

RESOLUTION PC 25-5186

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A CONDITIONAL USE PERMIT TO ALLOW THE CONVERSION OF COMMERCIAL SPACE FOR TEN (10) RESIDENTIAL APARTMENT UNITS ON THE GROUND FLOOR OF AN EXISTING MIXED-USE BUILDING IN THE SPECIFIC PLAN AREA (SPA) ZONE

CUP 24-0001
MG Properties

WHEREAS, on January 14, 2024, the City received an application from MG Properties requesting a Conditional Use Permit to allow for the conversion of commercial space for ten (10) residential apartment units on the ground floor of an existing mixed-use building located at 1045 Armorlite Drive in the Davia Village-Marc Specific Plan Area of the Specific Plan Area (SPA) Zone in the Business/Industrial District more particularly described as:

Brief Legal Description: PARCELS 1, 2 AND 3 OF PARCEL MAP NO. 21282, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS SHOWN ON MAP FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 01, 2015 AS FILE 2015-7000387 OFFICIAL RECORDS

Assessor's Parcel Number(s): 219-163-62-00, 219-163-63-00 and 219-163-64-00; and

WHEREAS, on January 14, 2014, the City Council approved Multifamily Site Development Plan (Resolution 2014-7872) in conjunction with a General Plan Amendment (Resolution 2014-7871), Specific Plan (Ordinance 2014-1387), Rezone (Ordinance 2014-1386) and Site Development Plan (Resolution 2014-7873); and

WHEREAS, a Mitigated Negative Declaration (MND 13-003); State Clearinghouse No. 2013061059 was also certified and adopted by the City Council; and

WHEREAS, on March 19, 2018 the City Council approved an addendum to the previously adopted mitigated negative declaration and modification of a multifamily site development plan (Resolution 2019-8610) to remove conditions imposing a fee triggered by certain resident occupancy levels within the Davia Village-Marc Specific Plan; and

WHEREAS, the Conditional Use Permit is being requested in conjunction with a Specific Plan Amendment (SP24-0002) of the Davia Village-Marc Specific Plan to allow the temporary conversion of the commercial space to residential use, in order to address vacant commercial suites. Minor adjustments to uses of certain commercial suites to be converted to residential units

are being requested to improve the project site's overall performance and address vacant commercial suites. Specifically, the requested amendments are to allow the conversion of ten (10) commercial suites to ten (10) residential units, located on the ground floor of Building 6 for a total conversion of 13,500 square feet as shown on submitted project plans attached to this resolution as Attachment B. The project modification will result in a total of 426 units, with 3,225 square feet of commercial/retail space; and

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

WHEREAS, on January 20, 2026, 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 an Addendum prepared for the previously adopted Mitigated Negative Declaration (MND 13-003) 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: Improvement Area 1, Police Only; CFD 98-02: Lighting, Landscape and Street Maintenance; CFD 2001-01: Fire and Paramedic; and CFD 2011-01: Congestion Management.

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 recommends to the City Council approval of this Conditional Use Permit per the submitted plans date stamped December 8, 2025 (conversion of 13,500 square feet of commercial space within a 175, 911 square foot building on a 5.37 acres lot) 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 recommended to the City Council for approval in conjunction with the submitted Specific Plan Amendment (SP24-0002) and all conditions of approval specified in PC 25-5183, respectively, which documents are incorporated herein by this reference; and the mitigation measures in previously adopted Mitigated Negative Declaration (MND 13-003) 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 will increase residential units within an existing mixed-use building that has been deemed compatible with the existing and future noise environment, access is controlled and staggered for residential traffic, parking demands for increased residential units will continue to be satisfied and controlled on-site through a lease agreement and Parking Management Plan. The project continues to ensure sufficient open space, parking areas, and landscaping designed to enhance the visual and physical use of the property.

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 and the character of any applicable Specific Plan, in that the proposed project will continue to operate as a mixed-use development.
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 proposed project will convert underutilized retail space to residential units within an existing mixed-use building, maintaining the overall balance of commercial and residential uses in the area while avoiding conflicts with surrounding properties and ensuring that on-site parking, access, and open space remain adequate.
4. The conditions imposed are necessary to protect the best interests of the surrounding property and neighborhood or to lessen or prevent any detrimental effect, in that the proposed project is located within a developed site which implements controlled residential access, on-site parking management, and maintenance of open space and landscaping, ensuring that the addition of residential units does not adversely affect adjacent properties or the character of the neighborhood.
5. All requirements of CEQA have been met, in that previously adopted Mitigated Negative Declaration (MND 13-003) addressed the environmental impacts of the existing mixed-use development, an Addendum was prepared to evaluate any changed conditions resulting from the conversion of commercial space for residential use. It has been determined that no substantial changes to the project, to the circumstances under which it is undertaken, or new information of substantial importance will occur that would require preparation of a subsequent MND or EIR.

E. This Conditional Use Permit is within the scope of the Addendum to Mitigated Negative Declaration (ND 13-003) (SCH No. 2013061059) and the mitigation monitoring and reporting program, and both are hereby recommended to the City Council for adoption pursuant to CEQA.

