



ATTACHMENT D

RESOLUTION ADM 26-5226

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A RESOLUTION OF THE CITY MANAGER DETERMINING
THE MITIGATED NEGATIVE DECLARATION FOR THE
LANIKAI SENIOR RESIDENTIAL DEVELOPMENT
PROJECT TO BE INCOMPLETE AND UNABLE TO BE
CIRCULATED, PURSUANT TO SAN MARCOS MUNICIPAL
CODE §18.04.060(a)(2)

SP17-0004, GPA17-0003, MFSDP19-0001, ND26-007
Lanikai Partners I, LP

WHEREAS, on December 21, 2017, Lanikai Partners I, LP ("Applicant") submitted an application for a Multi-family Site Development Plan, General Plan Amendment, and Specific Plan Amendment to build a 115-unit senior residential multi-family development project ("Project") on a vacant site at the northwest corner of Woodward Street and East Mission Road, in the Heart of the City Specific Plan;

WHEREAS, on November 26, 2019, Applicant entered into a Memorandum of Understanding ("MOU") with the City regarding the approach to the preparation of environmental documents for the Project under the California Environmental Quality Act ("CEQA");

WHEREAS, consistent with state law, the San Marcos Municipal Code ("SMMC"), and the MOU, the City as lead agency retains independent judgment and authority to determine the contents, adequacy, completeness, and defensibility of any environmental document prepared for the Project;

WHEREAS, CEQA Guidelines Section 15071 requires a negative declaration or mitigated negative declaration to include, among other things, a project description, project location, identification of the project proponent, a proposed finding that the project will not have a significant effect on the environment, the initial study documenting reasons to support that finding, and mitigation measures included in the project to avoid potentially significant effects;

WHEREAS, CEQA Guidelines Section 15063 requires an initial study to identify and analyze the Project's potential environmental effects and to consider all phases of project planning, implementation, and operation;

WHEREAS, CEQA Guidelines Sections 15064 and 15070 allow preparation of a negative declaration or mitigated negative declaration only when the record supports a determination that there is no substantial evidence that the Project may have a significant effect on the environment, or that revisions in the Project plans or proposals, made by or agreed to by the Applicant before release of the proposed mitigated negative declaration

and initial study for public review, would avoid or mitigate potentially significant effects to a point where clearly no significant effects would occur;

WHEREAS, Applicant, in conjunction with its CEQA consultant, prepared a draft Mitigated Negative Declaration ("MND") to analyze the potential environmental effects of the Project on the environment as required by CEQA;

WHEREAS, based on staff review, the Applicant-prepared draft MND is not adequate or complete to commence circulation for public review because it does not adequately describe, analyze, or evaluate the Project in a manner that reflects applicable City requirements, existing conditions, and the City's independent judgment, including but not limited to the following:

- 1) **Compliance with City Standards.** SMMC Section 17.40.060(a) states, "[a]ll streets shall be constructed and improved in accordance with the standards indicated on the San Marcos General Plan Circulation Element and Master Street Plan and City of San Marcos Street Design Criteria and in accordance." with City standard plans and specifications as approved by the City Council. The City of San Marcos Street Design Criteria ("SDC"), which predate the 2017 Project application, do not permit a driveway on a prime arterial or secondary arterial when a driveway is possible at another location. The Project design proposes two driveways, one to Woodward Street and the other to Mission Road, which is classified as an arterial roadway. The Mission Road driveway is not permitted under SMMC 17.40.060(a), nor would it be permitted without appropriate mitigation of the impacts associated with it. The Applicant has declined to revise the Project design to incorporate improvements and project features identified by the City as necessary to comply with applicable City requirements and standards.
- 2) **Project Description.** The draft MND does not adequately describe or evaluate a Project design that complies with applicable City requirements, standards, and criteria. The Mission Road driveway is not in compliance with City standards and criteria, and it cannot be supported without frontage improvements the Applicant declines to make. Therefore, the driveway must be removed. The draft MND does not evaluate the impacts of removing the Mission Road driveway, which include modifications to frontage improvements, access configurations, emergency access, trip distribution, and potentially the number of units proposed by the Project.
- 3) **Environmental Effects of Required Project Modifications.** The Applicant has declined to incorporate Project components and design revisions identified by the City as necessary to address site access, emergency access, and frontage improvement concerns. Because those Project components and

revisions have not been incorporated into the Project description or agreed to by the Applicant, the draft MND does not provide a legally adequate basis to conclude that potentially significant effects have been avoided or mitigated to a less-than-significant level.

