SAN MARCOS
DISCOVER LIFE'S POSSIBILITIES

City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

STAFF REPORT

PLANNING COMMISSION MEETING

MEETING DATE: September 5, 2017

SUBJECT: P16-0039/GPA16-002/R16-002/CUP16-006/ND17-004. Metropolitan Area Advisory Committee on Anti-Poverty (MAAC) Preschool Expansion. APNs: 220-320-04-00, 220-320-07-00, 220-320-08-00, and 220-320-23-00.

Recommendation

Recommend to City Council adoption of a Rezone and approval of a General Plan Amendment and Conditional Use Permit to accommodate construction of a 2,661 square foot (SF) addition to an existing 4,532 SF preschool (MAAC) building, expansion of a twelve (12) space onsite parking lot to a twenty-eight (28) space shared parking lot, and adoption of a Mitigated Negative Declaration (ND).

Introduction

The existing site is a 0.64-acre property located at 139 Gosnell Way, east of Firebird Lane (Attachment A). The terrain of the property gradually slopes up two feet from the northeast of Gosnell Way to the southwest City parcel property line at Firebird Lane. The property is currently developed with a 1-story, 4,532 SF, MAAC Preschool building, a twelve (12) space parking lot, and outdoor play equipment area. A Conditional Use Permit has permitted the operation of a preschool on the site since 1984 and MAAC has owned the property since 1999. The site is surrounded by the U.S. Post Office to the east, Richmar Park to the south, two multi-family complexes to the north, and single-family residences to the west across Firebird Lane. A vacant 0.18 acre City owned parcel is located to the west of the site and is designated as Park (P) and Public Institutional (P-I) in the General Plan and Zoning Ordinance, respectively. The City property and 0.17 acres of the MAAC property is identified as a parking lot use in the Richmar Park Master Plan. A project public workshop was held on July 19, 2017; there were no attendees.

Discussion

The MAAC site is zoned Multi-family Residential (R-3-10) and designated Medium Density Residential 2 (15.1-20.0 dwelling units per acre) per the General Plan. The Multi-family Residential R-3-10 (San Marcos Municipal Code (SMMC) 20.215) does not permit preschools and therefore limits the expansion of the building to 10% as an existing non-conforming use (SMMC 20.345). The MAAC Headstart project proposes a Rezone from Residential (R-3-10) to Public Institutional (P-I) and General Plan Amendment from Medium Density Residential 2 (MDR2) to Public/Institutional on 0.64

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acres to accommodate a building and parking lot project expansion. A Conditional Use Permit (SMMC 20.520) is required to regulate expansion of the site design and the preschool operational use in the P-I zone.

The preschool expansion (Attachment B) will involve reconfiguration of the outdoor play equipment to accommodate the construction of a three classroom 2,661 SF addition to an existing 4,532 SF building, resulting in a 7,193 SF, seven classroom preschool on 0.64 acres. Incidental underground utilities, hardscape, and landscaping will also be constructed with this development. The proposed addition will increase service from 70 to 123 children and increase the staff members from nine (9) to fifteen (15). Hours of operation are Monday-Friday, 7:00 a.m.-5:00 p.m., and will remain the same with the addition. An existing twelve (12) space shared parking lot will also be reconstructed and expanded onto a 0.18 acre City owned parcel to create a twenty-eight (28) space parking lot. The City owned 0.18 acre parcel is zoned Public Institutional (P-I) and designated "Park" in the General Plan. A shared parking and maintenance agreement between the City and MAAC will provide the required parking spaces for the MAAC facility during weekdays, and add parking spaces for Richmar Park in the evenings, and on weekends, as intended in the Richmar Park Master Plan. The expansion of the MAAC preschool building will cross a property line (Assessor Parcel Numbers 220-320-04-00 and 220-320-23-00), which the California Building Code (CBC) does not allow. To ensure CBC compliance, prior to project construction, a lot line consolidation will be processed and recorded.

The MAAC facility building was constructed in 1978 and modified in 1984. The architectural style of the building consists of a flat and hip shingle roof with a stucco building finish. The 2,661 SF building addition will include architectural elevation updates for the entire facility, including window enhancements (foam sill, awnings), exterior lighting upgrades, and Title 24 energy efficiency upgrades, including installation of photovoltaic solar to the roof (Attachment C). The project conditions will require that the architectural enhancements are included in the building plans. The site design will comply with the Public Institutional (P-I) design standards (i.e. setbacks, parking, landscape, etc.) of the Zoning Ordinance (SMMC 20.240) thereby complementing the adjacent Richmar Park and Post Office uses. Site landscaping will be required to comply with the City's Water Efficient Landscape Standards (SMMC 20.330).

The MAAC building expansion will require removal of three mature trees; however, the project design includes eleven new trees, resulting in a net increase of eight trees. This net increase will serve to comply with General Plan Conservation and Open Space Element Policy COS-2.6 for a 1:1 replacement ratio. A final fencing plan, in conjunction with landscape plans, will be submitted for review and approval for design compatibility with the existing site, and Richmar Park.

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Environmental Review
In accordance with the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration (ND 17-004) was prepared by the City for the proposed project and circulated for public review from July 18, 2017 to August 8, 2017. The MND evaluated impacts associated with air quality, land use/planning, public services, transportation/traffic, utilities/service systems, biological resource, tribal cultural resource, and cultural resource impacts. With the incorporation of mitigation measures, the MAAC expansion impacts are determined to be less than significant (Attachment F). The City received one ND 17-004 comment letter (Attachment G) from the San Luis Rey Band of Mission Indians, which memorialized their acceptance of the ND tribal cultural resource mitigation measures.

Pursuant to Tribal Consultation legislations Senate Bill 18 (SB-18) (Government Code Section 65362.3) and Assembly Bill 52 (AB-52) (Public Resources Code 21092.2), notices were sent by the City requesting consultation to the applicable Native American tribes during the project processing. In response to these notifications, consultation requests were received from the San Luis Rey Band of Mission Indians (San Luis Rey) and the Rincon Band of Luiseno Indians (Rincon). San Luis Rey and Rincon both requested consultation. With acceptance of the Tribal ND 17-004 Cultural Resource mitigation measures which includes a pre-excavation agreement for tribal cultural resource monitoring during project construction, San Luis Rey requested (July 27, 2017) conclusion of the AB-52 consultation. The SB-18 consultation process is ongoing with Rincon, and will be completed prior to the City Council hearing.

