

# STAFF REPORT

## PLANNING COMMISSION MEETING

**MEETING DATE:** March 19, 2018

**SUBJECT:** CUP17-0008. Jonathan Bernetskie (Captain Jack's Shellfish Company). Conditional Use Permit for shellfish processing facility.

**APN:** 217-560-28-00.

### Recommendation

Approve a Conditional Use Permit to allow the operation of a shellfish processing facility within an existing industrial park. The project is Categorically Exempt pursuant to the California Environmentally Quality Act (CEQA), Section 15301 Class 1 (Existing Facilities).

### Introduction

The project proposes storage and off-site distribution of fresh shellfish from a 780 square-foot suite (#103) within an existing industrial park at 2930 Norman Strasse Road. The applicant is proposing tenant improvements of the existing suite which will include the installation of a walk-in cooler for refrigeration of fresh shellfish.

### Discussion

The project site is zoned Light Industrial (L-I), and designated "Light Industrial" per the General Plan Land Use & Community Design Element. Surrounding properties are located within the same zone and land use designation, and are developed with existing industrial buildings. An industrial park is currently being constructed directly to the east of the site. The project site is currently developed with a 4-acre industrial park with 103 parking spaces, and access from Norman Strasse Road and Bosstick Boulevard.

In accordance with Chapter 20.230 of the San Marcos Municipal Code, food processing for fish, lard, meat, pickles, sauerkraut, or vinegar requires Planning Commission approval of a Conditional Use Permit for this type of use within the Light Industrial (L-I) Zone. All operations of the facility will occur within the enclosed building except for loading and unloading activities. Operations include purchase of fresh shellfish from local fisheries; delivery to the industrial suite; cleaning; placement on trays or in containers; and stored in a 100 square-foot walk-in cooler. When distributing, the shellfish is packed in ice in containers and delivered off site for sale at farmers markets and catering events. No on-site retail store is proposed. It is expected the business will have up to three (3) employees at various times throughout the

week, including weekends. The 103 parking spaces of the industrial park provide adequate parking for the proposed use and the other existing industrial uses. In accordance with the Parking Ordinance (SMMC Chapter 20.340), the proposed use requires a minimum of two (2) parking spaces which is consistent with other industrial uses similar in size to the proposal.

In order to prevent potential odor generation that may impact adjacent businesses, the business will be required to comply with several operational standards such as keeping the loading door closed except for loading/unloading activities; shellfish must be stored in the walk-in cooler; and expired or spoiled shellfish must be enclosed within trash bags when disposed in the trash dumpsters on site.

The resolution is also conditioned that if complaints regarding odor are received, the applicant will be required to install an odor-filtered ventilation system for the suite as deemed necessary by the Planning Division Manager. No written comments from the public were received; however, staff did speak (via phone) with two (2) nearby business owners who inquired about the proposal, and if it would generate any odor. The applicant has worked for a similar business for seafood distribution in Vista. Staff contacted the City of Vista who indicated that no complaints were received from neighbors regarding the business when it was operating. The applicant has indicated that the proposed use would be a similar operation to the business in Vista. Staff feels the proposed shellfish processing facility, as conditioned, would be similar to other industrial uses; and therefore, a compatible use within the industrial park. Staff does not anticipate there would be a significant odor nuisance with the implementation of the operational standards as conditioned.

#### **Environmental Review**

In accordance with the California Environmental Quality Act (CEQA), the proposed CUP is deemed Categorically Exempt (EX 18-006) pursuant to Section 15301 Class 1, in that this is an existing facility with no expansion.

