

RESOLUTION PC 25-5163

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS ADOPTING A NOTICE OF EXEMPTION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND APPROVING IHM RESIDENCE VARIANCE – A VARIANCE FROM HEIGHT, SIZE, AND LOCATION REQUIREMENTS TO ALLOW THE CONSTRUCTION OF A 1,964 SQUARE FOOT TWO-STORY DETACHED ACCESSORY DWELLING UNIT WITH A GROUND FLOOR THREE CAR GARAGE, CLOSER TO THE RIGHT-OF-WAY THAN A PRIMARY DWELLING UNIT, ON A FOUR ACRE PARCEL WITHIN THE ESTATE (R-1-20) ZONE

V24-0001
Jenny Ihm

WHEREAS, on July 17, 2024, the City received an application from Jenny Ihm requesting a variance from height, size, and location requirements to allow a 1,964 square foot two-story detached accessory dwelling unit with a ground floor three-car garage, to be located 47 feet from the right-of-way and closer to the right-of-way than a primary dwelling unit on a 4-acre parcel located at 245 W. La Cienega Road of the Estate (R-1-20) Zone in the Twin Oaks Valley Neighborhood more particularly described as:

Brief Legal Description: Parcel 2 of Parcel Map No. 3691, in the City of San Marcos, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, together with a portion of Parcel 1 of said Parcel Map No. 3691, described as follows:

Beginning at the Southerly terminus of the Easterly line of said Parcel No. 1; thence North 49°02'45" West along the Southwesterly line of said Parcel No. 1 a distance of 258.73 feet; thence North 88°21'00" East 193.99 feet to the Easterly line of said Parcel No. 1 thence South 0°29'15" East along the Easterly line of said Parcel No. 1 a distance of 175.18 feet to the point of beginning.

Assessor's Parcel Number(s): 182-210-23-00; and

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

WHEREAS, on June 16, 2025, 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 a Categorical Exemption (EX25-032) pursuant to the California Environmental Quality Act (CEQA) Section 15303, Class 3 (New Construction).

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 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. The Planning Commission'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. The subject property, originally developed under Agricultural (A-1) zoning, contains a single-family residence surrounded by an existing avocado grove. On November 13, 2012, City Council approved ordinance 2012-1368 which effectively rezoned the property to the Estate (R-1-20) Zone. As a result, the property has significant physical constraints that are not commonly found on other parcels within the R-1-20 Zone. The site has an average slope ranging from 16% to 25%, which creates an overly burdensome environment and limit's feasible locations for a proposed detached ADU and accessory structure, particularly on the southern, eastern, and northeastern portions of the property. There is an existing septic system on the property, with the location of the septic field further restricting the ADU and Accessory Structure from being proposed within the rear fifty percent (50%) of the property. Additionally, an existing pool and other accessory structures are located in other feasible locations that are not closer to the right-of-way than the existing single-family residence. As a result, the only feasible location for the proposed detached accessory structure is in the northeastern portion of the lot, which is closer to the right-of-way than the existing single-family residence. To reduce grading impacts, a two-story approach combines the structure within a single footprint. The design is necessitated by the site's topography and not typically required of other parcels in the R-1-20 Zone. Additionally, under California State Government Code § 66321(b)(3), the property owner has a right to construct a 1,000 square foot ADU. The requested variance to allow the property to exceed accessory structure size requirements is applicable only to the garage portion of the proposed 2-story structure which will bring the site into closer compliance with current parking standards. Without the requested variance, the owner would be denied a reasonable and typical residential use, the ability to develop both an ADU and adequate parking, privileges broadly available to other property owners within the R-1-20

Zone. These unique and site-specific circumstances justify the granting of the requested variance.

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 properties within the Estate (R-1-20) Zone often utilize larger lot sizes to develop detached ADUs and accessory structures such as garages. In this case, the subject property is considered existing nonconforming as it does not have a garage, an essential residential feature currently required by off-street parking standards within the municipal code. The construction of a garage would be consistent with existing parking standards and typical residential development standards in the R-1-20 Zone. However, due to the property's steep topography, the location of an existing septic system, and other existing nonconforming accessory structures, the property has limited feasible building areas. These constraints effectively prevent the construction of an ADU and garage without the requested variance. To address this, the proposal of a two-story structure with the ADU located above the garage, optimizes the use of limited buildable area and reduces the need for additional grading or disturbance of undeveloped land. Additionally, because the lot is large and existing accessory structures are already located behind the home, the added square footage of the proposed structure will not result in the appearance of overdevelopment. Without the variance, the property cannot reasonably accommodate both a garage and an ADU, both commonly found on R-1-20 zoned parcels, resulting in an inequitable application of zoning standards. Granting of the variance ensures the property owner is afforded the same reasonable residential development opportunities enjoyed by others in the same zone.
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 two-story ADU and three-car garage will be located outside of all required setbacks, and will be constructed in compliance with all building and fire code safety standards. In addition, the detached three-car garage will bring the existing primary dwelling unit further into compliance with off-street parking requirements as the single-family residence was originally constructed without a garage. The two-story design also limits the construction area under one footprint, which significantly reduces the total square footage area to be disturbed by construction.
4. The granting of the Variance will not adversely affect the implementation of the General Plan for the Twin Oaks Valley Neighborhood in that both detached garages and ADU's are permitted uses consistent with the existing General Plan and Zoning designation for the lot. The character of the Twin Oaks Valley Neighborhood, as hillside residential single-family homes on large lots, will continue to be observed with the granting of this variance. Additionally, granting the variance facilitates the development of second dwelling units on single-family parcels through

