

Report

MEETING OF THE PLANNING COMMISSION

MEETING DATE: May 2, 2011

SUBJECT: Iglesia Sol De Justica (Religious Assembly Hall)
CUP 10-831

Recommendation

Conditionally approve a religious assembly hall in a portion of an existing commercial center through a Major Conditional Use Permit.

Background

A Conditional Use Permit (CUP) application was filed for the operation of a religious assembly hall on August 2, 2010 resulting from a code enforcement action on May 11, 2010.

Introduction

The existing 2.28-acre commercial center is located on S. Rancho Santa Fe Road, north of La Mirada Drive, and contains three buildings (273, 277, and 295 S. Rancho Santa Fe Road) on three parcels and has 116 parking spaces. The religious assembly hall is proposed within one of the these buildings at 277 S. Rancho Santa Fe Road, Suites A&B, in 1,600 square feet of the 17,400 square foot building. This building is located in the rear east side of the center setback 250 feet from the front property line. The religious assembly hall has been in operation since some time before May 11, 2010, and has continued to operate during the CUP processing. No expansion of the existing Suites A&B is proposed.

Discussion

The subject site is currently zoned Commercial (C) and has a land use designation of Commercial. The Conditional Use Permit (CUP) is consistent with the Commercial Zone in that religious facilities are allowed upon issuance of a Major CUP. This assures compatibility of the proposed use with the other uses within the commercial center. Current permitted uses in the commercial center consist of retail and office uses that include a dental office, printing company, computer repair, investment group, liquor store, florist, and cake decorating supply. The only currently approved Conditional Use Permit (CUP 08-773) onsite is for the cake decorating classes occurring at RoZ's Sweet Art Studio in Suite P. Concurrent with the proposed use, another religious assembly operator, Alpha Y Omega (Suites D, E, & F), had also been processing a CUP renewal (CUP 01-496 (10R)) for their use. However, Alpha Y Omega vacated the site on March 13, 2011. During the processing of the CUP 10-831, it was brought to the attention of City staff that two other uses (a vitamin retailer, Herbalife and a medical office use, Birth Choice) have instructional activities in operation at the site, and in the case of Birth Choice, once a week on-site mobile screening services (conducted within a Recreational Vehicle). Staff therefore determined that these users (Herbalife, Suite Q and Birth Choice, Suite R) are required to

obtain a Conditional Use Permit. The users had been notified by Code Enforcement to submit a Conditional Use Permit application for City staff consideration of these activities through the CUP process. In response to the Code Enforcement action, Herbalife has removed class instruction from their operation to allow their compliance with the Commercial Zone as a permitted office use. At a future date, Herbalife may request a Conditional Use Permit to allow instructional activities. Birth Choice is anticipated to submit a Conditional Use Permit application to the City.

The religious assembly hall is proposed on the north end of the rear building (Attachment A) in the center, and may include religious services, group prayer, and administrative offices. The CUP resolution sets forth conditions to regulate the operation of the facility, including the requirement that all activities be conducted within the enclosed building, and limiting hours of operation for assembly to Tuesday and Thursday 6:30 p.m. to 9:30 p.m. and Sunday 9:00 a.m. to 11:00 a.m.

The center consists of three (3) parcels held by one owner with shared parking between the parcels. The Commercial Center has 116 parking spaces on site. Per San Marcos Municipal Code Chapter 20.84 (Off-Street Parking Ordinance) a religious assembly requires a parking ratio of one (1) parking space for each 200 square feet of building space or one (1) parking space per each five (5) fixed seats, whichever is greater. The proposed use will require eight (8) parking spaces. The City's Off-Street Parking Ordinance requires 111 parking spaces for all uses in the center, including the proposed use, and 116 spaces are provided. City staff has also observed that adequate parking is available during the religious assembly hall peak use times on Sundays. The religious assembly hall will be conditioned to conduct activity as indicated limiting the operational hours as specified above. Any special events will require a City Special Event Permit for event review to determine parking availability prior to an event. There is adequate parking available on site for the proposed use.

