

RESOLUTION NO. 2019-XXXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS APPROVING A VARIANCE TO ALLOW A REDUCTION OF THE SPECIAL SETBACKS FOR GENERAL PLAN ROUTES FOR A TWENTY-FOUR (24) UNIT RESIDENTIAL CONDOMINIUM DEVELOPMENT IN THE MULTIFAMILY RESIDENTIAL 3 (R-3-10) ZONE

V 18-0001

Hall Land Company, Inc.

WHEREAS, on May 22, 2018, the City received an application from Hall Land Company, Inc. requesting a Variance to allow a reduction of the special setbacks for General Plan routes for a twenty-four (24) residential condominium townhome development on a 1.52-acre (1.48-acre net) site located at 1210 E. Mission Road of the Multifamily Residential 3 (R-3-10) Zone in the Richland Neighborhood more particularly described as:

Brief Legal Description: Parcel A of Parcel Map No. 6024, filed in the Office of the County Recorder of San Diego County on June 8, 1977, being a division of a portion of lots 1, 2, and 4 in block 3 of Bennett Orchard Estates, Unit No. 1, in the City of San Marcos, in the County of San Diego, State of California, According to Map thereof No. 2065, filed in the Office of the County Recorder of San Diego County, on October 17, 1927.

Assessor's Parcel Number(s): 226-071-07-00; and

WHEREAS, the Variance is being requested to reduce the building setback along E. Mission Road from eighty-six (86) feet from centerline to seventy (70) feet from centerline of the street; and

WHEREAS, the Variance is being requested in conjunction with a General Plan Amendment (GPA18-0003) to change the land use from "Neighborhood Commercial (NC)" to "Medium Density Residential 2 (MDR2)"; a Rezone (R 18-0003) to change the zone from Neighborhood Commercial (N-C) to Multifamily Residential 3 (R-3-10); a Tentative Subdivision Map (TSM 18-0002) to dedicate right-of-way and create twenty-four (24) condominium units; and a Multifamily Site Development Plan (MFSDP 18-0002) which will guide the orderly development on the project site; and

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

WHEREAS, on February 21, 2019, the City held a public workshop to provide an informational overview of the proposed project to the general public; and

WHEREAS, on June 3, 2019, the San Marcos Planning Commission held a duly noticed public hearing and recommended approval of said request and Mitigated Negative Declaration (ND 18-004 and SCH No. 2019011064) as the appropriate environmental document for said request to the City Council by a 6-0 vote, in favor; and

WHEREAS, on July 9, 2019, the City Council held a duly noticed public hearing in the manner prescribed by law to consider said request; and

WHEREAS, the City Council did review and consider Mitigated Negative Declaration (ND18-004 and SCH No. 2019011064) for said request pursuant to the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, the City Council does hereby resolve as follows:

- A. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Resolution.
- B. The City Council 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 General Plan Amendment (GPA 18-0003), Rezone (R 18-0003), Tentative Subdivision Map (TSM 18-0002), and Multifamily Site Development Plan (MFSDP 18-0002) and all conditions of approval specified in Resolution No. 2019-XXXX (GPA 18-0003), Ordinance No. 2019-XXXX (R 18-0003), Resolution No. 2019-XXXX (TSM 18-0002), and Resolution No. 2019-XXXX (MFSDP 18-0002), respectively, which documents are incorporated herein by this reference; and the mitigation measures in adopted Mitigated Negative Declaration (ND18-004 and SCH No. 2019011064) 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 City Council'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 a dedication of four (4) feet of right-of-way to Avenida Chapala along the project frontage and the presence of a water and sewer easement that bisect the project site create a unique set of challenges for the site. These challenges are compounded by the larger footprints of the 2-story units proposed by the applicant to match the surrounding neighborhood scale. As a result, the applicant has requested a reduction of the building setback for E. Mission Road from eighty-six (86) feet to seventy (70) feet from centerline. The reduced setback would be consistent with other developments on E. Mission Road in the vicinity of the project. In addition, E. Mission Road is designated as a 4-lane arterial by the General Plan Circulation Element and has already been developed to the necessary width, with no need for the 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 the commercial shopping center and former use of the site as commercial allowed parking areas to cover the easement which did not result in the loss of use of the area encumbered by the easement. Additionally, development in the vicinity of

the project has been granted a variance to special setbacks requirements and approval of this variance would allow the project to be developed consistent with other development in the vicinity of the project, on E. Mission Road.

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 other setbacks of other multifamily developments in the vicinity and the project will meet all California Building Code requirements for interior residential noise standards.
 4. The granting of the Variance will not adversely affect the implementation of the General Plan for the Richland Neighborhood, in that the Circulation Element of the General Plan has identified this segment of E. Mission Road between Woodland Parkway and the City of Escondido as a four (4) lane arterial with enhanced bicycle lanes, which is existing and no further acquisition of right-of-way is necessary.
 5. Compliance with the conditions of approval specified in Resolution Numbers 2019-XXXX (TSM 18-0002) and 2019-XXXX (MFSDP 18-0002), 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 noise study was conducted and impacts were evaluated in the Mitigated Negative Declaration (ND18-004) and the project will include a six (6) foot block wall along E. Mission Road to reduce noise and include building features, such as dual pane windows, to reduce noise impacts.
- E. This Variance is within the scope of Mitigated Negative Declaration (ND18-004 and SCH No. 2019011064) and the mitigation monitoring and reporting program, and both are hereby adopted 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 City Council of the City of San Marcos, California, at a regular meeting thereof, held on this 9th day of July, 2019, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

Rebecca D. Jones, Mayor

ATTEST:

Phillip Scollick, City Clerk

Attachment(s):

Exhibit A - Variance Exhibit

