

RESOLUTION NO. 2019-XXXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS APPROVING A TENTATIVE SUBDIVISION MAP FOR UP TO 24 CONDOMINIUM UNITS IN THE MULTIFAMILY RESIDENTIAL 3 (R-3-10) ZONE

TSM 18-0002  
Hall Land Company, Inc.

WHEREAS, on May 22, 2018, the City received an application from Hall Land Company, Inc. requesting a Tentative Subdivision Map for up to 24 condominium units on a 1.52-acre (1.48 net) site located at 1210 E. Mission Road of the Multifamily Residential 3 (R-3-10) Zone in the Richland Neighborhood more particularly described as:

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

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

WHEREAS, the Tentative Subdivision Map is being requested in conjunction with a General Plan Amendment (GPA18-0003) to change the land use from "Neighborhood Commercial" to "Medium Density Residential 2"; a Rezone (R 18-0003) to change the zone from Neighborhood Commercial (N-C) to Residential 3 (R-3-10); a Multifamily Site Development Plan (MFSDP 18-0002) which will guide the orderly development on the project site; and a Variance (V18-0001) to allow for the reduction of special setbacks on E Mission Road; and

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

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

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

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

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

WHEREAS, the City Council did consider said Tentative Subdivision Map and the recommendation by City staff, including but not limited to the City Engineer, the Director of

Public Health, the Director of the Department of Sanitation and Flood Control, and the Chief of the San Marcos Fire Department and Fire Protection District with respect thereto; and

WHEREAS, the applicant/developer proposes to file a Final Map of said subdivision.

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 Tentative Subdivision Map pursuant to the City Subdivision Ordinance (SMMC Title 19), and no waiver of any requirement of said Ordinance is intended or implied except as specifically set forth in this resolution, 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 Tentative Subdivision Map is approved in conjunction with the submitted General Plan Amendment (GPA 18-0003), Rezone (R 18-0003), Multifamily Site Development Plan (MFSDP 18-0002), and Variance (V 18-0001) and all conditions of approval specified in Resolution No. 2019-XXXX (GPA 18-0003), Ordinance No. 2019-XXXX (R 18-0003), Resolution No. 2019-XXXX (MFSDP 18-0002), and Resolution No. 2019-XXXX (V18-0001), respectively, which documents are incorporated herein by this reference; and the mitigation measures in adopted Mitigated Negative Declaration (ND18-004 and SCH No. 2019011064) are hereby incorporated by reference and made a part of this Resolution with the same force and effect as though fully set forth herein.
- D. The City Council's decision is based on the following findings and determinations:
  - 1. The conditions of approval in the attached Exhibit A, and the findings below are necessary to insure that the subdivision and the improvements thereof will conform with all ordinances, plans, rules, standards, and improvements and design requirements of the City.
  - 2. The Tentative Subdivision Map is consistent with the City's adopted General Plan, in that it provides a it creates twenty-four (24) condominium units to allow the development of residential townhomes in an area of the City designated for Medium Density Residential 2 (MDR2) (15.1-20.0 du/ac) with a density not to exceed 20.0 du/ac (the project is 16.18 du/ac), and is compatible with the objectives, policies, general land uses, and programs specified in the General Plan, in that the project will achieve a balanced distribution and compatible mix of land uses to meet the present and future needs of all residents and the business community (LU-1) and will designate land for a variety of residential densities sufficient to meet the housing needs for a variety of household sizes and income levels, with higher densities being focused in the vicinity of transit stops in proximity to significant concentrations of employment opportunities (HE-1.1)..
  - 3. The design or improvement of the proposed subdivision is consistent with the City's adopted General Plan, in that it will create twenty-four (24) condominium

units and dedicate right-of-way on Avenida Chapala to allow for the redevelopment of the site by removing an existing 6,915 square foot vacant bank building and constructing 24-residential townhomes with the land use designation of Medium Density Residential 2 (MDR2).