#### **Attachment(s)**

Adopting Resolution: PC 18-4699

- A- Vicinity Map
- B- Requested Entitlements
- C- Site & Project Characteristics
- D- Site plan and floor plan



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

Prepared by:



Norm Pedersen, Associate Planner

Reviewed by:



Saima Qureshy, AICP, Principal Planner

Submitted/Approved by:



Karen Brindley, Planning Division Manager

## ATTACHMENT A

### Vicinity Map



**CUP 17-0008. Jonathan Bernetskie (Capt. Jack's Shellfish)**  
**Location: 2930 Norman Strasse Road, Suite 103**  
**APN: 217-560-28-00**



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

**ATTACHMENT B**  
Requested Entitlement

- A Conditional Use Permit to allow for the operation of a 780 square-foot shellfish processing facility within a suite located in an existing industrial park in the Light Industrial (L-I) Zone in the College Area Neighborhood

**ATTACHMENT C**  
**Site & Project Characteristics**

<u>Property Subject</u>	Existing <u>Land use</u>	<u>Zoning</u>	General Plan <u>Designation</u>
Subject	Industrial Park	L-I	Light Industrial
North	Industrial Park	L-I	Light Industrial
South	Industrial Park	L-I	Light Industrial
East	Industrial Park (under construction)	L-I	Light Industrial
West	Industrial Park	L-I	Light Industrial

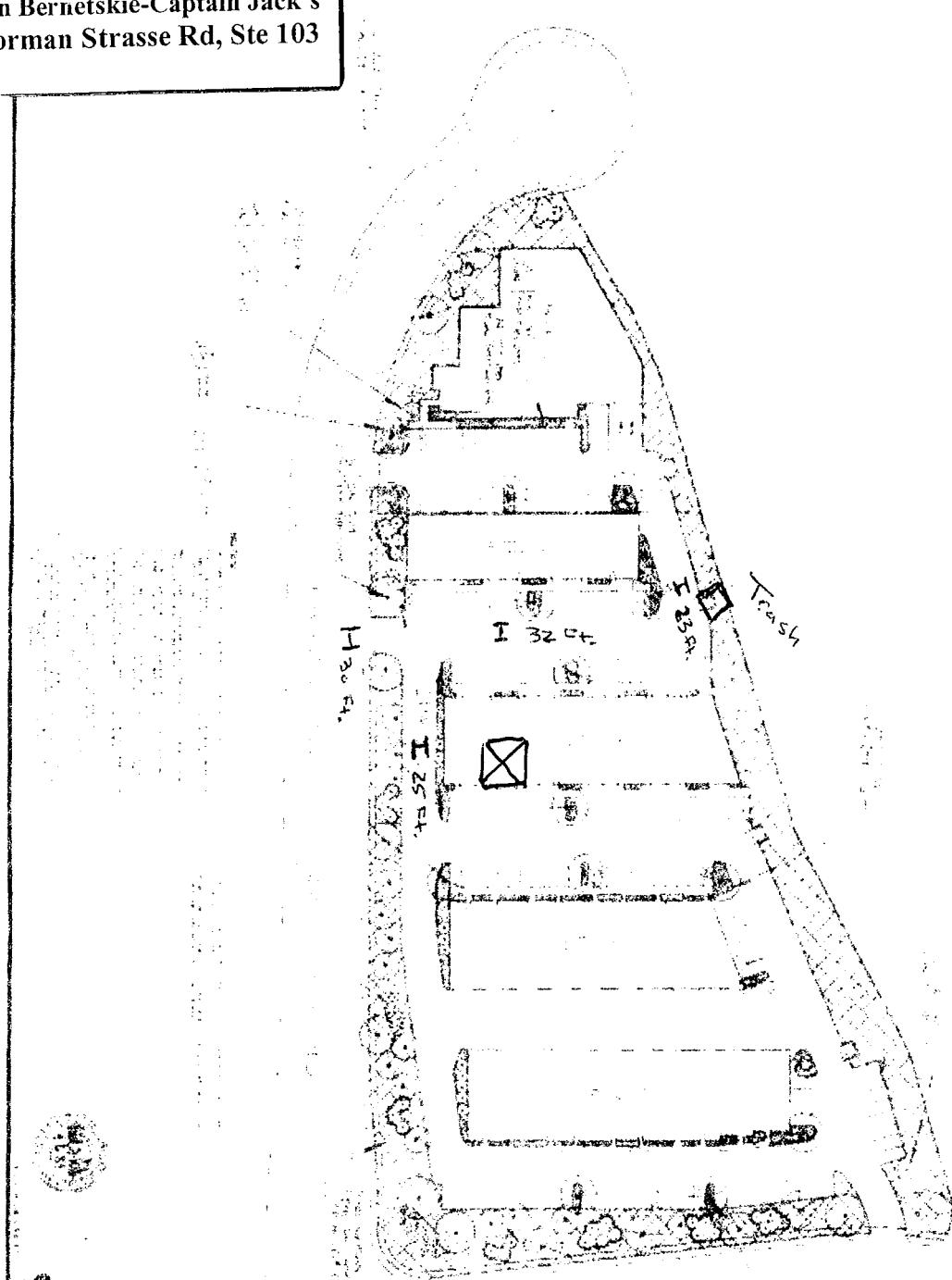
Flood Damage Prevention Overlay Zone	<u>      </u> yes <u>x</u> no
Airport Overlay Zone	<u>x</u> yes <u>      </u> no
Sewers	<u>x</u> yes <u>      </u> no
Septic	<u>      </u> yes <u>x</u> no
Water	<u>x</u> yes <u>      </u> no
Gen. Plan Conformance	<u>x</u> yes <u>      </u> no
Land Use Compatibility	<u>x*</u> yes <u>      </u> no

