



**ATTACHMENT H**

**PLANNING COMMISSION RESOLUTION PC 20-4849**

**FOR CUP 20-0003**

RESOLUTION PC 20-4849

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS RECOMMENDING TO THE CITY COUNCIL A CONDITIONAL USE PERMIT MODIFICATION TO CHANGE THE TIMING REQUIREMENT FOR THE INSTALLATION OF A TRAFFIC SIGNAL 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 OFFICAL 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, on January 17, 2020, the City received this application (CUP20-0003) from Eden Park SM requesting to modify Conditional Use Permit CUP18-0004 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 driveway; and

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

WHEREAS, the Development Services Department has determined it is not feasible for the applicant to design, obtain approval, and construct the traffic signal by the original May 13, 2020 deadline in the conditions of approval for CUP 18-0004; and

WHEREAS, on March 16, 2020, the Planning Commission was scheduled to conduct a duly noticed public hearing in the manner prescribed by law to consider said request but due to the COVID-19 pandemic, State and County Public Health Orders prohibited gatherings and the March 16, 2020 Planning Commission meeting was cancelled; and

WHEREAS, on June 1, 2020, the Planning Commission held a duly noticed public hearing in the manner prescribed by law and in accordance with Executive Orders N-29-20 and N-33-20 allowing a telephonic public meeting to consider said request; and

WHEREAS, the Planning Commission did review and consider the previously adopted Final Mitigated Negative Declaration (with the 2018 addendum) ND 03-681, determined that no new environmental information or documentation was presented to reveal any new unidentified environmental impacts that had not been previously mitigated, and determined the proposed project is within the scope of the impacts identified in ND 03-681; 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; and

WHEREAS, the Planning Commission did consider, but voted 4-3 to reject, a recommendation by City staff to continue to require the installation of the traffic signal with Phase 1A of the project and to grant an 18 month extension to install the traffic signal; and

WHEREAS, the Planning Commission concluded that Phase 1A site operation does not meet traffic signal warrants, and an alternative Phase 1A installation timeline for the traffic

signal is neither desirable nor is it reasonably feasible due to the current situation related to the COVID-19 pandemic.

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 recommends that the City Council modify 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 and allow the installation of the traffic signal to occur with phase 1B of the project, consistent with traffic signal warrants.
- C. The mitigation measures in the previously adopted Mitigated Negative Declaration with the 2018 addendum (ND 03-681 Resolution No. 2004-6323) 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. This Conditional Use Permit is within the scope of the previously adopted Final Mitigated Negative Declaration with addendum ND 03-681 and the mitigation monitoring and reporting program pursuant CEQA.
- E. 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.
- F. Any future expansion to the facility inconsistent with the phasing of CUP 18-0004 and this CUP modifying condition of approval M(9) of that permit shall require a modification to CUP 18-0004. The Conditional Use Permit application must be submitted for review and approval by the Development Services Department prior to the issuance of any building permits.
- G. 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).
- H. 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.

- I. 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.
- J. 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 1st day of June, 2020, by the following roll call vote:

AYES: COMMISSIONERS: NUTTALL, MATTHEWS, CAVANAUGH, OLEKSY,  
MUSGROVE


NOES: COMMISSIONERS: FLODINE, CARROLL

ABSENT: COMMISSIONERS: NORRIS

APPROVED:

  
Eric Flodine, Chairman

ATTEST:

  
Gina Henderson, Senior Office Specialist

**ATTACHMENT(S):**

EXHIBIT A – Conditions of Approval

EXHIBIT A

RESOLUTION No. PC 20-4849

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:

M(9) 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.~~