The proposed use will be conditioned to annex to the Community Facilities Districts 98-01 (Police & Fire), 98-02 (Lighting, Landscaping & Open Space), and 2001-01 (Fire/Paramedic) or pay an in-lieu fee if approved by the City.

Staff received public comments regarding several uses in the center, including the religious assembly. Most of the concerns raised (parking, noise, trash, and loitering) were applicable to other uses, however concerns were expressed regarding parking and noise associated with the proposed use. The commercial center, including the proposed use, meets the City's Off-Street Parking Ordinance standards. As to noise, concern was expressed that the music played at the religious assembly use should be maintained at a noise level that would not be detrimental to other uses in the building. To address this concern, the religious assembly use is conditioned to limit any music to non-amplified activity. In addition, if complaints are received, the applicant shall be required to take corrective action to respond to such complaints, including but not limited to, the installation of sound proofing materials for the walls.

Attachment(s)

Adopting Resolution

- A - Aerial Vicinity Map
- B - Site Plan
- C - Floor Plan
- D - Requested Entitlement
- E - Site & Project Characteristics

Submitted by:



Jerry Backoff
Planning Division Director



Michael D. Edwards
City Engineer

Reviewed by:

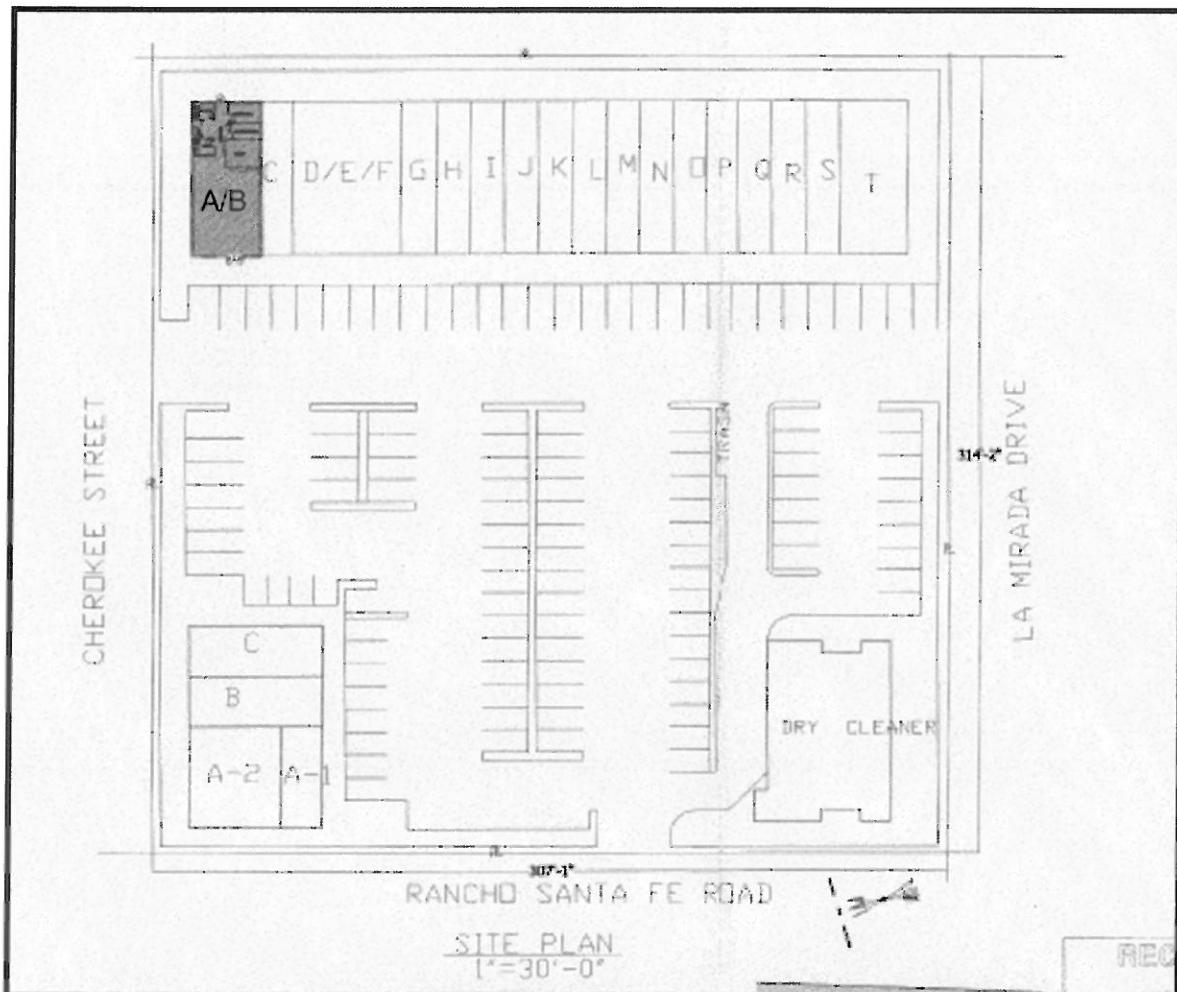


Charlie Schaffer
Development Services Director

ATTACHMENT A
Aerial Vicinity Map

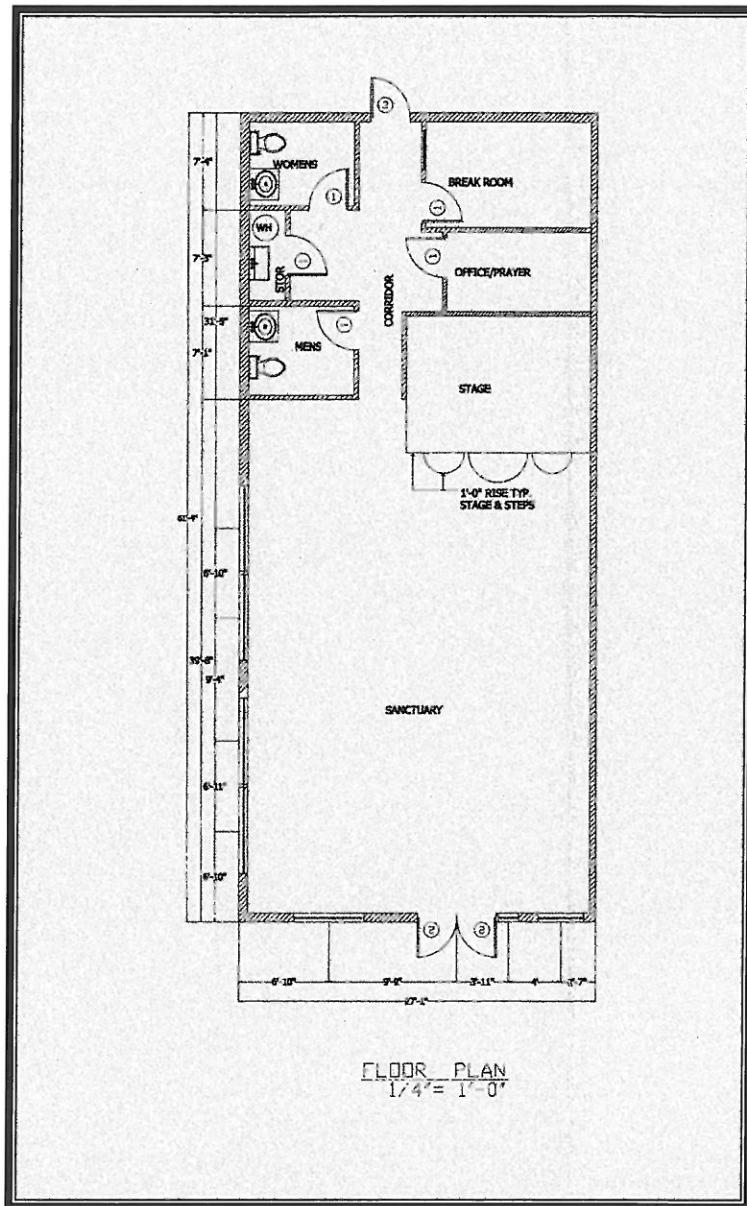


ATTACHMENT B
Site Plan



Templo Sol de Justica	Suite A-B	Religious Assembly Hall
Anytime Appliance	Suite C	Retail
Vacant	Suite D-E-F	Retail
Compu Help	Suite G	Computer Repair
Minuteman Press	Suite H-I	Printing Co.
Michael Novikoff	Suite J-K	Dentist
Edward Jones Investment	Suite L	Financial
San Marcos Florist	Suite M	Retail
Roz's Sweet Art Studio	Suite N-O-P	Retail/Instructional
Herbalife	Suite Q	Retail/Instructional
Birth Choice	Suite R	Medical/Instructional
Liquor Store	Suite S-T	Retail