4. The site is physically suitable for this type of development, in that the site can accommodate the subdivision of the property into twenty-four (24) condominium units on one (1) parcel, in compliance with the minimum lot size standards of the Multi-Family Residential 3 (R-3-10) Zone.
5. The site is physically suitable for the proposed density of development, in that the proposed Tentative Subdivision Map provides adequate area and configuration for a multi-family development in compliance with building setbacks (with Variance from E. Mission Road special setbacks), open space, and parking requirements as established under the City Zoning Ordinance.
6. The design of this subdivision and improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, in that no significant environmental issues or concerns were identified through the environmental assessment (Mitigated Negative Declaration (ND 18-004) prepared for the development.
7. The design of this subdivision and type of improvements is not likely to cause serious public health problems, in that safe water and sanitary sewer services are provided to the site.
8. The design of this subdivision or the type of improvements will not conflict with any easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.
9. The Tentative Subdivision Map, as conditioned, will not be detrimental to the public health, morals, safety, and welfare in that adequate public facilities and infrastructure including fire, water, sewer, and drainage will be provided.
10. The property is not subject to a Williamson Act contract, an open space easement, a conservation easement, or an agricultural conservation easement.
11. The City Council considered the effect of the development on the housing needs of the region and the balancing of those needs against the public service needs of residents and available fiscal and environmental resources.
12. As a common interest development, prospective buyers will be provided the required notices and reports pursuant to applicable law.
13. All requirements of CEQA and the environmental protection provision of the Subdivision Ordinance (San Marcos Municipal Code Title 19) have been met in that this Tentative Subdivision Map, as conditioned, will not have a significant effect on the environment, and impacts to biological resources, cultural

resources, hazards and hazardous materials, noise, public services, recreation, and tribal cultural resources have been sufficiently mitigated to a level of insignificance with mitigation measures identified in ND 18-004.

- E. This Tentative Subdivision Map is within the scope of the Mitigated Negative Declaration (ND18-004 and SCH No. 2019011064) and the mitigation monitoring and reporting program, and both are hereby adopted pursuant to CEQA.
- F. The Tentative Subdivision Map complies with the requirements of the City's Subdivision Ordinance and the State's Subdivision Map Act.
- G. The approval of this Tentative Subdivision Map shall expire within twenty-four (24) months from date of City Council approval. The Final Map, conforming to this conditionally approved Tentative Subdivision 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 State's Subdivision Map Act. It is the applicant/developer's responsibility to track the expiration date. Failure to request an extension will result in a re-filing of the Tentative Subdivision Map and new processing of the map.
- H. Within thirty (30) days of the approval of the Tentative Subdivision Map (TSM 18-0002) the approved plans (i.e., tentative subdivision map, landscape plans, etc.) shall be submitted as a digital file on a CD including this Resolution as the title page. This 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. 2019-XXXX." 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 any Final Map, grading plan, improvement plan, or building permit.
- I. 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.
- J. The applicant/developer 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 boundaries. It shall be the applicant/developer's responsibility to determine all agencies with rights of approval for the proposed development.
- 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, 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 City Council of the City of San Marcos, California, at a regular meeting thereof, held on this 9th day of July, 2019, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

---

Rebecca D. Jones, Mayor

ATTEST:

