

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

City of San Marcos  
Attn: City Clerk  
1 Civic Center Drive  
San Marcos, CA 92069-2949

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RESOLUTION NO. 2024-####

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SAN MARCOS ORDERING THE SUMMARY VACATION  
AND ABANDONMENT OF THE SLOPE EASEMENT  
GRANTED BY DOCUMENT 2012-0429406 ON JULY 24,  
2012 WITHIN THE BOUNDARY OF TENTATIVE  
SUBDIVISION MAP 20-0001 FOR THE LENNAR-BARHAM  
PROJECT

VAC 23-0012

WHEREAS, staff considered a request for the summary vacation and abandonment of a Slope Easement within the boundary of Tentative Subdivision Map TSM 20-0001 for the Lennar-Barham project, formerly known as Hallmark-Barham project, located at 943 E. Barham Drive, and more particularly described in Exhibit A; and

WHEREAS, the Slope Easement was granted by Document 2012-0429406, recorded in the Office of the County Recorder of San Diego County on July 24, 2012; and

WHEREAS, California Streets and Highways Code (CSHC) Section 8333(c) expressly permits the legislative body of a local agency to summarily vacate a public service easement if the easement has been determined to be excess by the easement holder, and there are no other public facilities within the easement; and

WHEREAS, City staff has determined that the public service easement to be vacated and abandoned is in excess; and

WHEREAS, the proposed vacation of the subject public service easement would have no effect on existing improvements or easements; and

WHEREAS, vacation and abandonment of the public service easement as proposed would remove the encumbrances from the title, thereby allowing the affected property owner to improve said portions of the property; and

WHEREAS, in accordance with Streets and Highways Code Section 8313 and Government Code Section 65402, the local planning agency is required to consider the proposed vacation action and to report on the conformity with the adopted General Plan; and

WHEREAS, at a regularly-scheduled and duly noticed meeting held on July 17, 2023, the Planning Commission did consider the proposed summary vacation and abandonment of the slope easement, and after making the required findings, approved Resolution PC23-5047 recommending to City Council the summary vacation and abandonment of the slope easement; and

WHEREAS, at a regularly scheduled and duly noticed meeting held on April 23, 2024, the City Council did consider the proposed summary vacation and abandonment of said slope easement; and

WHEREAS, the City Council did review and consider the previously adopted Final Environmental Impact Report (FEIR) (SCH No. 2021040009) and it is determined that no new environmental information or documentation was presented revealing any new unidentified environmental impacts which had not been previously mitigated and the proposed vacation is within the scope of the impacts identified in FEIR; and

WHEREAS, the City Council desires to vacate and abandon said public service easement pursuant to the authority granted by Streets and Highways Code sections 8300, et seq.

NOW, THEREFORE, the City Council of the City of San Marcos does hereby resolve and order as follows:

- A. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Resolution.
- B. The City Council's decision is based on the following findings and determinations:

1. The City Council hereby finds and declares that the slope easement proposed to be summarily vacated and abandoned as described in Exhibit A is in excess.
  2. The proposed public service easement vacation would have no effect on existing improvements or easements.
  3. The proposed public service easement vacation will not be detrimental to public health, safety, and welfare.
  4. All requirements of California Environmental Quality Act (CEQA) have been met in that the proposed public service easement vacation will not have a significant effect on the environment, as reviewed and analyzed in the previously Final Environmental Impact Report (FEIR) for the Hallmark-Barham project (State Clearinghouse No. 2021040009).
- C. The proposed public service easement vacation is within the scope of the previously adopted Final Environmental Impact Report (FEIR) (SCH No. 2021040009) and no new environmental information or documentation was presented revealing any new unidentified environmental impacts which had not been previously mitigated.
- D. 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.
- E. The City has complied with all statutory requirements for the summary vacation and abandonment of a street, highway, or public service easement.

- F. Under the authority vested in it by Streets and Highways Code Sections 8333, the City Council does hereby order the summary vacation and abandonment of the slope easement as described in Exhibit A.
- G. The Final Map for Tentative Subdivision Map TSM 20-0001 and this Resolution for Order of Vacation shall record concurrently.
- H. From and after the date this Resolution is passed, approved, and adopted, and the Final Map for TSM 20-0001 is recorded in the Office of the San Diego County Recorder, the slope easement shall no longer constitute as a public service easement for public purposes.

PASSED, APPROVED AND ADOPTED by the City Council of the City of San Marcos, California, at a regular meeting held on this 23<sup>rd</sup> day of April, 2024, by the following roll call vote:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:

\_\_\_\_\_  
Rebecca D. Jones, Mayor  
City of San Marcos

ATTEST:

\_\_\_\_\_  
Phillip Scollick, City Clerk  
City of San Marcos

**Exhibit(s):**

Exhibit A – Legal Description of Slope Easement Vacation

EXHIBIT 'A'  
LEGAL DESCRIPTION OF SLOPE EASEMENT VACATION

ALL THAT PORTION OF THE SLOPE EASEMENT AS DESCRIBED IN THAT CERTAIN FINAL ORDER OF CONDEMNATION PER DOCUMENT RECORDED JULY 24, 2012 AS INSTRUMENT NO. 2012-0429406 OF OFFICIAL RECORDS, LYING WITHIN THOSE PORTIONS OF LOTS 1 AND 3 OF SECTION 18, TOWNSHIP 12 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED DECEMBER 14, 1885.