

RESOLUTION NO. 2025-9451

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS APPROVING A CONDITIONAL USE PERMIT FOR A CONDITIONAL USE PERMIT FOR THE TEMPORARY USE OF A ROCK CRUSHER DURING GRADING OPERATIONS WITHIN THE ARMORLITE LOFTS SPECIFIC PLAN AREA (SPA) ZONE

CUP 23-0002

Avenue Development Partners, LLC.

WHEREAS, on June 15, 2023, the City received an application from Avenue Development Partners, LLC. requesting a Conditional Use Permit to allow for the temporary use of a rock crusher during grading operations on a 2.44-acre site located on the north side of Armorlite Drive (the Conditional Use Permit), approximately 180 feet east of Las Posas Road, in the Business/Industrial District, more particularly described as:

Brief Legal Description: Lot B in the City of San Marcos, County of San Diego, State of California, according to Parcel Map Thereof No. 21967, filed in the Office of the County Recorder of San Diego County, September 15, 2022.

Assessor's Parcel Number(s): 219-162-62-00; and

WHEREAS, the Conditional Use Permit is being requested in conjunction with a General Plan Amendment (GPA23-0003) to change the General Plan land use designation of the project site from Public Institutional (PI) to Specific Plan Area (SPA), a Rezone (R23-0001) to change the zoning of the project site from Public Institutional (P-I) to Specific Plan Area (SPA), a Specific Plan (SP23-0001) adopting the Armorlite Specific Plan, and a Site Development Plan (SDP 23-0003) for the orderly development of the site in conformance with the Armorlite Specific Plan; and

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

WHEREAS, on February 15, 2024, the City held a joint public workshop-CEQA Scoping meeting to provide an informational overview of the proposed project to the general public per the Notice of Preparation (NOP) and in accordance with CEQA Section 15083; and

WHEREAS, on May 19, 2025, the San Marcos Planning Commission held a duly noticed public hearing and recommended approval of said request and the appropriate environmental document for said request to the City Council by a 7-0 vote, in favor; and

WHEREAS, on June 24, 2025, 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 an Environmental Impact Report (EIR) 24-003 (SCH No. 2024020372) 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 Conditional Use Permit for a temporary rock crusher per the submitted plans date stamped Civil Plans dated November 14, 2024 (165 residential unit mixed-use building with 5,600 square feet of commercial on a 2.44-acre 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 General Plan Amendment (GPA23-0002), Rezone (R23-0001), Specific Plan (SPA23-0001), Site Development Plan (SDP23-0003), and Conditional Use Permit (CUP23-0002) and all conditions of approval specified in Resolution and Ordinance Numbers 2025-1560, 2025-9449, 2025-1561, and 2025-9450, respectively, which documents are incorporated herein by this reference; and the mitigation measures in Environmental Impact Report (EIR) 24-003 (SCH No. 2024020372), Resolution No. 2025-9448, 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. 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 incorporates construction design features, and project mitigation to occlude and shield construction noise emission between said equipment and the noise-sensitive receptor(s) of concern.
 - 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 temporary rock crushing operations would allow the grading of the building pad, walls, and internal driveways consistent with the established Armorlite Lofts Specific Plan Area (SPA) designation. As a result, the project will be consistent with its goals and policies.
 - 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 temporary rock crushing will be located approximately 210 feet of a multi-family residential use or within 160 feet of a commercial use without shielding. In addition, conditions are imposed to protect the best interest of the surrounding property and neighborhood to lessen or prevent any detrimental effects from the rock crushing. The project will be required to construct a noise barrier, earth berms, absorbing materials and specific operational limits will be imposed, while on-site acoustical monitoring and measurements will be required to ensure compliance with the City's noise thresholds.
 - 4. All requirements of CEQA have been met, in that an Environmental Impact Report (EIR) 24-003 (SCH No. 2024020372) has been prepared for the proposed project,

and all potential impacts related to biological resources, cultural resources, noise, and tribal cultural resources, will be mitigated to a level less than significant.

5. Further operations will be monitored to assure applicable noise thresholds at adjacent noise sensitive receptors are not being exceeded and along with operational limits incorporated into the Conditional Use Permit Conditions of Approval.
- E. This Conditional Use Permit is within the scope of the Environmental Impact Report (FEIR21-001) (SCH No. 2021040009) and the mitigation monitoring and reporting program, and both are hereby certified pursuant to CEQA.
- F. Within thirty (30) days of the approval of the Conditional Use Permit (CUP) 23-0002 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 No. 2025-9451." 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. 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 as authorized by the Armorlite Lofts 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.
- I. 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.
- J. 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 24th day of June, 2025, 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 – Conditions of Approval

EXHIBIT A
RESOLUTION NO. PC 25-5158
CUP23-0002
Conditions of Approval

A. Prior to reliance on this Conditional Use Permit, the applicant/developer shall comply with the following conditions:

1. A maximum of one (1) rock crusher shall be permitted to operate on site.
2. The project applicant or contractor shall provide the final location and rock crusher type to the Planning Division. If the rock crusher is shown to be located within 210 feet of a multi-family residential use or within 160 feet of a commercial use without shielding, an acoustical engineer shall prepare a noise assessment to determine whether noise levels would be above the applied threshold of 65 dBA Leq for multi-family residential use and 70 dBA Leq for commercial use.