---

Phillip Scollick, City Clerk

**ATTACHMENT(S):**

EXHIBIT A – Conditions of Approval

## EXHIBIT A

### **Conditions of Approval**

#### A. General Provisions

1. All of the terms, covenants and conditions contained herein shall run with the land and be binding on and inure to the benefit of the heirs, successors, assigns, and representatives of the applicant/developer as to any and all of the property.
2. If any of the terms, covenants or conditions contained herein shall fail to occur or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City of San Marcos (City) shall have the right to revoke or modify all approvals herein granted including issuance of building permits; deny or further condition the subsequent approvals that are derived from the approvals herein granted; institute and prosecute litigation to compel compliance with said conditions or see damages for their violation. The applicant/developer shall be notified ten (10) days in advance prior to any of the above actions being taken by the City and shall be given the opportunity to remedy any deficiencies identified by the City.
3. The applicant/developer shall be responsible for bearing the costs of all grading activities, on-site and off-site improvements, labor, design, mitigation, and other costs associated with, but not limited to, the project's planning, engineering, construction and/or architecture for the project.
4. The proposed new development may be subject to the payment of development fees and in-lieu fees as required by the City's Fee Ordinance at the time an application is submitted or prior to the issuance of permits as determined by the City.
5. The development must comply with the storm water regulations applicable at the time of approval of the corresponding grading permit application.
6. All design requirements and mitigation measures of Mitigated Negative Declaration (ND18-004 and SCH No. 2019011064) shall be implemented.
7. The development of the site shall be consistent with the approved Multifamily Site Development Plan (MFSDP).

#### B. Prior to submittal of any Final Map, the applicant/developer shall comply with the following conditions:

##### **Land Development Division**

1. The Final Map shall show the gross and net acreage of all lots created and/or modified.

2. The Final Map shall use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).

#### Planning Division

3. The minimum lot size (net) for the residential lot(s) shall be 10,000 square feet and no more than twenty-four (24) condominium units may be created, per the provisions of the Multifamily Residential 3 (R-3-10) Zone.
  4. Side yards shall have a minimum of three (3) feet of level open space between the building footprint and any slope or retaining wall in conjunction with the required building setback of the applicable Zone.
- C. Prior to or concurrent with the recordation of a Final Map, the applicant/developer shall comply with the following conditions:

#### Land Development Division

1. The applicant/developer shall apply for a public improvement permit compliant with SMMC Chapter 14.16. All plans submitted for public improvements shall conform to applicable codes and engineering handouts, unless explicitly superseded by the conditions contained herein. All appropriate fees shall be paid for the processing of the permit.
2. The applicant/developer shall dedicate offer to dedicate to the City rights-of-way for all public streets, emergency access, and all other interests in real property required by these conditions and as shown on the tentative map. All property or property interests shall be granted to the City free and clear of all liens and encumbrances and without cost to the City and free of environmental hazards, hazardous materials or hazardous wastes.
3. The applicant/developer shall provide a four foot street dedication on Avenida Chapala along the project frontage.
4. The applicant/developer shall grant an emergency access easement within Private Drives A and B.
5. Prior to the recordation of a Final Map, the applicant/developer shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer to the City, unless such easements are expressly made subordinate to the easements to be offered for dedication to the City. Prior to granting any of said easements, the applicant/developer shall furnish a copy of

the proposed easement to the Land Development Engineer for review and approval.

6. Where proposed off-site improvements, including but not limited to streets, slopes, public utility facilities and drainage facilities, are to be constructed, the applicant/developer shall obtain all necessary easements or other interests in real property and shall dedicate the same to the City as required by the City. The applicant/developer shall provide recorded documents satisfactory to the City that such easements or other interest in real property have been obtained prior to the approval of the Final Map.

If said dedication and easements are not acquired after negotiations between the private parties, the applicant/developer shall submit a written request and provide sufficient information not later than sixty (60) days prior to the filing of any Final Map for approval, in accordance with SMMC Section 19.16.110, in order for the City to initiate condemnation proceedings as necessary for offsite acquisition of property. In all cases, the applicant/developer shall be responsible for all costs incurred in acquiring offsite property.