continued implementation of the Accessory Dwelling Unit Ordinance with a special focus on promoting development of second dwelling units affordable to lower-income households (Housing Element Housing Plan; Policy 1.5).

5. The granting of the Variance will not adversely affect any master or precise plan adopted pursuant to law, in that the project site is not within a master, or precise plan, and the property will maintain the character of the Twin Oaks Valley Neighborhood which is characterized by a unique rural aesthetic with agricultural and equestrian uses, and estate homes on large lots. The proposed structure is also designed to be architecturally compatible with the primary dwelling unit on the property.
 6. Compliance with the conditions of approval specified in the conditions of approval in Exhibit B of this Resolution 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, in that increasing the allowable gross floor area for all accessory structures to allow the addition of a detached two-story three car garage and accessory dwelling unit, allows the property owner to bring the single-family home into compliance with the City's off-site parking requirements, which other single-family homes in the City are required to have. Additionally, accessory dwelling units are a residential use consistent with the zoning designation for the lot
 7. All requirements of CEQA have been met, in that the project is Categorically Exempt from environmental review pursuant California Environmental Quality Act (CEQA) Section 15303, Class 3 (New Construction) in that the project consists of construction of limited numbers of new structures including a second dwelling unit and a garage in a residential zone.
- D. This Variance is Categorically Exempt (EX25-032) from environmental review pursuant to CEQA Section 15303, Class 3 (New Construction).
- E. 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.
- F. 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.

- G. 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 16 day of June, 2025, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Fatima Rios, Chairperson

ATTEST:

Gina Jackson, Senior Office Specialist

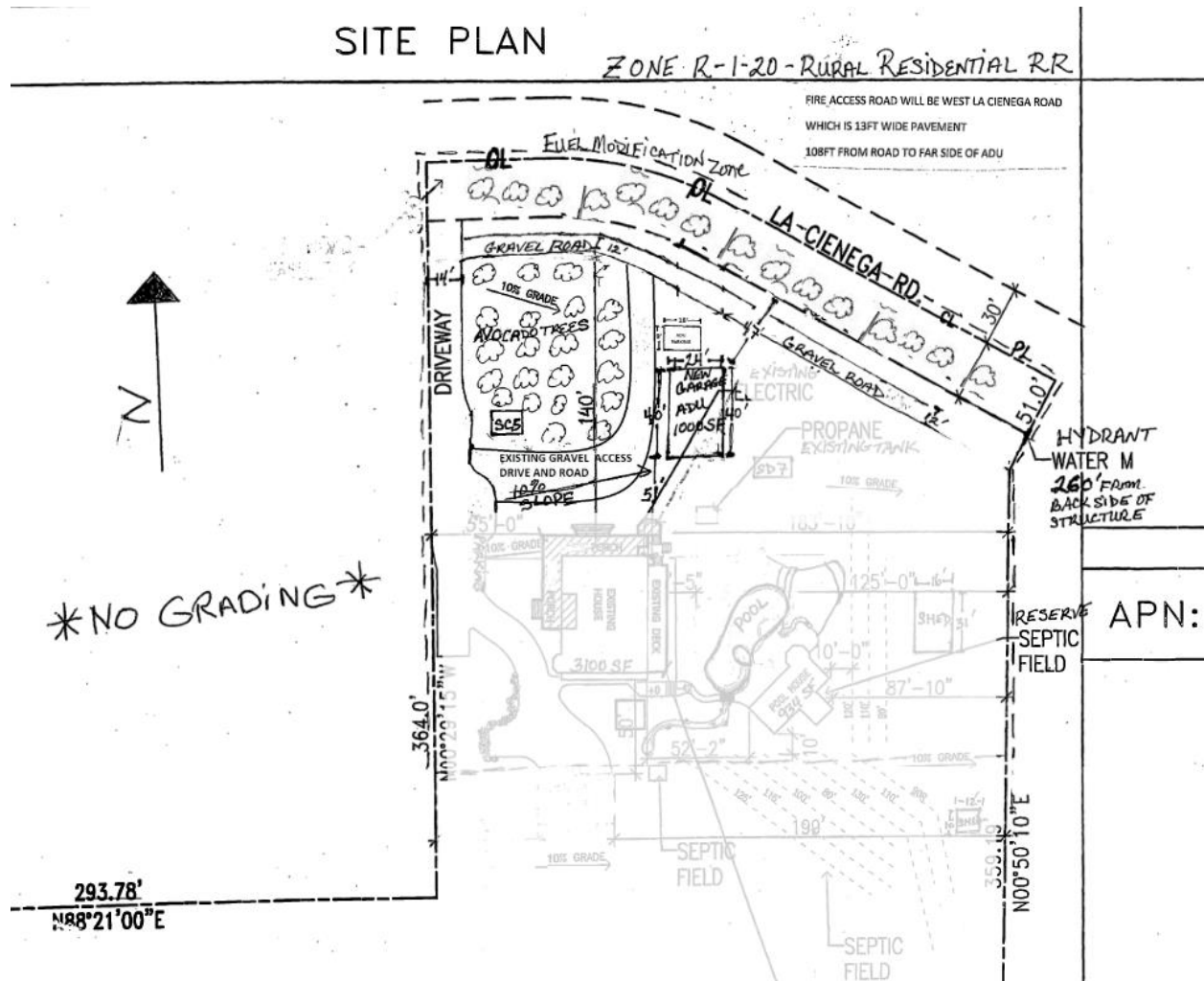
Attachment(s):

