

RESOLUTION NO. 2014 -

A RESOLUTION OF THE CITY OF SAN MARCOS CITY COUNCIL APPROVING A TENTATIVE SUBDIVISION MAP (TSM 14-001) FOR UP TO 93 CONDOMINIUM UNITS ON 8.98 ACRES IN THE MISSION 316 SPECIFIC PLAN AREA 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 recommended approval to the City Council on November 3, 2014; and

WHEREAS the required public hearing held on December 9, 2014 was duly noticed and held in the manner prescribed by law; and

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

WHEREAS, the City Council'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 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 refiling 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 mitigating the replacement of all existing trees removed due to the proposed left turning lane affected by line of sight safety distance. Applicant shall replant trees at a ratio of 3:1 with 36" box trees either within a designated area within the City's right-of-way, at a City park or payment of an in-lieu fee as determined by the City Engineer. Developer shall also be responsible for submitting a landscape design for the median which shall replace trees and removed hardscape with an acceptable planting scheme, and retrofitting/replacing all irrigation to the satisfaction of the Public Works landscape inspector.
- 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 secondary 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, secondary access.
16. Applicant shall bond for the performance of monumentation associated with the Final Map.

- 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, APPROVED AND ADOPTED by the City Council of the City of San Marcos, at a regular meeting thereof, this 9th day of December 2014, by the following roll call vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

James M. Desmond, Mayor
City of San Marcos

ATTEST:

Phil Scollick, City Clerk
City of San Marcos