\*with approval of a Conditional Use Permit.

**CUP17-0008**

Jonathan Bernetskie-Captain Jack's  
2930 Norman Strasse Rd, Ste 103

Parking spaces : 85 ft. x 16 ft.



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CITY OF SAN MARCOS  
PLANNING DIVISION

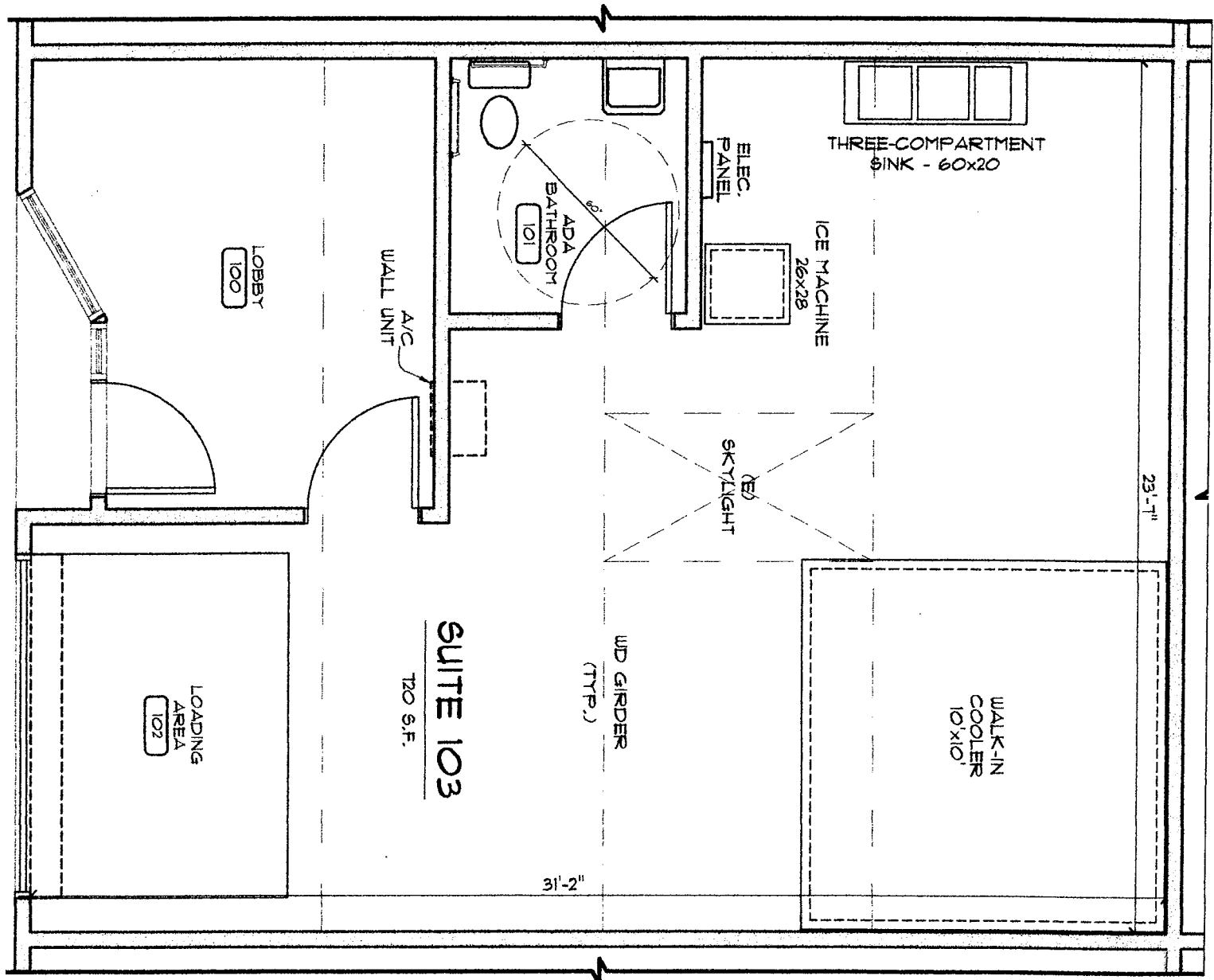
PLANNING PLAN	10/15/18 11:24 AM	10/15/18 11:24 AM	10/15/18 11:24 AM
ERIKSENHOEK / M-KROWN & ASSOCIATES, INC.			
ARCHITECTURE / ENGINEERING / PLANNING			
5025 MORENA BLVD. SAN DIEGO, CA 92119-3750			