7. Direct access rights to Mission Road and Avenida Chapala (except at the proposed driveway) shall be relinquished to the City on the Final Map.
8. The Final Map shall include a statement to indicate that all streets, drainage, street lights, street signage and striping improvements within the interior of this subdivision designated as private shall remain private and be maintained by a homeowners association (HOA).
9. The applicant/developer shall develop Covenants, Conditions and Restrictions (CC&Rs) for the proposed project to assure the continued maintenance and operation of all open space and common areas, recreational facilities, and private improvements.
  - a. At a minimum, the CC&Rs shall describe the property manager and/or HOA maintenance responsibilities, parking restrictions, fuel modification maintenance, water quality Best Management Practices (BMPs), City reporting responsibilities, and any regulatory agency permit responsibilities. The CC&Rs shall include an exhibit and/or written description depicting the HOA maintenance responsibilities.
  - b. The applicant/developer shall submit a draft copy of the CC&Rs for review and comment by the City. Final form of the CC&Rs shall be to the satisfaction of the City Attorney. A fully executed copy of the CC&Rs shall be provided to the City for recordation with the Final Map.
  - c. The CC&Rs shall include the provision that garages shall be utilized for the parking of vehicles, to be enforced by the HOA.
  - d. Maintenance of private open space areas and slopes shall be the responsibility of the HOA. All remaining open space lots, improvements



and slopes that the City agrees to maintain must comply with City's criteria for maintenance for the Community Facility District No. 98-02 (Lighting, Landscaping, Open Space and Preserve Maintenance).

10. If the project is to be phased, a phasing plan shall be submitted and approved by the City Engineer and Planning Division Manager prior to approval of the Final Map. The phasing plan may be subject to further conditions. Should the applicant/developer decide to develop phases out of numerical sequence with the approved phasing as shown on the plan, all conditions required of the proceeding phases shall be completed unless otherwise approved by the City Engineer and the Planning Division Manager. Other conditions may be imposed by the City Engineer and Planning Division Manager to allow out-of-phase construction.
11. Line of sight easements, if necessary, shall be dedicated on the Final Map and delineated on all improvement and grading plans as approved by the City Engineer. Adequate sight distance for all intersections, driveways and access points shall be provided per latest edition of the California Department of Transportation (Caltrans) Highway Design manual and the American Association of State Highways and Transportation Officials (AASHTO) Geometric Design of Highways and Streets.
12. The applicant/developer shall enter into a Subdivision Improvement Agreement with the City to complete all required public improvements prior to permit issuance. Securities and applicable fees for the construction of the public improvements shall be submitted to and approved by the City in accordance with SMMC Sections 19.16.070 and 19.16.080.
13. Centerline striping shall be designed on Avenida Chapala at its intersection with Mission Road. Said striping design shall be to the satisfaction of the City Engineer.
14. The applicant/developer shall submit plans and appropriate construction notes for improvement of all streets, right of way and drainage facilities to the City Engineer for approval. Plans shall include all off-site improvements as specified by the City Engineer. In addition, a signage and striping plan shall be included with the improvement plans utilizing Caltrans' standards and shall be acceptable to the City Engineer.
15. The design of all private streets and/or drainage systems for this project shall be approved by the City Engineer. The structural section of all private streets shall conform to City standards based on R-value tests. All private streets and/or drainage systems shall be inspected by the City, and the standard plan check fees and inspection fees shall be paid and appropriate bonds shall be posted with the City prior to approval of the Final Map for each Map Unit.
16. The exact depth of new street structural sections and subgrade requirements shall be determined based on subgrade "R" value tests and the appropriate Traffic Index for the type of street as described in the City's "Urban Street Design

Criteria” and “Excavation Ordinance”. All existing streets shall be “core tested” to determine the existing structural section and the extent of overlay or reconstruction necessary to achieve the required structural section described above. Tests shall be taken by a qualified engineer at locations approved by the Director of Public Works.

