

RESOLUTION NO. [##-####]

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS APPROVING A CONDITIONAL USE PERMIT MODIFICATION TO CHANGE THE TIMING OF THE REQUIRED TRAFFIC SIGNAL INSTALLATION ON SAN ELIJO ROAD AT THE PROJECT DRIVEWAY IN THE LOMA SAN MARCOS SPECIFIC PLAN AREA (SPA) ZONE

CUP 20-0003
Loma San Marcos / Edenpark

WHEREAS, on January 17, 2020, the City received an application from Eden Park SM requesting to modify Conditional Use Permit (CUP) 18-0004 to change a certain condition of approval related to the timing of the installation of a traffic signal on San Elijo Road at the project site, located at 1601 San Elijo Road in the Loma San Marcos Specific Plan Area (SPA) Zone in the Questhaven/La Costa Meadows Neighborhood more particularly described as:

Brief Legal Description: ALL OR PORTION OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 12 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF SAN MARCOS AND COUNTY OF SAN DIEGO, STATE OF CALIFORNIA ACCORDING TO OFFICIAL PLAT THEREOF

Assessor's Parcel Number(s): 223-080-41-00, and 223-080-42-00

WHEREAS, the City Council did approve and adopt the San Marcos Studios Specific Plan and Conditional Use Permit on February 2, 2004; and

WHEREAS, the City received a request to modify the adopted San Marcos Movie Studios Specific Plan and Conditional Use Permit to allow for the filming of youth sports (Loma San Marcos SP 18-0001 and CUP 18-0004) on January 11, 2018; and

WHEREAS, the Planning Commission recommended approval of SP18-0001/CUP18-0004 to the City Council on October 15, 2018 at a duly noticed public hearing; and

WHEREAS, during the November 13, 2018 hearing for the Loma San Marcos project, the City Council heard public testimony related to traffic concerns and modified the conditions of approval of the Conditional Use Permit (CUP 18-0004) to include a requirement for the applicant to install a traffic signal on San Elijo Road at the project driveway with Phase 1A of the project and within eighteen (18) months of approval of the project; and

WHEREAS, on November 13, 2018, the City Council adopted and approved the Loma San Marcos Specific Plan (SP 18-0001) and Conditional Use Permit (CUP 18-0004) with the modified conditions of approval requiring the installation of a traffic signal with project Phase 1A; and

WHEREAS, construction of the traffic signal on San Elijo Road at the project driveway will allow left turns out of the project, allow the orderly movement of pedestrians and vehicles at the project driveway, and minimize traffic impacts from westbound traffic exiting the project site to make "U-turns" at Baker Street and nearby private driveways; and

WHEREAS, the Development Services Department 'did study and provide information of said request to the Planning Commission; and

WHEREAS, on June 1, 2020, the San Marcos Planning Commission held a duly noticed public hearing and recommended approval of said request to the City Council by a 5-2 vote, in favor; and

WHEREAS, on July 14, 2020, 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 the previously adopted Final Mitigated Negative Declaration (with the 2018 addendum) ND03-681 and determined that no new environmental information or documentation was presented revealing any new unidentified environmental impacts that had not been previously mitigated, and determined that the proposed project is within the scope of the impacts identified in ND03-681 (with 2018 addendum); and

WHEREAS, the subject property has been annexed into Community Facility District (CFD) 98-01: Improvement Area 1, Police Only; CFD 98-02: Lighting, Landscaping, Open Space, and Preserve Maintenance; and CFD 2001-01: Fire and Paramedic;

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 modifies condition of approval M(9) of CUP 18-0004 (Resolution No. 2018-8562) to remove the requirement of the installation of the traffic signal within 18 months of its original approval of the project. The result of the modification to M(9) will be the requirement to install the traffic signal with phase 1B of the project, 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. The mitigation measures in previously adopted Mitigated Negative Declaration (with the 2018 addendum) ND03-681 (Resolution No. 2004-6323 and 2018-8562) 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 modification would not result in detrimental impacts to adjacent properties or the character and function of the neighborhood, in that the requirement to install a traffic signal on San Elijo Road at the driveway is consistent with warrants for the installation of the traffic signal in Phase 1B of the project.
 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 decision would continue to implement Loma San Marcos Specific Plan (SP18-0001) and Conditional Use Permit CUP18-0004, in that this modification would allow the applicant an additional time to install the traffic signal.

3. The land use allowed in conjunction with the modified Conditional Use Permit continues to be compatible with the existing and future land uses of the Loma San Marcos Specific Plan Area Zone and the general area for the proposed use, in that the installation of the traffic signal in Phase 1B will allow the orderly movement of pedestrians and vehicles at the project driveway and minimize traffic impacts to other intersections and road segments in the general area.
 4. The conditions imposed are necessary to protect the best interests of the surrounding property and neighborhood to lessen and/or prevent any detrimental effect, in that the traffic signal installation in phase 1B of the project will be in conformance with the Loma San Marcos Specific Plan and Conditional Use Permit. The installation of the traffic signal will allow westbound vehicles to make a left turn out of the project site driveway and will minimize traffic impacts to other intersections and road segments east of the project site.
 5. All requirements of CEQA have been met, in that requiring the traffic signal installation in Phase 1B of the project would continue to implement the adopted Mitigated Negative Declaration (ND 03-681) with the 2018 addendum.
- E. This Conditional Use Permit modification is within the scope of the previously adopted Final Mitigated Negative Declaration ND03-681 (with the 2018 addendum) and the mitigation monitoring and reporting program pursuant to CEQA.
- F. This Conditional Use Permit shall become null and void if not acted upon within twelve (12) months of the adoption of this resolution, or the approved use ceases to operate at the subject property for a period more than twelve (12) months.
- G. This Conditional Use Permit modification shall not change the expiration date, or conditions of permit expiration, of CUP 18-0004 (Resolution No. 2018-8562) on November 13, 2021. Any request for permit extension shall be applied for by the permittee no later than 120 days prior to the expiration date.
- H. Any future expansion to the facility shall require review for conformance to this Conditional Use Permit and CUP18-0004. If the expansion of the facility is determined to be inconsistent with the issued Conditional Use Permits, then an application for a new Conditional Use Permit must be submitted for review and approval by the Development Services Department prior to the issuance of any building permits.
- I. The Planning Division may, but is not obligated to, inspect the premises annually to ensure compliance with all conditions of the use permit approval. If the Planning Division determines that compliance is not being achieved after a cure period, then a public hearing must be scheduled for possible use permit modification and/or revocation, in accordance with Chapter 20.505 of the San Marcos Municipal Code (SMMC).

- J. 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 Loma San Marcos 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.
- 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, or 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 14th day of July, 2020, 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. [##-####]

CUP20-0003

Conditions of Approval

- A. The applicant/developer is responsible for compliance with all applicable provisions of Conditional Use Permit 18-0004 (Resolution No. 2018-8562), which are incorporated herein by reference, except as follows:

1. Condition of Approval M(9) is hereby superseded and replaced as follows:

Prior to occupancy of Phase 1A, all parking and improvements shall be installed per the approved parking layout plan. ~~In addition, design and permitting of the traffic signal will be pursued, with all necessary approvals to be achieved no later than fourteen (14) months from the date of approval of this Resolution, and construction completed within four (4) months of receipt of all such necessary approvals.~~