Attachment(s)
Adopting Resolutions (3)

A. Vicinity Map
B. Proposed Site Plan
C. Building Elevations
D. Requested Entitlements
E. Site & Project Characteristics
F. Negative Declaration
G. ND 17-004 Comment Letter

Prepared by:

Susan Vandrew Rodriguez, Associate Planner

City of San Marcos
1 Civic Center Drive
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Reviewed by:

Joseph Farace, Principal Planner

Reviewed by:

Peter Kuey, Principal Civil Engineer

Approved and Submitted by:

Karen Brindley, Planning Division Manager

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ATTACHMENT A
Vicinity Map

VICINITY MAP

Project No: P16-0039 (GPA 16-002;R16-002;CUP16-006)
Project Name: MAAC Preschool Expansion
Applicant: Metropolitan Area Advisory Committee on Anti-Poverty (MAAC)
Location: 139 Gosnell Way, east of Firebird Street
Assessor's Parcel No(s): 220-320-04-00; 220-320-07-00; 220-320-08-00; and 220-320-23-00

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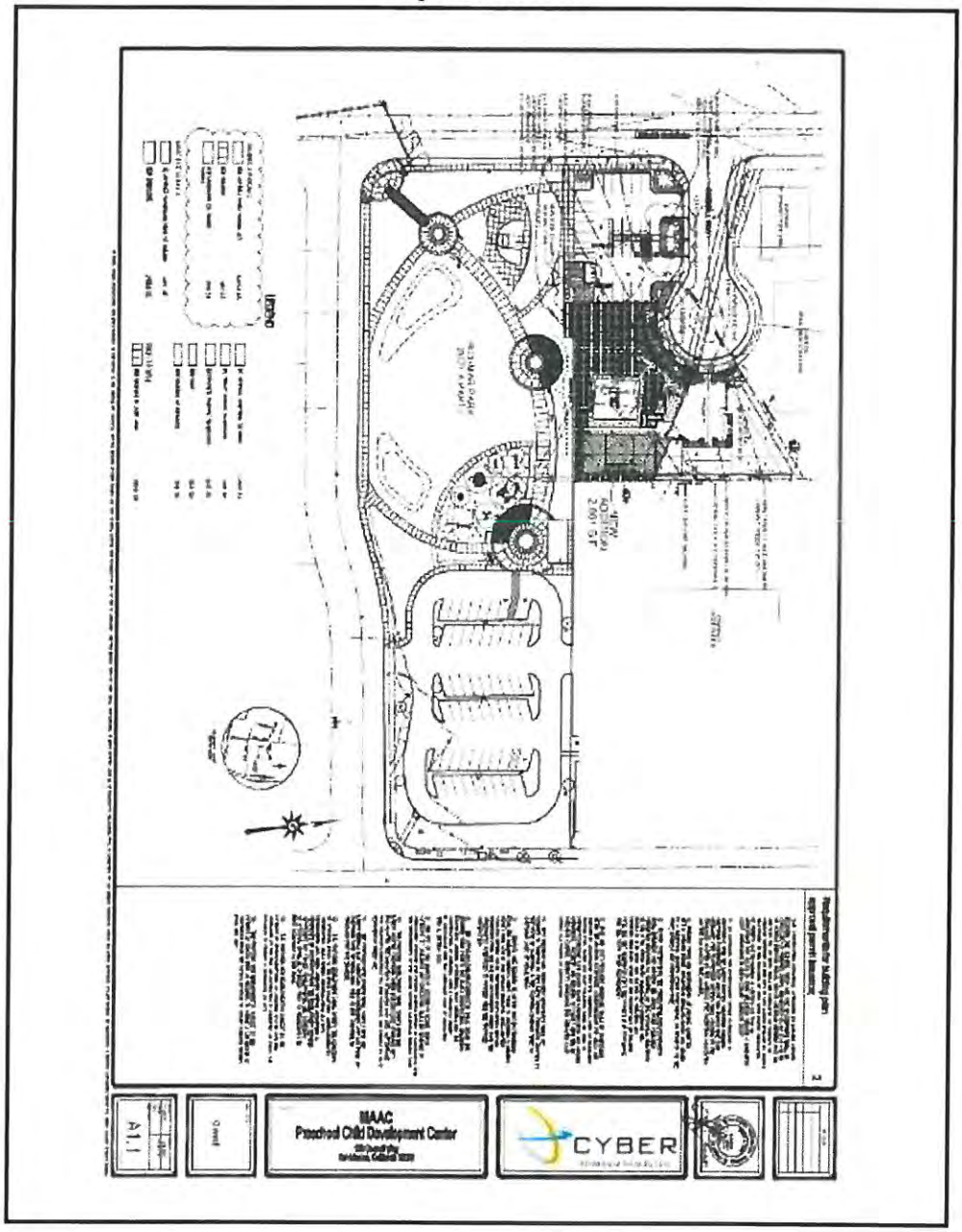
ATTACHMENT B
Proposed Site Plan



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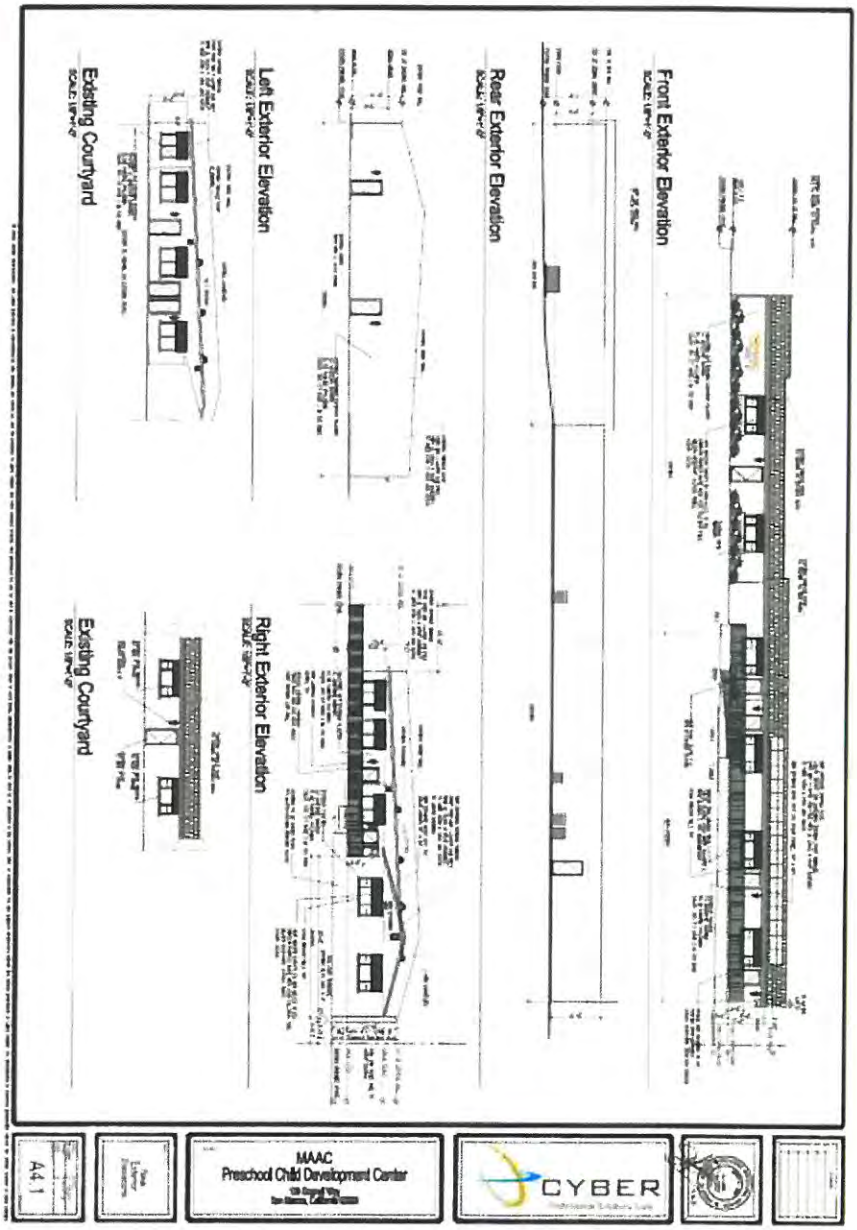
ATTACHMENT C
Proposed Building Elevations