17. Improvement plans shall delineate street alignments and grades including the change of any existing or proposed street alignments and grades required by the City Engineer and the City’s “Urban Street Design Criteria” in effect at the time of project approval.
18. A light emitting diode street lighting system shall be shown on the street improvement plans and shall be installed at locations specified by the City Engineer at no cost to the public. All installations shall be compliant with the City’s Street Lighting Standards.
19. The applicant/developer shall pay all applicable fees and deposit with the City a sum of money sufficient to energize, operate and maintain the public street landscaping (medians and parkways) and lighting system for a period of eighteen (18) months.
20. All utilities fronting, abutting or within the project shall be undergrounded with the exception of sixty-nine (69) KVA or greater power lines. All utility undergrounding must be completed prior to the surfacing of the streets. Undergrounding must accommodate 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/developer shall provide an underground vault, in-building vault room, architecturally integrated screen wall around equipment, or other option approved by the Planning Division Manager.
21. The applicant/developer shall be responsible for acquiring all associated easements required by the utility companies for such work. The permanent placement of large meter services, detector checks, fire hydrants, etc., along circulation element streets shall be placed outside of the ultimate right-of-way to avoid reconstruction or modification of same.
22. The applicant/developer 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/developer’s responsibility to determine all agencies with rights of approval for the proposed development.
23. The applicant/developer shall post securities to the City, in amounts approved by the City Attorney and the City Engineer or their designees, for the construction of all public and private improvements including but not limited to the following: street improvements, storm drain facilities and off-site street repair. Said security shall be in a form acceptable to the City and shall remain in force until completion

of the project and final approval by the City. Said security shall insure the construction of the “approved” public improvements within a period to be specified in the Subdivision Improvement Agreement.

#### Planning Division

24. The CC&Rs for the proposed project shall assure the continued maintenance and operation of all open space and common areas, recreational facilities, and private improvements are maintained in perpetuity and in conformance with the approved plans and applicable provisions of the Multifamily Residential 3 (R-3-10) Zone.
- D. During the installation of street and/or public improvements, the applicant/developer shall comply with the following conditions:

#### Public Works Construction Inspection Division

1. Prior to any construction activities, a pre-construction meeting shall be held with the Public Works Construction Inspection Division. The applicant/developer shall provide the inspector with a detailed construction schedule which depicts when building occupancy or occupancies will occur and when key public and private infrastructure improvements will be completed. Schedule updates shall be provided to the Building and Public Works Inspectors at a minimum monthly basis throughout the life of the project.

#### Land Development Division

2. During construction activities, the applicant/developer shall maintain public and private driveway and/or road access to neighboring properties at all times unless previous arrangements have been made with the private parties affected. Copies of said agreements shall be provided to the City Engineer.
3. The applicant/developer shall submit a traffic control plan to the Public Works Inspector for all phases of construction for approval by the City Engineer. Said plan shall include all traffic control devices including traffic signals as required.
4. Construction haul routes must be designed to avoid noise sensitive uses (e.g., residences, convalescent homes, etc.), to the extent feasible.
5. At the discretion of the Public Works Inspector, the applicant/developer shall document the pre-construction condition of existing roads or offsite properties which may be impacted by construction activities. The applicant/developer shall be responsible in repairing any construction related damages prior to occupancy.
6. A Right-of-Way permit shall be required prior to commencement of any work within the City right-of-way.
7. The applicant/developer shall implement and maintain storm water pollution prevention measures as required on the approved plans. Violations of the City's

Storm Water Management Ordinance (SMMC Chapter 14.15) will result in Stop Work Orders, Notices of Violations and/or citations with fines. Work on the project may be delayed until the City determines that compliance with storm water requirements has been achieved.

Planning Division

8. Landscaping of slopes, in accordance with the approved landscape plans, shall commence at time of completion of grading activities.
  9. The project shall comply with Regional Air Quality Standards.
- E. Prior to the release of any securities, the applicant/developer shall comply with the following conditions:

Land Development Division

1. As-Built drawings shall be submitted to the Engineering Division for review and approval. Record drawing mylar plans shall be submitted and approved prior to the release of any project securities.
2. Any existing broken pavement, concrete curb, gutter or sidewalk or any other facilities damaged during construction of the project, shall be repaired or replaced as directed by the Public Works Inspector.