Exhibit A – Variance Exhibit

Exhibit B – Conditions of Approval

EXHIBIT A

Variance Exhibit



Scope of Variance

- 1. Height per SMMC Sections 20.410.040(C) & 20.410.060(3)(a):** Accessory structures are limited to one story and 15 feet in height; detached ADUs may be up to 16 feet. The proposed two-story, 31-foot-tall structure combining an ADU and garage exceeds both limits, requiring a height variance.
- 2. Size per 20.410.040(B)(a):** Accessory structures are limited to 800 sq. ft. or 40% of the primary dwelling's living area, whichever is less. This property is subject to 800 sf and already exceeds that limit with existing non-conforming structures. The proposed garage would add further square footage, requiring a size variance. The ADU is exempt from this limit under State law.

3. **Location per 20.410.040(D)(5):** Accessory structures must not be located closer to the right-of-way than the primary dwelling. The variance would allow the proposed two-story structure to be located closer to the right-of-way due to topographical constraints.

EXHIBIT B

Conditions of Approval

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- A. The Variance is approved subject to compliance with the following conditions:
1. 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.
 2. To complete the Building Permit submittal, the site plan shall be modified as follows:
 - a. All new accessory structures will require a full set of Plans in electronic format, formatted per the Building Plan Requirements specifications. Plans should be complete, signed by the proper authority, and accompanied by sets of any supporting documents (structural calcs/energy docs/truss calcs). Plans shall clearly indicate the nature and extent of the work; and show in detail it will conform to the provisions of the California Building Codes and all relevant laws, ordinances, rules and regulations. Plans must be drawn to scale (recommended 1/4"= 1'0", site plans 1"=20').
 3. This Variance shall expire on June 2, 2026, unless a building permit is obtained by this date and construction has begun in accordance with the submitted plans. The Planning Division Director may grant up to two one-year administrative extensions, provided that a written request is submitted at least 30 days prior to the expiration of the variance and includes justification for the extension. In no case shall the variance be extended beyond June 2, 2028.
- B. Any modifications, alterations, expansions or other changes must be evaluated by the Planning Division and may require a modification to this Variance and may also necessitate the issuance, or re-issuance, of Building Permits and 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 Variance.

2. New buildings and remodeled structures 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.
 3. 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.
 4. A Storm Water Quality Management Plan (SWQMP) shall be submitted in accordance with the most current version of the City adopted BMP design manual and meet the most current requirements of SDRWQCB.
 5. All construction and grading related Best Management Plans (BMPs) shall be shown in detail on the construction plans submitted to the City for review and approval.
 6. 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.
 7. 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.
 8. The project is subject to CFD fees, PFF fees and school fees to be paid prior to permit issuance.
 9. 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.
- 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.
4. A setback certificate by a licensed California Land Surveyor will be required prior to foundation inspection to confirm all setback requirements are met.