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ATTACHMENT D
Requested Entitlements

- A General Plan Amendment (GPA 16-002) from Medium Density Residential 2 (MDR2) to Public/Institutional on 0.64 acres
- A Rezone (RZ 16-002) from Residential (R-3-10) to Public Institutional (P-I).
- A Conditional Use Permit (CUP 16-006) to regulate the building/parking lot expansion and MAAC operation on 0.64 acres.
- Adoption of Mitigated Negative Declaration (ND 17-004).

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ATTACHMENT E
Site & Project Characteristics

Property	Existing Land use	Zoning	General Plan Designation
Subject	MAAC Headstart	R-3-10	Medium Density Residential 2 (15.1-20.0 du/ac)
	Vacant City Parcel	P-I	Park
North	Multi-family Residential	R-3-10	Medium Density Residential 2 (15.1-20.0 du/ac)
South	Richmar Park	P-I	Park
East	U.S. Post Office	P-I	Public Institutional
West	Single-Family Residence	R-1-10	Very Low Density Residential (2.1-4.0 du/ac)

Flood Hazard Zone	___yes _x_no
Resource Conserv. Area	___yes _x_no
Sewers	_x_yes ___no
Septic	___yes _x_no
Water	_x_yes ___no
Gen. Plan Conformance	_x*yes ___no
Land Use Compatibility	_x_yes ___no

* Requires General Plan Amendment.

RESOLUTION PC 17-4652

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A GENERAL PLAN AMENDMENT CHANGE FROM MEDIUM DENSITY RESIDENTIAL 2 TO PUBLIC/INSTITUTIONAL ON 0.64 ACRES IN THE RICHMAR NEIGHBORHOOD

GPA 16-002
P16-0039
Metropolitan Area Advisory Committee on Anti-Poverty (MAAC)

WHEREAS, an application was received from the Metropolitan Area Advisory Committee on Anti-Poverty (MAAC) requesting a General Plan Amendment (GPA) from Multi-family Residential 2 to Public/Institutional Use (PI) on 0.64 acres in conjunction with a Rezone (R 16-002) and a Conditional Use Permit (CUP 16-006), located at 139 Gosnell Way, east of Firebird Lane, in the Richmar Neighborhood, more particularly described:

> Lots 7, 10, and portions of lots 8 and 9, of Richland Terrace, Map 5516, filed in the Office of the County Recorder of San Diego California, January 15, 1965.
> Assessor's Parcel Numbers: 220-320-04-00, 220-320-07-00 and 220-320-23-00.

WHEREAS, Article 6, Section 65302, of the State Government Code specifies that each planning agency and legislative body of each City and county shall adopt a comprehensive, long-term general plan for the physical development of the City; and

WHEREAS, Article 5, Section 65302 of the State Government Code specifies the contents for a general plan and a land use element to said plan; and

WHEREAS, Article 6 Section 65358 of the State Government Code allows for yearly updates to local general plans to allow for changes in the market place; and

WHEREAS, on February 9, 2016, the City Council approved the Richmar Park Master Plan Site Development Plan (CC Resolution 16-8156) with inclusion of a 0.17 acre MAAC owned property (Assessor Parcel Number 220-320-07-00) and a 0.18 acre City owned (Assessor Parcel Number 220-320-08-00) future parking lot use; and

WHEREAS, the February 9, 2016, City Council action did include a General Plan Amendment to "Park" of the City owned parcel (Resolution 2016-8155) but did not include the MAAC parcel and also included a Rezone from Multi-family Residential R-3-10 to Public Institutional (Resolution 2016-1420); and

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WHEREAS, the Development Services Department did study said request and does recommend approval of requested use; and

WHEREAS, the required public hearing held on September 5, 2017, was duly advertised and held in the manner prescribed by law; and

WHEREAS, a public workshop was held on July 19, 2017, in accordance with City Council Resolution 99-5208; and

WHEREAS, the Planning Commission did consider a Mitigated Negative Declaration (ND 17-004) for said request pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission's decision is based on the following findings and determinations:

1. The preschool use expansion General Plan Amendment to Public/Institutional is consistent with the General Plan Land Use and Community Design Element Land Use Goal (LU-1) to achieve a balanced distribution and compatible mix of land uses to meet the present and future needs of all residents and the business community within the Richmar Neighborhood; the project will expand preschool facilities to serve adjacent single-family and multi-family residential uses.

2. The proposed General Plan Amendment will not be detrimental to the public health, safety, and welfare. Adequate service levels for all utilities, such as power, water, and sewer, already exist on-site, and the project design includes compliance with Title 24 energy standards for the entire facility, which serves to implement General Plan Land Use and Community Design Goal LU-2 (Promote development standards and land use patterns that encourage long-term environmental sustainability) and General Plan Land Use and Community Design Element Policy LU-2.4 to encourage retrofits of existing buildings to promote energy efficiency and indoor air quality.

3. The preschool land use implements the Richmar Park Master Plan which identifies a portion of the MAAC site, along with a City owned parcel, as a shared parking lot; this project land use component will also serve to implement the Parks, Recreation, and Community Health Element Goal PR-1 to plan for, acquire, develop, and maintain a system of local parks connected through an integrated network of trails and high quality recreational facilities.

NOW, THEREFORE, the Planning Commission resolves as follows:

1. The foregoing recitals are true and correct.

2. Mitigated Negative Declaration (ND 17-004) is hereby recommended to the City Council for adoption.

3. The General Plan Amendment (GPA16-002), as shown on the attached "Exhibit A," is hereby recommended to the City Council for approval.

PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, State of California, at a regular meeting thereof, this 5th day of September 5, 2017, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

APPROVED:

_____
Eric Flodine, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

_____
Lisa Kiss, Office Specialist III
SAN MARCOS CITY PLANNING COMMISSION

EXHIBIT "A"

GPA 16-002 Proposed GPA Area

August 9, 2017

1:2,400

0 112.5 225 450 ft

0 30 60 120 m

N

General Plan Amendment from Multi-family Residential 2 (MDR2) to Public/Institutional (PI)

Assessor's Parcel Numbers: 220-320-04-00, 220-320-07-00 and 220-320-23-00

RESOLUTION PC 17-4650

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A ZONE RECLASSIFICATION ON 0.64 ACRES FROM MULTI-FAMILY RESIDENTIAL (R-3-10) TO PUBLIC AND INSTITUTIONAL (P-I) ZONE IN THE RICHMAR NEIGHBORHOOD.

