are deemed more restrictive than those contained in the City ordinances and regulations.
4. 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.
5. The applicant/building/contractor shall obtain the required OSHA permits for blasting, construction, demolition, excavation, grading operations, rock drilling and construction of buildings in accordance with the California Code of Regulations, Title 8, Section 1503.
6. The applicant shall obtain all necessary permits from the San Diego Air Pollution Control District ("APCD") and comply with proper equipment and operating regulations and procedures, including:
- a. Water sprayed on unpaved roads, parking areas, and staging areas two 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.

- d. The applicant shall also file copies of said permits (and all related conditions) to the Planning Division.

The applicant shall ensure that:

- (i) The rock crushing equipment shall be equipped with a mister or water suppression device.
- (ii) Corrugated shaker plates shall be installed at all entrance/exit points.
- (iii) All trucks hauling debris offsite shall be covered with a tarp or canvas.
- (iv) All activities associated with grading, stockpiling of material and demolition activities shall suppress potential dust with water trucks.

- D. If the developer is relying on blasting as part of this operation, the following conditions shall be complied with:

1. The general contractor or property owner/developer shall give reasonable notice in writing at the time of issuance of a building permit, grading permit or encroachment license to all residences or businesses within 600 feet of any potential blast location. The notice shall be in a form approved by the Building Director. Any resident or business receiving such notice may request of the Building Director that a notice of impending blasting be given by the blaster at the time of the 12 hour advance notice given to the Building Director. The general contractor or property owner/developer shall make all reasonable efforts to contact any and all parties requesting the second notice.
2. The blaster shall file a written certification with the Building Director certifying that the general notice required by Section 17.60.060(b) has been given. The certificate shall include addresses and date(s) of notification. A copy shall be retained on file at the Building Division.
3. Inspections of all structures within 300 feet of the blast site shall be made before blasting operations. The persons inspecting shall obtain the permission of the building owner to conduct an inspection. The inspections shall be done by a registered structural engineer employed by the blaster or project contractor. The inspection shall be only for the purpose of determining the existence of any visible or reasonably recognizable pre-existing defects or damages in any structure. Inspection refusal shall be at the discretion of the property owner.
4. Blasting shall only be permitted between the hours of 9:00 a.m. and 4:00 p.m. during any weekday, Monday through Friday, exclusive of City recognized holidays unless special circumstances warrant another time or day and special approval is granted by the Building Director and Fire Chief.

- E. This Conditional Use Permit shall become null and void if not acted upon within twelve (12) months of the adoption of this resolution.
- F. The applicant shall ensure that the grading and other construction activities meet the provisions specified in the State RWQCB 2009-0009-DWQ, NPDES General Permit No. CAS 000002.
- G. 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.
- H. No rock crushing work shall be conducted on Sundays or holidays observed by the City of San Marcos. Failure to comply with 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.
- I. 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.
- J. The applicant shall comply with all relevant sections of the San Marcos Municipal Code.
- 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, and equipment needed, and the hiring of local residents in order to stimulate the San Marcos economy to the greatest extent possible.
- L. To the extent permitted by law, applicant/developer shall defend and hold the City of San Marcos ("City"), its agents and employees harmless from liability from: (i) any and all actions, claims damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permit arising from the project as defined in the Conditional Use Permit; (ii) any damages, liability and/or claims of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operation of applicant/developer or its contractors, subcontractors, agents, employees or other persons acting on applicant/developer's behalf which relate to the project and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. Applicant/developer further agrees that such indemnification and hold harmless shall include all defense-related fees and costs associated with the defense of City by counsel selected by City. This indemnification shall not terminate upon expiration of the Conditional Use Permit, but shall survive in perpetuity.

November 3, 2014

- M. All conditions of Resolutions GPA 14-001, R 14-001, MFSDP 14-001, TSM 14-001 and Ordinance SP 14-001 are hereby incorporated by reference and shall be complied with.

PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, State of California, at a regular meeting thereof, this 3rd day of November 2014, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Eric Flodine, Chairman

SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

Lisa Kiss, Office Specialist III

SAN MARCOS CITY PLANNING COMMISSION