- 4) **Access, Emergency Access, and Site Circulation.** The draft MND does not adequately analyze the environmental, transportation, circulation, and emergency access implications of modifications to the Project that are necessary to satisfy City requirements. Such modifications include changes to emergency access and access locations, site access, public improvements, and potentially the number of residential units.
- 5) **Traffic Analysis and Existing Conditions.** At the Applicant's request, the City has determined that the Project is not subject to the Vehicle Miles Traveled (VMT) analysis requirement for CEQA transportation analysis, based upon its September 2019 traffic study. Accordingly, the Project is using the Level of Service metric to determine whether the Project will have significant impacts on traffic. However, certain technical analyses relied upon by the draft MND utilize information that does not reflect existing conditions or fail to evaluate relevant roadway facilities, access conditions, and operational characteristics affected by Project-related traffic. Examples include, but are not limited to, traffic analyses based on outdated data and the omission of evaluation of roadway facilities affected by Project-generated traffic.
- 6) **Transportation Effects of Required Project Modifications.** The draft MND does not adequately evaluate the transportation effects associated with the Project as modified to comply with City requirements. Examples include, but are not limited to, incomplete analysis of trip distribution, roadway operations, intersection performance, roadway segment impacts, emergency access, and circulation patterns associated with alternative access arrangements.
- 7) **Transportation Impacts to Mission Road/Woodward Street Intersection.** The Project site was zoned commercial and is requesting approval of a Specific Plan Amendment to create a Senior Residential Zone. The Project proposes 115 senior residential units, which will increase the number of pedestrian and bicycle trips, including seniors using the Mission and Woodward intersection. The draft MND does not appropriately analyze the Project's effects on pedestrian signal timing and the corresponding delays introduced to the intersection.

WHEREAS, without sufficient information regarding the Project description, transportation and traffic impacts, changes resulting in access and trip distribution considerations, and other potentially significant environmental effects, all based upon the

required Project design, the MND does not contain enough information for the City to make an informed decision about the Project's impact on the environment as required by CEQA;

WHEREAS, the City Manager may, but is not required to, adopt the Applicant's environmental document submittal as the document to be circulated for public review pursuant to SMMC Section 18.04.170;

WHEREAS, pursuant to *Gentry v. City of Murrietta*, (1995) 36 Cal. App. 4th 1359, 1397), "any negative declaration circulated by the [City] must reflect its independent judgment" and the City "must make a finding that it does so.";

WHEREAS, the City cannot find that the Project draft MND as prepared reflects City's independent judgement;

WHEREAS, SMMC Section 18.04.060(a)(2) allows the City Manager to make an administrative determination based upon the recommendation from staff as to whether the mitigated negative declaration is adequate or complete to commence circulation;

NOW, THEREFORE, the City Manager does hereby resolve as follows:

- A. The foregoing recitals are true and correct, and they are hereby incorporated by reference into this Resolution.
- B. The City Manager finds that the Applicant's MND has not adequately analyzed the effects on the environment.
- C. The City Manager determines that the Applicant-prepared draft MND is not adequate or complete to commence circulation for public review under CEQA and the San Marcos Municipal Code. This determination is supported by the following findings:
 - a. **The City, as lead agency, must exercise independent judgment over the environmental document.** CEQA requires the lead agency to exercise its independent judgment and analysis when adopting a negative declaration or mitigated negative declaration. A public agency may not simply circulate or rely on an applicant-prepared environmental document unless the agency can determine that the document reflects the agency's independent judgment. Because the draft MND does not adequately analyze the Project as required to comply with City standards, and because the City cannot find that the document reflects the City's independent

judgment, the City is not required to circulate the Applicant-prepared draft MND.

- b. **The draft MND does not provide an adequate project description for CEQA review.** The draft MND does not adequately describe a Project that complies with applicable City requirements, including access configuration, frontage improvements, and associated trip distribution. Because the Project description does not reflect the Project as it would need to be designed to comply with City standards, the document does not provide a stable or complete basis for environmental review. The absence of a complete, stable, and accurate Project description prevents the draft MND from serving as an adequate informational document under CEQA because the document does not evaluate the Project as it would need to be designed, conditioned, improved, or modified to comply with applicable City standards.
- c. **The draft MND does not adequately analyze the environmental effects of required Project modifications.** CEQA review must evaluate the Project that may actually be approved and implemented, including required improvements and design features needed to comply with applicable standards. The draft MND does not adequately analyze the environmental effects of modifications that may be necessary to comply with City requirements, including changes to project access, emergency vehicle access, site circulation, driveway location or configuration, frontage improvements, and potentially the number of residential units. Without that analysis, the City cannot determine whether the Project as required to comply with City standards would result in new or greater environmental impacts.
- d. **The draft MND does not adequately evaluate all phases and components of the Project.** CEQA Guidelines require the environmental document to consider all phases of project planning, implementation, and operation. The draft MND does not adequately evaluate the Project as modified to comply with City standards and requirements. The document therefore fails to evaluate the full scope of the Project that may actually be constructed or required as part of Project approval.
- e. **The draft MND does not adequately support a finding that the Project will not have a significant effect on the environment.** Under CEQA Guidelines Sections 15064 and 15070, a negative declaration or mitigated

negative declaration is appropriate only when the record supports a determination that there is no substantial evidence that the project may have a significant effect on the environment, or that agreed-upon project revisions would clearly avoid or reduce potentially significant effects to less than significant levels. The Applicant has not agreed to incorporate all Project revisions and components identified by the City to comply with City requirements. Because the Project has not been revised to address those issues, and because the draft MND does not adequately analyze the impacts of those required revisions, the City cannot make the necessary CEQA finding that the Project will not have a significant environmental effect.