R 16-002
P16-0039
Metropolitan Area Advisory Committee on Anti-Poverty (MAAC)

WHEREAS, an application was received from the Metropolitan Area Advisory Committee on Anti-Poverty (MAAC) requesting a zone reclassification of 0.64 acres from Multi-family Residential R-3-10 to Public and Institutional Uses (PI) Zone, in conjunction with a General Plan Amendment (GPA 16-002) and a Conditional Use Permit (CUP 16-006), located at 139 Gosnell Way, east of Firebird Lane, in the Richmar Neighborhood, more particularly described as:

> Lots 7, 10, and portions of lots 8 and 9, of Richland Terrace, Map 5516, filed in the Office of the County Recorder of San Diego California, January 15, 1965.
> Assessor's Parcel Numbers: 220-320-04-00, 220-320-07-00 and 220-320-23-00.

WHEREAS, on February 9, 2016, the City Council approved (CC Resolution 16-8156) the Richmar Park Master Plan Site Development Plan with inclusion of a 0.17 acre MAAC owned property (Assessor Parcel Number 220-320-07-00), and a 0.18 acre City owned vacant property (Assessor Parcel Number 220-320-08-00), as a future parking lot use; and

WHEREAS, on February 9, 2016, the City Council action did approve a Rezone of the City owned parcel (Assessor Parcel Number 220-320-08-00) (Ordinance 2016-1420) to Public-Institutional (P-I) but did not include the MAAC parcel; and

WHEREAS, the Development Services Department did study said request and does recommend approval; and

WHEREAS, the required public hearing held on September 5, 2017, was duly advertised and held in the manner prescribed by law; and

WHEREAS, a public workshop was held on July 19, 2017, in accordance with City Council Resolution 99-5208; and

WHEREAS, the Planning Commission did consider a Mitigated Negative Declaration (ND 17-004) for said request pursuant to the California Environmental Quality Act (CEQA); and

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WHEREAS, the Planning Commission's decision is based on the following findings and determinations:

1. The proposed Rezone will allow the preschool to operate as a legal use in accordance with the Public and Institutional Zone in the Richmar Neighborhood, and in so doing, encourage the orderly expansion of the site, including Title 24 and green building upgrades as well as regulation of the child care and educational operation, serving the community.

2. The proposed Rezone will not be detrimental to the public health, safety, morals, and welfare of adjacent uses in that preschool expansion within the Richmar Neighborhood shall be developed in accordance with Chapter 20.240 of the Zoning Ordinance, Public and Institutional Zone.

3. The proposed Rezone complies with the General Plan Land Use and Community Design Element Guiding Theme to provide balanced and compatible land uses through implementation of Land Use and Community Design Goal (LU-1) to achieve a balanced distribution and compatible mix of land uses to meet the present and future needs of all residents and the business community. The Rezone will implement the Public-Institutional (P-I) land use designation of the General Plan, by accommodating a child care and educational use within close proximity to public transit, and adjacent to public institutional, single-family, and multi-family uses.

NOW, THEREFORE, the Planning Commission resolves as follows:

1. The foregoing recitals are true and correct.

2. Mitigated Negative Declaration (ND 17-004) is hereby recommended to the City Council for adoption.

3. The Rezone (R 16-002) parcels shown on the attached "Exhibit A" are hereby recommended to the City Council for approval.

PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, State of California, at a regular meeting thereof, this 5^{h} day of September 2017, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

APPROVED:

_____
Eric Flodine, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

_____
Lisa Kiss, Office Specialist III
SAN MARCOS CITY PLANNING COMMISSION

EXHIBIT "A"

R16-002 Proposed Rezone Area

August 9, 2017

1:2,400

0 112.5 225 450 ft
0 30 60 120 m

Rezone from Multi-family Residential (R-3-10) to Public Institutional (P-I)

Assessor's Parcel Numbers: 220-320-04-00, 220-320-07-00 and 220-320-23-00

N

RESOLUTION PC 17-4651

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A CONDITIONAL USE PERMIT FOR THE EXPANSION AND OPERATION OF THE MAAC PRESCHOOL IN THE RICHMAR NEIGHBORDOOD WITHIN THE PUBLIC INSTITUTIONAL (P-I) ZONE

CUP 16-006
P16-0039
Metropolitan Area Advisory Committee on Anti-Poverty (MAAC)

WHEREAS, on September 16, 2016 an application was received from Metropolitan Area Advisory Committee on Anti-Poverty (MAAC), requesting a Conditional Use Permit to construct a 2,661 square foot (SF) addition to an existing 4,532 square foot (SF) building, resulting in a 7,193 square foot, seven classroom preschool, on 0.64 acres and reconstruction and expansion of a twelve (12) space parking lot to a twenty-eight (28) space lot, including expansion into a vacant 0.18 acre City owned parcel, in conjunction with a General Plan Amendment (GPA 16-002) and Rezone (R16-002), at 139 Gosnell Way, east of Firebird Lane, more particularly described as:

> Lots 6, 7, 10, and portions of lot 8 and 9 of Richland Terrace, Map 5516, filed in the Office of the County Recorder of San Diego California, January 15, 1965.
> Assessor's Parcel Numbers: 220-320-04-00, 220-320-07-00, 220-320-08-00, and 220-320-23-00.

WHEREAS, the Development Services Department did study said request and does recommend approval of the requested use; and

WHEREAS, on April 2, 1984, the City of San Marcos Planning Commission approved Resolution PC 84-1524 for a modification to an existing Conditional Use Permit/Design Overlay to allow the expansion of an existing facility in the Residential-Professional Zone (R-P) ; and

WHEREAS, all conditions of San Marcos Permit (SMP) 77-06, San Marcos Modification (SMM) 79-02, SMP 80-08 and SMP 82-16/San Marcos Design (SMD) 82-09 remained in full force and effect, except as otherwise noted, in PC Resolution PC 84-1524, as approved on April 2, 1984; and

WHEREAS, zone changes since 1984 in the project area, have resulted in a zone change reclassification of the project site to Multi-family Residential R-3-10; and

WHEREAS, in the Multi-family Residential R-3-10 zone, child care facilities are not a permitted use; and

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WHEREAS, to ensure General Plan compliance of the preschool, expansion and operation through a Conditional Use Permit (CUP), a General Plan Amendment (GPA 16-002) is being processed concurrently with this CUP; and

WHEREAS, in order to regulate the preschool, expansion and operation through a Conditional Use Permit (CUP), a Rezone (R16-002) to change the project zoning to Public-Institutional (P-I) is being processed concurrently with this CUP; and

WHEREAS, on January 4, 2016, the City Council approved (Ordinance 2016-1420) a Rezone from Multi-family Residential R-3-10 to Public Institutional (P-I) on Assessor Parcel Number 220-320-08-00 within the Richmar Park Master Plan to accommodate the future construction of a parking lot; and