# CUP17-0008

Jonathan Bernetskie-Captain Jack's  
2930 Norman Strasse Rd, Ste 103

graphic and sculptural works is established under 17 U.S.C. 102(a)(5)(B). Designers receive two levels of protection for their works, one for the design of a building as embodied in buildings, architectural plans, or models, and another for the graphic and sculptural works.

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PROJECT: \_\_\_\_\_

SHELL FISH DISTRIBUTION

PROJECT ADDRESS:

2930 NORMAN STRASSE RD.  
SUITE 103  
SAN MARCOS, CA 92069

FLOOR PLAN

DATE: 6/20/2017  
SCALE: 1/8" = 1'-0"

# A1

PC AGENDA ITEM # 3

RESOLUTION PC 18-4699

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING  
COMMISSION APPROVING A CONDITIONAL USE PERMIT  
TO ALLOW THE OPERATION OF A SHELLFISH  
PROCESSING FACILITY IN THE LIGHT INDUSTRIAL (L-I)  
ZONE IN THE COLLEGE AREA NEIGHBORHOOD

CUP17-0008  
Jonathan Bernetskie  
(Captain Jack's Shellfish Company)

WHEREAS, on October 2, 2017 an application was received from Jonathan Bernetskie requesting a Conditional Use Permit to allow the processing of fresh shellfish within a 780 square-foot suite within an existing industrial park located at 2930 Norman Strasse Road, Suite 103 in the Light Industrial (L-I) Zone in the College Area Neighborhood, more particularly described as:

Lot 17, Tract No. 4557, of Map No. 11661, filed in the Office of the  
County Recorder of San Diego County, December 3, 1986

Assessor's Parcel Number: 217-560-28-00

WHEREAS, the City of San Marcos did find the project Categorically Exempt (EX18-006) pursuant to Section 15301 Class 1 of the California Environmental Quality Act (CEQA) in that this is an existing facility with no expansion; and