- f. **The Applicant has not agreed to all revisions necessary to support an MND.** CEQA Guidelines Section 15070 allows an MND when potentially significant effects are identified but revisions in the project plans or proposals, made by or agreed to by the applicant before the proposed MND is released for public review, would avoid or mitigate those effects to a point where clearly no significant effects would occur. Here, the Applicant has declined to incorporate Project components and design changes identified by the City. Because those revisions have not been incorporated into the Project description or agreed to by the Applicant, the draft MND does not provide a legally adequate basis to conclude that potentially significant impacts have been avoided or mitigated.
- g. **The draft MND does not adequately evaluate transportation hazards.** CEQA Appendix G identifies whether a project would substantially increase hazards due to a geometric design feature or incompatible use as a transportation issue that may require evaluation in an initial study. The draft MND does not adequately evaluate potential hazards associated with the Project's proposed access, driveway location, ingress and egress movements, vehicular turning movements, pedestrian crossings, bicycle movements, bus stop operations, and interactions among vehicles, pedestrians, bicyclists, transit users, and seniors.
- h. **The draft MND does not adequately evaluate emergency access.** CEQA Appendix G identifies whether a project would result in inadequate emergency access as a transportation issue that may require evaluation in an initial study. The draft MND does not adequately analyze emergency vehicle access requirements or the effects of modifications that may be necessary to provide acceptable emergency access in light of the removal

of the Mission Road driveway. Potential emergency access-related changes may affect site circulation, public improvements, driveway configuration, access location, frontage improvements, site design, and potentially the proposed number of residential units. Because these issues are not adequately analyzed, the draft MND does not provide sufficient information for the City to determine whether emergency access impacts would be less than significant.

- i. **The draft MND does not adequately evaluate the Project under the applicable transportation framework.** The City determined, at the Applicant's request, that the Project could rely on Level of Service for determining traffic impacts for CEQA transportation impact analysis based on the September 2019 traffic study. However, even where LOS is used for this Project, the environmental document must still contain adequate technical analysis supporting the City's determination regarding traffic and transportation impacts. The draft MND does not adequately evaluate trip distribution, roadway operations, intersection performance, roadway segment impacts, site access, emergency access, or circulation patterns associated with alternative access arrangements. As a result, the City cannot determine that the Project's transportation impacts have been adequately evaluated.
- j. **The draft MND relies on technical information that does not adequately reflect existing conditions.** CEQA requires environmental review to provide an informed analysis of the Project's potential effects based on reliable information and substantial evidence. The draft MND relies on technical analyses that do not adequately reflect existing conditions, including outdated traffic information and incomplete evaluation of affected roadway facilities, access conditions, and operational characteristics. Because the technical analysis does not adequately reflect existing conditions or relevant affected facilities, it does not provide a sufficient evidentiary basis for the City to determine that the Project will not have significant environmental effects.
- k. **The draft MND does not provide adequate information for informed public review.** CEQA public review is intended to allow agencies, interested parties, and the public to evaluate the environmental analysis before a decision is made. A document that does not adequately describe the Project, identify required Project components, or evaluate potentially significant impacts does not provide a meaningful basis for public review.

Circulating an incomplete or inadequate draft MND would mislead the public regarding the Project being analyzed and the environmental issues requiring review.

- I. **The deficiencies are substantive, not merely editorial or technical.** The deficiencies in the draft MND concern core CEQA requirements, including the Project description, initial study analysis, transportation impacts, emergency access, existing conditions, and mitigation or project revisions necessary to avoid significant impacts. These issues affect the City's ability to determine whether an MND is legally appropriate and whether the document may be circulated as reflecting the City's independent judgment. Therefore, the deficiencies are substantive and must be resolved before the document can be considered adequate or complete for public circulation.
- D. The City cannot make the findings required under CEQA Guidelines Section 15074 that there is no substantial evidence the Project will have a significant effect on the environment or that the Applicant-prepared draft MND reflects the City's independent judgment and analysis.
- E. For the reasons stated above, the City Manager finds that the Applicant-prepared draft MND is not adequate or complete to commence circulation for public review.
- F. The draft MND shall not be circulated in its current form pursuant to SMMC Section 18.04.140(b).

REVIEWED AND APPROVED by the City Manager of the City of San Marcos, California, this 2nd day of July 2026.

APPROVED:



Michelle Bender, City Manager
City of San Marcos

ATTEST:



Phillip Scollick, City Clerk
City of San Marcos