WHEREAS, the Richmar Park Master Plan Site Development Plan (CC Resolution 16-8156) approved by the City Council on January 4, 2016, included a 0.17 acre MAAC owned property (Assessor Parcel Number 220-320-07-00) for future use as a parking lot); and

WHEREAS, the Richmar Park Master Plan Site Development Plan Mitigated Negative Declaration, prepared to assess the environmental impacts associated with the Richmar Park Master Plan, including a 0.17 acre MAAC owned property for future use as a parking lot, was adopted by the City Council (CC Resolution 16-8156) on January 4, 2016; and

WHEREAS, the required public hearing held on September 5, 2017, was duly advertised and held in the manner prescribed by law; and

WHEREAS, a public workshop was held on July 19, 2017, in accordance with City Council Resolution 99-5208; and

WHEREAS, the Planning Commission did consider a Mitigated Negative Declaration (ND 17-004) for said request pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission's decision is based on the following findings and determinations:

1. The granting of the Conditional Use Permit (CUP) would not result in detrimental impacts to adjacent properties of the character and function of the neighborhood. The CUP will guide the orderly expansion of a MAAC preschool childhood education, health, and well being service operations, consistent with the Public Institutional Zone (Chapter 20.240) regulating child care and educational uses. The project is consistent with the character and function of adjacent single-family, multi-family and Public Institutional uses (Richmar Park and U.S. Post Office) because the use will provide compatible and customary services for uses in the vicinity though an expansion of a use already incorporated into the surrounding neighborhood.

2. The design, development, and condition associated with the CUP are consistent with the goals, policies, and intent of the applicable Zone and the General Plan Land Use

and Community Design Element, specifically implementing Land Use Goal LU-7 which provides for Growth Management and Adequate Provision of Urban Services through the expansion of the preschool and parking that will also serve Richmar Park to adequately meet the needs of the San Marcos Community.

3. The land use allowed in conjunction with the CUP is compatible with the existing and future land use of the applicable Zone, and the general area in which the proposed use is to be located. The granting of the Conditional Use Permit will provide adequate setbacks and separation from surrounding properties in accordance with the Public-Institutional (P-I) Zone, and include an expanded parking lot to serve the MAAC weekday operations as well parking for Richmar Park during evenings and weekends, through a shared parking and maintenance agreement.

4. The use is compatible with the general area in which the use is located. The project design granted through the CUP will include design, landscape improvements to the site, including the shared parking lot, resulting in the replacement of three existing trees with an addition of eight new trees that serves to comply with General Plan Conservation and Open Space Element Policy COS-2.6, to preserve healthy matures trees where feasible and where removal is necessary, trees shall be replaced at a ratio of 1:1.

NOW, THEREFORE, the Planning Commission resolves as follows:

A. The foregoing recitals are true and correct.

B. The Planning Commission recommends City Council adoption of a Mitigated Negative Declaration (ND 17-004) pursuant to the California Environmental Quality Act (CEQA).

C. The Planning Commission recommends City Council approval of the Conditional Use Permit per the submitted plan set (site plan, floor plan, architectural/color elevations, electrical plan, and conceptual landscaping plan) dated July 10, 2017, except as modified herein, that includes a 7,193 square-foot building, reconfigured play area, and twenty-eight (28) space parking lot, and subject to compliance with the conditions of approval of this Resolution PC 17-4651.

D. The Planning Commission recommends City Council approval in conjunction with the submitted Rezone (R16-002) and General Plan Amendment (GPA16-002), and all conditions specified in Resolutions PC 17-4650 and PC 17-4652, is hereby incorporated by reference herein.

E. General Provisions:

1. Developer/Applicant shall comply with all provisions and requirements set forth in the San Marcos Municipal Code, City ordinances, City policies and City resolutions, and with all applicable state and federal regulations, whether or not such provisions or requirements have been specifically set forth in these

conditions, all of which are now incorporated herein by reference and fully set forth at this point.

2. The Developer shall ensure that prospective purchasers sign a disclosure for the following:

   a. The property is within the City's Community Facilities Districts Boundaries which are subject to supplemental tax assessments. Annexation into one or more of these districts or payment of in-lieu fees will be required.

3. Mitigation measures contained in ND 17-004 Mitigation and Monitoring Reporting Program shall be implemented during the appropriate phases of project construction.

4. A separate permit shall be required for any new signage. Building signage shall be individual non-illuminated channel letters.

F. Prior to the issuance of any grading or improvement/landscape permit, the following conditions shall be complied with:

1. The applicant shall submit for a grading permit in accordance with the San Marcos Municipal Code Section 17.32. All appropriate fees shall be paid for the processing of the permit.

2. This project applicant shall apply for a public improvement permit for the parking lot improvements complaint with SMMC 14.16, including landscape planting and irrigation compliant with SMMC 20.330. All plans submitted for public improvements shall conform to applicable codes, City standard specifications, and engineering handouts, unless explicitly superseded by the conditions contained herein. All appropriate fees and securities shall be paid for the permit issuance, including landscape work performed within City right-of-way, or parking lot area that will be maintained through a shared parking and maintenance agreement.

3. Developer/Applicant shall be responsible for bearing the costs of all grading activities, on-site and off-site improvements, labor, design, mitigation, or other costs associated with, but not limited to, the project's planning, engineering, construction and/or architecture for the project.

4. The applicant shall enter into a Development 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 and approved in accordance with the San Marcos Municipal Code sections 19.16.070 and 19.16.080.

5. A shared parking and maintenance agreement shall be processed and executed between the City of San Marcos and the applicant/developer, and recorded with the County Recorder prior to permit issuance.

6. A General Plan Amendment from Medium Density Residential 2 (MDR2) to Public/Institutional and a Rezone from Residential R-3-10 to Public Institutional (P-I) shall be adopted on 0.64 acres.

7. An application to consolidate Assessor Parcel Numbers 220-320-04-00 and 220-320-23-00 shall be submitted to the City for review and approval.

8. The developer/applicant shall mitigate for impacts on City services related to emergency response, traffic congestion, landscaping, and infrastructure maintenance. The mitigation shall be met through the execution of applications to annex the real property of the project into the following Community facilities Districts (CFD):

   CFD 98-01 - Improvement Area No. 1 (Police Only)
   CFD 98-02 – Lighting, Landscaping, Open Space and Preserve Maintenance
   CFD 2001-01 – Fire and Paramedic
   CFD 2011-01 – Congestion Management

   No Permit will be issued without receipt of a petition for annexation and consent and waiver executed by the property owners for each of the above-referenced Community Facilities Districts for the establishment of the special taxes. In lieu of annexation, the applicant my pay a fee for each CFD consentient with the pre-payment option laid out in each CFD's formation document. The applicant/developer shall be responsible for compliance with all rules, regulations, policies and practices established by State Law and/or the City with respect to the Community Facilities Districts including, without limitation, requirements for notice and disclosure to future owners and/or operators.

9. Parking lot improvements shall be designed in conformance with the City's adopted standards. Private improvements including, but not limited to, the trash enclosure, fencing, and signs in the parking lot area shall not interfere with City maintained improvements and may require an encroachment agreement, or regulated through a shared parking and maintenance agreement. Any private utility connections shall be independent of City connections.