If the rock crushing noise assessment determines noise levels at the affected property lines would exceed the standards, the acoustical engineer shall develop a mitigation plan to reduced noise levels to 65 dBA at any existing multi-family use and 70 dBA at an existing commercial use. Mitigation may include sound barriers, sound absorbing materials and/or operational limits on the crusher equipment's usage. The mitigation plan shall be submitted to the Planning Division and implemented by the contractor. (MM-N-2)

3. The project should utilize construction equipment with an engine designation of EPA Tier 2 or better. All rock crushing equipment should maintain applicable misting systems to eliminate fugitive dust generation. Construction equipment operating onsite shall be equipped with two to four degree engine timing retard or pre-combustion chamber engines (estimated 20% reduction in total emissions with retarded ignition timing and pre-combustion chamber).
4. The applicant/developer shall submit any necessary permit applications to the San Diego Air Pollution Control District ("APCD") for compliance with proper equipment and operating regulations and procedures. Project-related rock crushing and power generation equipment may be subject to requirements for an air quality permit, specifically an Authority to Construct and Permit to Operate, with permit conditions to ensure compliance with air-related regulatory requirements. However, depending on the project characteristics and the length of time the equipment will be located on the project site, equipment with a Certificate of Registration pursuant to the California Air Resources Board Portable Equipment Registration Program or APCD Rule 12.1 (Portable Equipment Registration) may be used in lieu of permitting. All required permits shall be readily available at the construction trailer upon request by the agency inspectors.
5. The applicant/developer shall submit a copy of all APCD permits (and all related conditions) to the Planning Division.
6. The applicant/developer shall be responsible to comply with the mitigation monitoring and reporting program per the Final Environmental Impact Report

(FEIR21-001) (State Clearinghouse No. 2021040009) prepared for the Hallmark-Barham Specific Plan project.

7. If phasing is proposed, a construction phasing plan shall be submitted for all phases requiring crushing activities. The phasing plan shall be submitted and approved by the City Engineer and Planning Division Director. The phasing plan may be subject to further conditions.
 8. The applicant/developer shall provide proof to the City that adequate construction parking, through submittal of a construction parking plan, is provided off-street. Said construction parking plan shall be to the satisfaction of the City.
 9. The applicant/developer shall post cash securities to the City of San Marcos, in the amounts approved by the City Attorney and the City Engineer or their designees to cover cost of any potential damage resulting from the rock and/or debris crushing activities.
- B. Prior to operation of the temporary rock crushing equipment, the following conditions shall apply:
1. A grading permit shall be issued on the project site prior to operation of the temporary portable rock crusher.
 2. The applicant/developer shall submit a certificate of insurance and endorsements thereon satisfactory to the City Attorney for Commercial General Liability insurance coverage, with products/completed operations coverage, such insurance to be primary and without contribution from City's insurance, and shall include a waiver of subrogation rights as against additional insured's, naming the City of San Marcos and the San Marcos Fire District as additional insured's for both personal injury and property damage as a result of the operation and transport of material to and from the site, and/or any activities of permittee, its employees, contractors and agents related to the reclamation process. The amount of insurance coverage shall be determined by the City Attorney and Risk Director. Cross-liability exclusions shall be prohibited and such policy and endorsements may not contain any provision which prohibits named additional insured's from paying a self-insured retention or deductible in the event of the insured's failure to do so. The liability insurance amount shall be reviewed yearly based for changes in inflation rates and/or reassessment of insurance requirements by the City Engineer and City Attorney and upgraded if deemed necessary.
 3. The applicant/developer shall post signs at visible locations along Barham Drive for the public to call if there is a complaint or issue related to the rock crushing operation.
 4. All rock and/or debris shall be disposed of off-site, in accordance with current local, state, and federal disposal regulations. When rock and or debris is removed, care shall be taken to look for potential hidden hazardous materials within the piles. Should hazardous materials be identified, disposal shall be in accordance with all federal and state regulations.
 5. The applicant/developer shall submit a copy of the APCD "Authority to Construct."

The permittee shall submit a copy of the APCD "Permit to Operate." All APCD Authority to Construct" and "Permit to Operate" conditions of approval are hereby incorporated by reference and shall be on file with the conditions of approval.

6. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and implemented during crushing operations.
 7. If a rock drill is proposed within 160 feet of any occupied noise sensitive land use, a noise mitigation plan based upon the location of the construction equipment, topography and construction schedule shall be prepared by an acoustical engineer. If noise levels are determined to exceed City's noise threshold of 60 dBA at any existing sensitive receptor, a mitigation plan shall be developed that may include a temporary noise barrier along any property line where the impacts could occur. A barrier ranging from 8 to 12 feet in height may be needed. The proposed noise barrier shall be of solid non-gapping material to adequately reduce construction noise levels below the noise threshold. The mitigation plan may also incorporate the usage of the equipment (amount of time used and/or the location in respect to the property line). The mitigation plan shall determine the final height and location of a temporary barrier if one is necessary. The final mitigation design shall be reviewed and approved by the Planning Division Director.
- C. During the operation of the rock crushing equipment, the following conditions shall apply:
1. All contractors shall adhere to the San Diego Air Pollution Control District rules and regulations.
 2. The application of water or other means of dust control shall be performed to the satisfaction of the Engineering 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.
 3. Fugitive dust shall be controlled as required by the latest adopted Air Pollution Control District fugitive dust restrictions.
 4. The applicant/developer shall submit a dust report that identifies mitigation measure to prevent dust generated by rock crushing, grading and blasting from affecting adjacent properties. The report shall include the supervision of operations when wind speeds will carry dust to adjacent roadways and surrounding properties.
 5. The applicant/developer shall comply with all requirements from the San Marcos Fire District and the City of San Marcos Building Division.
 6. Weed, natural brush and other combustible vegetation shall be kept in an abated state at all times on site and adjacent to existing residential.
 7. The applicant/developer shall submit and obtain approval from the Engineering Official for dust mitigation measures. The applicant/developer shall submit a dust

mitigation program to the Engineering Official for approval. Access road shall be watered as often as required to keep the access road from drying and generating dust during the grading process.

8. All construction operations authorized by grading permits, including the delivery, setup, and use of equipment shall be conducted on premises during the hours of 7:00 AM to 4:30 PM on Monday through Friday. No work shall be conducted on weekends or holidays observed by the City of San Marcos. Failure to comply with result in the issuance of citations. Citations required a mandatory court appearance in North County Superior Court and courts costs up to \$1,000 per offense. Repeat violations will result in suspension of all work on premises until the City determines that appropriate measures are in place to insure that hours of work violations will not occur.
9. The use of the rock crusher shall be limited to 7:00 AM to 4:30 PM on Monday through Friday. No work shall be conducted on weekends or holidays observed by the City of San Marcos. Hours of operation for the rock crusher may be further restricted by the City, if necessary to mitigate noise impacts pursuant to condition of approval A(2) of this resolution.
10. The applicant/developer shall cover all equipment surface areas with a rubberized material impacted by rock impact, except for the metal deck screens.
11. All hydraulic breaking of oversized materials requiring to be sized for processing through the crushing equipment shall be processed within an earthen berm and line of sight improvements to attenuate noise.
12. Upon field verification, once all temporary rock crushing equipment is set in place, additional screening may be deemed necessary by the Planning Division Director.
13. The rock crusher shall have an automatic operating water spray system to maintain adequate moisture on raw material feed and finished material discharge. Adjustments to the spraying system may be deemed necessary by the Public Works Inspector to effectively reduce dust.
14. During the operation of the temporary rock crusher, 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/builder representative for dust control, as well as for the San Diego County APCD to send an inspector in case of violations of the opacity regulation.
15. Any required noise barriers shall remain in place for the entire time frame that the temporary rock crusher and material separator is in operation to attenuate the noise. At the appropriate time, barriers will be removed concurrently with the rock crusher and the material separator.
16. The applicant/developer shall be responsible for conducting the temporary rock crusher 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.

17. No rock material shall be imported from outside the area covered by the grading permit "Project Area" to be processed by the rock crusher.
 18. The applicant/developer is prohibited from selling any crushed material from this site.
 19. A permit shall be obtained from the San Marcos Fire Department for the storage of any flammable liquid material. An all-weather access road shall be constructed to the storage location to the satisfaction of the Fire Marshal.
 20. The applicant/developer shall obtain any required OSHA permits in accordance with the California Code of Regulations, Title 8, Section 1503.
 21. The applicant/developer 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.
 22. The permitted uses shall be conducted in such a manner as not to become detrimental; for reasons of noise, traffic, odor, or dust; to the health, safety, and general welfare of the persons residing or working in the vicinity.
 23. All maintenance and repair shall be limited to after operations up to 8:30 p.m., Monday through Friday and 11:00 a.m. to 3:00 p.m. on Saturday. Any complaints regarding excessive noise coming from the site associated with maintenance and repair shall be reviewed and investigated by the City. If it is determined necessary, the Planning Division Director shall have the authority to further reduce or eliminate the hours of maintenance and repair.
 24. The applicant/developer must comply with all conditions of approval for dust control required by the APCD permit.
- D. If the applicant/developer is relying on blasting as part of this operation, the following conditions shall be complied with:
1. The general contractor or applicant/developer shall give reasonable notice in writing at the time of issuance of a building permit, grading permit, or encroachment license to all residence or businesses within 600 feet of any potential blast location. The notice shall be in the form approved by the Building Official. Any resident or business receiving such a notice may request of the Building Official that a notice of impending blasting be given by the blaster at the time of the 12 hour advance notice given to the Building Official. The general contractor or applicant/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 Official certifying that the general notice required by Section 17.60.060(b) has been given. The certification 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 the 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 purposes 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 Official and Fire Chief.