- F. This Conditional Use Permit shall become null and void if not acted upon within twelve (12) months of the adoption of this resolution, or the approved use ceases to operate at the subject property for a period more than twelve (12) months.
- G. This Conditional Use Permit shall expire on February 2, 2036. Any request for permit extension shall be applied for by the permittee no later than 120 days prior to the expiration date.
- 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, Davia Village-Marc Specific Plan, 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 2nd day of February, 2026, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Fatima Guerrero, Chairperson

ATTEST:

Song LeBaron, Senior Management Analysis

ATTACHMENT(S):

EXHIBIT A – Conditions of Approval

EXHIBIT A
RESOLUTION PC 25-5186
CUP24-0001
Conditions of Approval

A. Reliance on this Conditional Use Permit shall comply with the following operational standards:

1. Operation of the facility is not allowed on site until occupancy has been approved by the Building Division.
2. The applicant/developer shall maintain a City Business License for the duration of the business operations.
3. 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.
4. 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.
5. 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.
6. The building address and suite number must be clearly labeled at the front and rear doors for day- and night-time emergency responses. In addition, adequate lighting must be provided to deter potential criminal activities (i.e.: vehicle burglaries, prowlers, loitering, etc.).
7. A separate permit will be required for any new signage, including temporary signs. Signage must comply with the approved Marc San Marcos Comprehensive Sign Program. Portable signs (i.e.: A-frame, T-frame, etc.) are prohibited on or off site.
8. 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.
9. 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.

- B. Any modifications, alterations, expansions or other changes must require the modification to this Conditional Use Permit and may necessitate the issuance of Building Permits and reissuance of a Certificate of Occupancy from the Building Division.
- C. Prior to issuance of any building permit, the applicant/developer shall comply with the following conditions:
 - 1. The applicant/developer must obtain written approval from the Planning Division that the modifications proposed under any Building Permit will be in substantial conformance with this adopted Conditional Use Permit.
 - 2. Tenants are required to obtain written permission from the building owner, or owner's agent, prior to obtaining a building permit from the city. Per SMMC Section 17.08.030 (Section 105.10), the tenant must obtain written permission from the building or property owner that the applicant/developer is authorized to proceed with the proposed construction.
 - 3. 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 Manager. 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.
 - 4. The applicant/developer shall submit a parking management plan to the Planning Division for review and approval. The Parking Management Plan shall account for the applicable parking standards for the ten (10) new residential units created through the conversion of existing retail space and shall identify how existing on-site parking spaces, previously required for retail use, will be reassigned and managed to serve the new residential units without reducing overall parking availability. The plan must also continue to ensure sufficient funding and procedures to implement and administer parking controls, including, but not limited to: limited access to resident parking spaces located below buildings; vehicle registration for all residents; monitoring and enforcement of parking restrictions within the development; and active administration of parking policies. The plan shall include a parking sticker program limiting parking to a maximum of two (2) resident parking stickers per unit and regulating guest parking so that the total number of vehicles does not exceed available parking capacity. Strict enforcement measures shall be included, including towing vehicles without valid parking stickers and daily on-site security patrols. Storage of any items other than a registered vehicle shall be prohibited within garage areas. The Parking Management Plan shall be monitored and enforced by an on-site resident property manager, who shall be required to: maintain accurate records of all occupants and registered vehicles; designate and monitor all parking space assignments for each

tenant; and coordinate with local law enforcement for parking violations and towing as necessary.

5. Remodeled structures and/or tenant improvements must be designed to conform to the latest design standards adopted by the State of California in the California Building Code, Part 2, Title 24, California Code of Regulations.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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 building permit.
11. 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.
12. 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.

13. Applicant shall have an acoustical consultant generate a document to confirm that interior noise levels of new units do not exceed 45 dB(A). If deemed necessary, a noise analysis shall be done to verify units meet City standards for indoor areas and patios.

D. During the construction phase, the applicant/developer shall comply with the following conditions:

1. 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.
2. 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.
3. 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.

E. Prior to occupancy, the applicant/developer shall comply with the following conditions:

1. Prior to a final inspection or issuance of a Certificate of Occupancy, the proposed development must satisfy the conditions of approval prior to the occupancy. The applicant/developer must obtain approval from all City departments and other agencies before requesting a Certificate of Occupancy from the Development Services Department.
2. 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 Manager.

F. All residential lease agreements for the ten (10) residential units created through the conversion of existing retail space shall be expressly conditioned to terminate upon expiration of the associated Conditional Use Permit and shall not extend beyond the ten (10)-year term of the permit. This condition shall apply to all initial and renewal leases, except where State or federal housing laws require a longer term or otherwise prohibit such limitation.

1. Upon expiration or revocation of this Conditional Use Permit, the residential use of the ten (10) converted units shall cease unless otherwise authorized by a new discretionary approval. The applicant/property owner shall comply with all City requirements in effect at that time regarding discontinuation or conversion of the use.
2. The property owner shall provide written disclosure to all tenants of the ten (10) converted residential units stating that the units are approved pursuant to a time-limited Conditional Use Permit scheduled to expire ten (10) years from the effective date of approval. Proof of such disclosure shall be provided to the Planning Division upon request.
3. Residential conversion under this Conditional Use Permit is limited to a maximum of ten (10) dwelling units. Any increase in the number of residential units shall require approval of a modification to this Conditional Use Permit.
4. Short-term rentals, including rentals of fewer than thirty (30) consecutive days, are prohibited within the ten (10) converted residential units.