10. The parking lot shall conform to recommendations made in the Richmar Park geotechnical report dated 10/7/15 by Group Delta, including that the parking lot shall be designed with a minimum 3" asphalt concrete/10" aggregate base; the final structural section to be determined by the soils engineer.

11. Utility service connections for City facilities shall be made at City specified locations in accordance with City adopted standards and specifications.

12. All utilities onsite 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 Policy LU 17.3. Where the underground of such equipment is not possible due to safety or lack of standards for such undergrounding, the developer/applicant shall provide an underground vault, in-building vault room, architecturally integrated screen wall around equipment, or other option approved by the Planning Manager.

13. The applicant/developer shall be responsible for acquiring all associated easements required by the utility companies for such work. The permanent placement of Vallecitos Water District's large meter services, detector checks, fire hydrants, etc., along circulation element streets shall be placed outside of the ultimate right-of-way and if applicable, trail easement, to avoid reconstruction or modification of same.

14. 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 responsibility to determine all agencies with rights of approval for the proposed development.

15. Erosion control and/or sediment control details shall be submitted with/on the grading plans to the City's Engineering Division for review and approval. The details shall conform to City standards, codes, SDRWQCB Municipal Stormwater Permit requirements, and ordinances. The details shall include landscaping and temporary irrigation systems on exposed slopes to be approved by the City's Engineering and Planning Divisions.

16. A hydrology and hydraulic report, including calculations, shall be prepared for the proposed project to determine the existing and post-development runoff for the 100-year storm conditions. Storm drains and drainage structures shall be sized for build-out according to the approved hydrology report. All surface runoff originating within the project and all surface waters that may flow onto the project from adjacent properties shall be accommodated by the drainage system. The report shall also determine the buildout runoff into existing off-site natural drainage swales and storm drain systems, and shall address any need for off-site improvements, including upsizing of existing facilities. Blocking, concentrating, lowering or diverting of natural drainage from or onto adjacent property shall not be allowed without written approval of the affected property owner(s).

17. A Storm Water Quality Management Plan (SWQMP) shall be submitted in accordance with the most current version of the City adopted BMP design manual and meet the requirements of California Regional Water Quality Control Board, San Diego Region, Order No. R9-2013-0001 as amended by Order Numbers R9-

2015-0001 (Orange County enrollment) and R9-2015-0100 (Riverside enrollment).

18. The landscape sheets of the public improvement plan set shall include a planting palette and irrigation installation in accordance with City standards that shall be reviewed and approved by the Public Works Department for the parking lot area that shall match the Richmar Park Parking Lot Area.

19. The landscape sheets of the public improvement plan set landscape plans shall show all planting and irrigation details as required in Zoning Ordinance Chapter 20.330 (Water Efficient Landscape Standards) and in accordance with City Public Works standards.

20. Under separate permit, the applicant/developer shall submit private landscape and irrigation plan area not contained in the public improvement plan permit area (public right-of-way and shared parking lot), to the Planning Division for review and approval. The landscape plans, including plant material and irrigation design, shall comply with the City's Landscape Water Efficiency Ordinance, Section 20.330 of the San Marcos Municipal Code.

21. This project is subject to the payment of a landscape permit and inspection fee for the private landscape plan set. The landscape permit and inspection fee shall be four and one-half percent (4.5%) of the Landscape Professional's estimate for the completion of all landscaping shown on approved mylars. All submitted estimates shall be stamped and signed by the Landscape Professional, and estimate the cost of plant and irrigation materials only.

22. Prior to grading the site or causing any impact to the site, in order to prevent potential impacts to nesting of any migratory, songbirds, or raptors, grading and/or construction activities on site must be avoided during the nesting season which extends from February 15th to September 15th. In order to begin grading or construction activities within the nesting season, a nesting survey from a qualified biologist or other expert in the field must be submitted to the Planning Division to verify there are no active nests on the subject site. This survey must be submitted prior to any disturbance or impact of the site. If any active nests are detected, the area shall be flagged and mapped on the construction plans along with a minimum of a twenty-five (25) foot buffer and up to a maximum buffer of 300 feet for raptors, as determined by the project biologist, and shall be avoided until the nesting cycle is complete.

23. The site plan shall be modified as follows:

    a. The plans shall clearly delineate only the portions of the site that MAAC will construct. The scope of construction on the site plan shall be consistent with the Development Improvement Agreement and shared parking and maintenance agreement.

b. All existing and proposed fencing shall be shown on the site plan. Proposed fencing shall match existing fencing in type and style and be compatible with the Richmar Park design.

c. A solid roof cover design shall be on the plan set to install over the existing trash enclosure and enclosure specifications shall comply with EDCO standards (10' x 14' minimum) and SMMC 20.445.

d. A City of San Marcos title block shall be shown on entire plan set.

e. Signage shall be installed on the trash enclosure stating "MAAC use only".

24. The following cultural resource measures shall be implemented prior to the grading operation or noted, where applicable, method of implementation during the grading operation:

a. An archeological monitor and a Luiseño Native American monitor shall be present during all earth moving and grading activities to assure that any potential cultural resources, including tribal, found during project grading be protected.

b. Prior to beginning project construction, the Project Applicant shall retain a San Diego County qualified archaeological monitor to monitor all ground-disturbing activities in an effort to identify any unknown archaeological resources. Any newly discovered cultural resource deposits shall be subject to cultural resources evaluation, which shall include archaeological documentation, analysis and report generation.

c. Project Applicant shall enter into a Cultural Resource Treatment and Monitoring Agreement (also known as a pre-excavation agreement) with a Luiseño Tribe at least thirty (30) days prior to beginning project construction. The Agreement shall address the treatment of known cultural resources, the designation, responsibilities, and participation of professional Native American Tribal monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation for the monitors; and treatment and final disposition of any cultural resources, sacred sites, and human remains discovered on site.

d. Prior to beginning project construction, the Project Archaeologist shall file a pre-grading report with the City to document the proposed methodology for grading activity observation, which will be determined in consultation with the contracted Luiseño Tribe. Said methodology shall include the requirement for a qualified archaeological monitor to be present and to have the authority to stop and redirect grading activities. In accordance with the required Agreement, the archaeological monitor's authority to

stop and redirect grading will be exercised in consultation the Luiseño Native American monitor in order to evaluate the significance of any archaeological resources discovered on the property. Tribal and archaeological monitors shall be allowed to monitor all grading, excavation, and groundbreaking activities, and shall also have the authority to stop and redirect grading activities.

e. The pre-construction meeting with the developer, contractor, and City staff shall include the Project Archaeologist and Tribal Monitor in discussion of the proposed earth disturbing activities for the project site, including excavation schedules and safety protocol, as well as consultation with the Project Archaeologist regarding proposed archaeological techniques and strategies for the project.

f. The import of fill onto the site shall be clean of cultural resources and documented as such.