WHEREAS, an evaluation of the transportation generation rates of the previous and proposed land use was conducted in accordance with the adopted Community Facilities District (CFD) 2011-01 Congestion Management (Resolution 2012-7632) annexation procedures, and it was determined that annexation will not be required; and

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

WHEREAS, the Planning Commission held a public hearing on March 19, 2018 that was duly advertised and held in the manner prescribed by law; and

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

1. Approval of the Conditional Use Permit would not result in detrimental impacts to adjacent properties or the character and function of the neighborhood in that the operation of the facility is compatible with surrounding uses in that all operations, as conditioned, will be conducted entirely within the building, will implement operational standards to reduce any potential odor generation, and will provide adequate parking on site within the existing industrial park for the food processing

use; and will operate similar to the other light industrial uses (i.e. office, warehouse, manufacturing, etc.) within the industrial park.

2. The design, development, and conditions associated with the Conditional Use Permit are consistent with the goals, policies, and intent of the General Plan for the College Area Neighborhood in that the operation of a shellfish processing facility within an existing industrial building helps to promote a balanced distribution and compatible mix of land uses to meet the future and present needs of all residents and the business community (Goal LU-1); and helps to maintain a supportive business climate and a healthy, sustainable economy creating additional employment opportunities (Goal LU-6).
3. The land use allowed in conjunction with the Conditional Use Permit is compatible with the existing and future land uses of the Light Industrial (L-I) Zone, and the general area in which the proposed use is to be located.

NOW, THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. This Conditional Use Permit is Categorically Exempt (EX18-006) from environmental review pursuant to Section 15301 Class 1 (existing facility with no expansion) of the California Environmental Quality Act (CEQA).
- C. This Conditional Use Permit is approved per the submitted site and floor plans (780 square-foot suite), dated October 3, 2017, except as modified herein, and subject to compliance with the conditions of approval of this Resolution PC 18-4699.
- D. Reliance on this Conditional Use Permit is subject to the following operational standards:
  1. All activities shall be conducted within the enclosed building.
  2. The roll-up door shall be closed except during unloading and loading activities.
  3. Food processing shall be limited to the cleaning, cold storage, packaging, and distribution of shellfish.
  4. Storage of shellfish shall be kept within a refrigerated cooler.
  5. No retail sales to customers shall occur on site.
  6. If there are odor complaints received by the City, the applicant shall be required, but not limited to, install an odor-filtered ventilation system for the subject suite as deemed necessary by the Planning Division Manager.

7. Expired or spoiled shellfish shall be properly enclosed within trash bags in order to prevent any odor generation and disposed of in the trash dumpsters on site. If there are odor complaints received by the City regarding shellfish disposal, the applicant shall be required to arrange for additional trash collection(s) per week by EDCO as deemed necessary by the Planning Division Manager.
  8. The operator shall comply with all County of San Diego Health Department rules, regulations, and requirements and obtain all necessary permits.
  9. A separate permit shall be required for any new signage, including temporary signs. Signage must comply with the City of San Marcos Sign Ordinance. Portable signs (i.e. A-frame, T-frame, etc.) are prohibited on or off site.
  10. Use of the site must be conducted so as not to become obnoxious by reason of noise, odor, refuse, parking impacts, or maintenance of grounds and in such a manner as will not detrimentally affect adjoining properties and uses.
  11. The building address and suite number must be clearly labeled at front and rear doors for day and night-time emergency responses. In addition, adequate lighting must be provided to deter potential criminal activities (i.e. vehicle burglaries, prowlers, loitering, etc.).
  12. The facility must comply with all applicable provisions of San Marcos Municipal Code (SMMC) Chapter 14.15 (Storm Water Management and Discharge Control) and other regional permits/standards for the protection of storm water quality.
  13. Non-storm water discharge into the City's storm drain conveyance system is considered an illicit discharge and is prohibited during construction, operation, or maintenance, in accordance with SMMC 14.15.
  14. The applicant is responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.
  15. The applicant is required to maintain a City of San Marcos Business License for the duration of the business.
- E. Prior to issuance of any building permits, the following conditions shall be complied with:
1. Remodeled structures and/or tenant improvements must 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.
  2. 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.

3. Building plans and instruments of service submitted with a Building Permit application must be signed and sealed by a California licensed design professional as required by the State of California Business and Professions Code.
4. The City of San Marcos is located in Seismic Design Category "D." Buildings and structures must be designed to adequately transmit the dynamic lateral forces in accordance with the requirements of the latest adopted California Building Code.
5. 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.
6. All improvements shall comply with the latest adopted California Fire Code and San Marcos Fire Code Ordinance.
7. The proposed development must 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.
8. The storage, use or handling of hazardous, toxic or flammable materials must be clearly indicated on all floor plans submitted for a building permit. Materials must be identified in accordance with Health and Safety Code Section 25101.
9. Tenants are required to obtain written permission from the building owner, or owner's agent, prior to obtaining a building permit from the City. Per San Marcos Municipal Code Chapter 17.08.030 Section 105.10, the tenant must obtain written permission from the building or property owner that the applicant is authorized to proceed with the proposed construction.
10. Any new development is subject to approval by the Vallecitos Water District and all applicable fees and charges shall be paid to the District prior to permit issuance.
11. Any 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.
12. Any 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.

13. Any proposed rooftop mechanical units, vents, ducts, etc. shall be screened from street grade view and surrounding properties by parapet walls and/or architectural enhanced enclosures as approved by the Planning Division. A roof plan and cross sections showing lines of sight shall be submitted with construction drawings illustrating that roof equipment will be screened. Cut sheets of actual units shall be included with plans. Screening plan shall be approved by the Planning Division prior to issuance of a building permit.
14. The applicant and/or property owner shall submit executed versions of separate petitions to annex into and establish, with respect to the property, the special taxes levied by the following Community Facilities Districts (CFDs):
  - a. CFD 98-01, Improvement Area 1, Police.
  - b. CFD 2001-01, Fire and Paramedic.
  - c. CFD 98-02, Lighting and Landscaping.

No development entitlement will be issued without receipt of an executed petition for annexation into the above-referenced CFD and establishment of the special taxes. The applicant and/or property owner shall comply with all rules, regulations, policies and practices established by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners or residents. In lieu of annexing into the district, the applicant may pay an in-lieu fee per year for the amount of the special taxes.

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

1. Dust and dust producing materials must 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 must 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. All construction operations authorized by building permits, including the delivery, setup and use of equipment must 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 must 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.
3. During construction the owner/developer/contractor must 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.

- G. Prior to building occupancy, the following conditions shall be complied with:
1. The proposed development must satisfy the conditions of approval prior to the occupancy. The owner/developer/contractor must obtain approval from all City departments and other agencies before requesting a Certificate of Occupancy ("C of O") from the Development Services Department.
  2. Any proposed 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 Division.
- H. Any modifications, alterations, expansions or other changes must require the modification to this Conditional Use Permit and may necessitate the issuance of Building Permits and reissuance of a Certificate of Occupancy ("C of O") from the Building Division.
- 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, and equipment needed, and the hiring of local residents in order to stimulate the San Marcos economy to the greatest extent possible.
- J. 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 20.520 SMMC.
- K. Any future expansion to the facility shall require a modification to this Conditional Use Permit. 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.
- L. This Conditional Use Permit shall expire on March 19, 2028. Any request for permit extension shall be applied for by the permittee no later than 120 days prior to the expiration date.
- M. 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.
- N. 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 19<sup>th</sup> day of March, 2018, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

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Kevin Norris, Chairman  
City of San Marcos Planning Commission

ATTEST:

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Sandra Gallegos, Senior Office Specialist  
City of San Marcos Planning Commission