g. The landowner shall relinquish ownership of all cultural resources collected during the grading monitoring program and from any previous archaeological studies or excavations on the project site to the appropriate Tribe for proper treatment and disposition per the Cultural Resources Treatment and Monitoring Agreement. All cultural materials that are deemed by the Tribe to be associated with burial and/or funerary goods will be repatriated to the Most Likely Descendant as determined by the Native American Heritage Commission per California Public Resources Code Section 5097.98. In the event that curation of cultural resources is required, curation shall be conducted by an approved facility and the curation shall be guided by California State Historic Resource Commissions Guidelines for the Curation of Archaeological Collections. The City of San Marcos shall provide the developer final curation language and guidance on the project grading plans prior to issuance of the grading permit, if applicable, during project construction.

h. All sacred sites, should they be encountered within the project area, shall be avoided and preserved as the preferred mitigation, if feasible.

i. If human remains are encountered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the San Diego County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. Suspected Native American remains shall be examined in the field and kept in a secure location at the site, and if the San Diego County Coroner determines the remains to be Native American, the Native American Heritage Commission (NAHC) must be contacted within twenty-four (24) hours. The NAHC must them immediately notify the "most likely

descendant(s)" of receiving notification of the discovery. The most likely descendants(s) shall then make recommendations within forty-eight (48) hours, and engage in consultation concerning treatment of remains as provided in Public Resources Code 5097.98.

j. If inadvertent discoveries of subsurface archaeological/cultural resources are discovered during grading, the Developer, the Project Archaeologist, and the Luiseño Tribe under the required Agreement with the landowner shall assess the significance of such resources and shall meet and confer regarding the mitigation for such resources. Pursuant to California Public Resources Code Section 21083.2(b) avoidance is the preferred method of preservation for archaeological resources. If the Developer, the Project Archaeologist and the Tribe cannot agree on the significance of mitigation for such resources, these issues will be presented to the Planning Manager for decision. The Planning Manager shall make a determination based upon the provisions of the California Environmental Quality Act with respect to archaeological resources and shall take into account the religious beliefs, customs, and practices of the Tribe. Notwithstanding any other rights available under law, the decision of the Planning Manager shall be appealable to the Planning Commission and/or City Council.

G. Prior to issuance of any building permits, the following conditions shall be complied with:

1. A certificate of compliance demonstrating the completion of the lot consolidation for Assessor Parcel Numbers 220-320-04-00 and 220-320-23-00 shall be recorded prior to building permit issuance.

2. All grading shall be supervised by a Civil and/or Geotechnical Engineer who shall prepare a written report to the satisfaction of the City Engineer certifying that the work has been performed in compliance with the recommendations contained within the geotechnical report and approved plans. If not so done, the report shall describe the actual work performed and any deficiencies observed. The final report shall specifically detail conditions and remedial work performed that was not specifically mentioned in the initial report of subsurface conditions

3. The architectural elevations shall reflect the July 10, 2017 plan set that include exterior building enhancements including, but not limited to, lighting upgrades, window treatments (foam sills and awnings), and Title 24 efficiency upgrades, including photo voltaic roof panels on the building expansion area.

4. The proposed building shall be architecturally compatible with the existing buildings. The exterior stucco siding and roof tile shall match in material, texture, and color to the existing buildings. Doors, windows, and railings shall match in type, style, and color to the existing buildings.

5. The electrical lighting plan Sheet E2.1 shall be modified as follows:

a. Point of connection for lighting in parking lot conflicts on electrical site plans. Please specify where this connection will be and verify the connection point with the City of San Marcos Public Works Department.

b. The plan shall include a note verifying that the pedestrian level lighting shown in the parking lot meets the minimum illumination standards of the parking lot area. A photometric study may need to be submitted to show the standard is met.

6. The landscape plan set shall be modified as follows:

a. The minimum number of trees required in Chapter 20.340 (Off-Street Parking and Loading) shall be indicated for each type of proposed tree in accordance with the City's Minimum Tree Standards.

b. Water efficiency calculations shall be shown on the irrigation specifications sheets of the landscape plans.

c. All existing and proposed landscape areas shall be shown and identified by shading or other pattern.

d. Sizes and quantities of plants provided should also be comparable to those planted in Richmar Park at the time of construction.

e. Square footage of the proposed and existing landscape area shall be indicated, including identification of any trees/plants that will be removed to accommodate new construction.

7. The approved precise grading plans shall be attached to the building plans.

8. A certificate of line and grade, signed and stamped by the engineer of work, shall be provided to the engineering inspector. The certificate shall be in a form acceptable to the City Engineer.

9. A copy of building plans in Geo-Referenced format using the NAD_1983_StatePlane_California_VI_FIPS_0406_Feet Coordinate System shall be provided to be used by the San Marcos Fire Department (SMFPD) for pre-fire planning purposes. Information shall include a site plan, building plan, all utility shut-offs, fire sprinkler risers, shut-off valves, fire connection for sprinkler and class-I standpipe, all standpipe hose outlets, all stairwells, classrooms, fire alarm panels, fire hydrants, Knox boxes, and key switch locations.

10. Plans submitted for the issuance of a Building Permit must also comply with the latest adopted standards of the National Fire Protection Association, and/or the City of San Marcos Fire Code Ordinance.

11. Per Chapter 17.64, Automatic fire sprinkler system is required to be installed in commercial occupancies when buildings exceed 5,000 square feet. Due to the school addition the total square footage of the building will be 7,193 square feet. Fire sprinklers are required to be installed in accordance with NFPA 13, both in new and existing area. Plans are required to be submitted prior to any installation.

12. The existing fire alarm system shall be extended to cover the new classrooms. A Fire Alarm coverage change requires a separate submittal. All modifications to the fire alarm system shall be in accordance with NFPA 72 and approved by the Fire Department prior to installation.

13. Building plans and instruments of service submitted with a building permit application shall be signed and sealed by a California licensed design professional as required by the State Business and Professions Code.

14. New buildings and remodeled structures shall be designed to conform to the latest design standards adopted by the State of California in the California Building Code, Part 2, Title 24, California Code of Regulations.

15. The applicant/builder/contractor shall obtain the required OSHA permits for blasting, construction, demolition, excavation, grading operations, rock drilling and the construction of buildings over 3 stories in height in accordance with the California Code of Regulations, Title 8, Section 1503.

16. The City of San Marcos is located in Seismic Design Category "D". Buildings and structures shall be designed to adequately transmit the dynamic lateral forces in accordance with the requirements of the latest adopted California Building Code.

17. The proposed development shall comply with the latest adopted California Green Building Code Standards. The city has adopted the mandatory standards and does not enforce the voluntary standards. All new projects are subject to a 20% reduction in water use.

18. The proposed new development is 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.

19. The proposed new development is subject to the payment of School Fees as required by law. The applicant is required to submit a Certificate of Compliance from the school district to obtain building permits from the City.

20. The project is subject to the approval of the Vallecitos Water District (VWD) for water and sewer services and all applicable fees and charges shall be paid to the satisfaction of the District. The project applicant shall bear the expense associated with any new water meters required by VWD to serve the MAAC project site.

21. All exterior lighting shall comply with City standards for energy efficient lighting as approved by the City.

22. Architectural lighting plan shall be included with the building plans that show the type, style, and location of all exterior building and parking lot lights. Proposed exterior light fixtures shall match existing lighting. Plans shall include photo of fixture and manufacturer specifications indicating dimensions, materials, colors, bulb type, etc.

H. During the construction phase, the following conditions shall be complied with:

1. Dust and dust producing materials shall be controlled within the maximum acceptable concentrations for silica and silicates in accordance with the California Code of Regulations, Title 8, Section 5155. Water and dust palliative shall be used to prevent excessive dust during blasting, construction and grading operations. Projects are required to comply with the Air Pollution Control District's standards for mitigating fugitive dust during all phases of construction.

2. The project shall comply with Regional Air Quality Standards.

3. The applicant shall retain a professional registered Civil and/or Geotechnical Engineer (Engineer-of-Work) to oversee the grading and construction activities as specified in Section 6703.1 of the Professional Engineer Act.

4. The applicant shall minimize exposure time of disturbed soil areas. Paving of roads/parking lots shall be completed as early as possible to mitigate short-term dust problems associated with construction.

5. During construction the owner/developer/contractor shall implement and maintain the storm water pollution prevention measures as required on the approved plans. Violations of the City's Storm Water Management Ordinance will result in Stop Work Orders, Notices of Violation and citations with fines. Work on the project may be delayed until the City determines that the project is in compliance with the storm water requirements.

6. Grading, excavation or other related earth moving operations, including warm-up and maintenance activities, shall be limited to the hours of 7:00 a.m. to 4:30 p.m., Monday through Friday. No work shall be allowed on Saturdays, Sundays and holidays.

7. All construction operations authorized by building permits, including the delivery, setup and use of equipment shall be conducted on premises during the hours of 7:00 AM to 6:00 PM on Monday through Friday, and on Saturday between 8:00 AM and 5:00 PM. No work shall be conducted on Sundays or Holidays observed by the City of San Marcos. Failure to comply will result in the issuance of STOP WORK NOTICES, REVOCATION OF PERMITS and the issuance of citations and fines as

appropriate. Citations for hours of work violations require a mandatory court appearance in North County Superior Court.

8. The hauling of earth and construction materials shall only occur along roadways that offer direct access to the site. No earth or construction material shall be allowed to use the adjacent developed residential streets. In the event that the hauling of earth and construction over residential streets of developed areas is unavoidable the applicant shall receive permission of City Engineer and/or the Public Works Director and comply with all necessary review.

I. Prior to occupancy of any structure, the following conditions shall be complied with:

1. All applicable easements and agreements shall be recorded prior to occupancy, with exception of the shared parking and maintenance agreement, which shall be executed prior to grading permit issuance.

2. As-Built drawings shall be submitted to the Engineering Division for review and approval. All improvements identified on the plans and all undergrounding of utilities shall be completed in accordance with the project plans and these conditions of approval. Record drawing mylar plans shall be submitted and approved prior to the release of any project securities.

3. If applicable, all rooftop mechanical units, vents, ducts, etc. shall be screened from view from street grade and adjacent properties. Said screening mechanism shall be inspected by the Planning Division, and if determined necessary, additional screening may be required, subject to approval by the Planning Manager.

4. Landscaping shall be inspected and approved by the Planning Division. The applicant/developer shall be responsible to contact the Planning Division for inspection.

5. The applicant shall submit a letter(s) by the landscape architect and engineer-of-work to the Planning Division certifying that the plant materials and irrigation system have been installed in accordance with the approved landscape plans and the Water Quality Improvement Plan, respectively.

6. Automatic fire extinguishing and standpipe systems, and fire alarm and other life-safety systems shall be installed as approved by the Fire Marshal.

7. Carbon Monoxide alarms are required to be installed in all new classrooms in accordance with 2016 CFC Section 915.2.3.

8. All exiting requirements shall comply with the California Fire Code & California Building Code, Chapter 10.

9. Evacuation routes shall be posted in every classroom identifying the exit route(s) to the approved safe dispersal area.

10. The proposed development shall satisfy the conditions of approval prior to the first occupancy. The owner/developer/contractor shall obtain approval from all City departments and other agencies before requesting a Certificate of Occupancy ("C of O") from the Development Services Department.

11. The proposed development shall comply with the latest Federal Law, Americans with Disabilities Act and State Law, California Code of Regulations, Title 24, for accessibility standards for the disabled.

J. The proposed use shall comply with the following operational standards:

1. The preschool student enrollment shall not exceed 123 students and fifteen (15) employees during any shift.

2. The MAAC operation hours are Monday-Friday, 7:00 a.m-5:00 p.m. unless modified by the Planning Manager.

3. MAAC shall advise parents to use the designated student drop-off and pick-up parking spaces located on the east side of the parking lot only; drop-off and pick-up is prohibited on Gosnell Way.

4. An outdoor PA (public address) system/loudspeakers or bells shall be prohibited.

5. The expanded parking lot use is subject to the provisions of a shared parking and maintenance agreement executed between MAAC (applicant/developer) and the City, which shall remain valid throughout the term of the CUP.

6. Outdoor storage shall be prohibited on site.

7. The operator shall comply with all applicable rules, regulations, and requirements of the State of California Community Care Licensing Division.

8. All trees and landscaping shall be maintained in a healthy, thriving manner. If any trees/landscaping shall die or become diseased, the trees/landscaping shall be replaced in numbers and quantity to provide the same landscaping and screening value.

9. All fencing shall be maintained and immediately repaired when damaged.

10. Where tree removal is necessary during site operation due to disease or damage, replacement at a 1:1 ratio is required.

K. The applicant shall be responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.

L. The Planning Division may, but is not obligated to, inspect the premises annually to ensure compliance with all conditions of the Director's Permit approval. If the Planning Division determines that compliance is not being achieved, then a public hearing may be scheduled for possible use permit modification or revocation, in accordance with Chapter 20.505 SMMC.

M. Any modifications, alterations, expansions or other changes must require the modification to this Conditional Use Permit (CUP) and may necessitate the issuance of Building Permits and reissuance of a Certificate of Occupancy ("C of O") from the Building Division.

N. Use of the site shall be conducted so as not to become obnoxious by reason of noise, odor, refuse or maintenance of grounds and in such a manner as will not detrimentally affect adjoining properties and uses.

O. 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, and equipment needed, and the hiring of local residents in order to stimulate the San Marcos economy to the greatest extent possible.

P. To the extent permitted by law, the Developer shall defend and hold the City of San Marcos ("City"), 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 Developer or its contractors, subcontractors, agents, employees or other persons acting on 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. 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 AND ADOPTED by the Planning Commission of the City of San Marcos, State of California, at a regular meeting thereof, this 5th day of September, 2017, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

_____

Eric Flodine, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

_____

Lisa Kiss, Office Specialist III
SAN MARCOS CITY PLANNING COMMISSION