ATTACHMENT C
Floor Plan



ATTACHMENT D
Requested Entitlements

- A Conditional Use Permit to allow the operation of a religious assembly hall within an existing commercial center in the Commercial (C) Zone of the Business Industrial District.

ATTACHMENT E
Site & Project Characteristics

<u>Property</u>	<u>Existing</u>		<u>General Plan</u>
	<u>Land use</u>	<u>Zoning</u>	<u>Designation</u>
Subject	Commercial Center	Commercial (C)	Commercial
North	Commercial Center	Commercial (C)	Commercial
South	Commercial/SF Res.	Commercial (C)	Commercial
East	Vacant	Industrial (M)	Commercial
West	S. Rancho Santa Fe Rd.	Commercial (C)	Commercial

Flood Hazard Zone	<u> </u> yes	<u>x</u> no
Resource Conserv. Area	<u> </u> yes	<u>x</u> no
Redevelop. Proj. Area 2, B1	<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 CUP.

RESOLUTION PC 11-4222

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING
COMMISSION APPROVING A CONDITIONAL USE PERMIT
TO ALLOW THE OPERATION OF A RELIGIOUS ASSEMBLY
HALL WITHIN 1,600 SQUARE FEET OF AN EXISTING 17,400
SQUARE FOOT BUILDING IN THE COMMERCIAL (C) ZONE
WITHIN THE BUSINESS INDUSTRIAL DISTRICT

CUP 10-831
Iglesia Sol De Justica

WHEREAS, on August 2, 2010, the City of San Marcos received an application from Iglesia Sol De Justica requesting approval of a Conditional Use Permit to allow a religious assembly hall in 1,600 square feet of a 17,400 square foot building within an existing commercial center located at 277 S. Rancho Santa Fe Road, Suites A & B, in the Commercial (C) Zone, within the Business Industrial District, more particularly described as:

A portion of Parcel B of Map 12732 as recorded in
the County of San Diego Recorders Office
Assessor Parcel Number 219-087-06

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

WHEREAS, the public hearing scheduled for April 4, 2011 was continued to May 2, 2011; and

WHEREAS, the required public hearing on May 2, 2011, was duly advertised and held in the manner prescribed by law; and

WHEREAS, the Planning Commission did find that the project is Categorically Exempt (Class 1) from environmental review pursuant to Section 15301 of the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission's decision is based upon the submitted plans and the following findings and determinations:

1. The granting of the Conditional Use Permit will not adversely affect the implementation of the General Plan for the Business Industrial District in that a religious assembly hall is compatible with the General Plan land use designation, "Commercial", and the religious services provide a social benefit for the community and additional educational opportunities.
2. The granting of the Conditional Use Permit will not be materially detrimental to the public health, safety and welfare or injurious to property or improvements in that compliance with the conditions and limitations contained herein will provide for the safe operation of the proposed project.

AGENDA ITEM
2

NOW THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. The Conditional Use Permit is approved per the submitted site plan and floor plan except as modified herein for 277 S. Rancho Santa Fe Road, Suites A&B (1,600 square feet total), and shall not be expanded or modified unless a modification to the permit is approved.
- C. The Conditional Use Permit is hereby approved subject to the following conditions:
 1. The 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 (“CFD”):
 - (1) CFD 98-01, Improvement Area No. 1, Police Only
 - (2) CFD 2001-01, Fire and Paramedic
 - (3) CFD 98-02, Lighting & Landscaping Open Space Preserve Maintenance

No development entitlement permit will be issued without receipt of an executed petition for annexation into the above-referenced CFD and establishment of the special taxes. The applicant/developer 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 Community Facilities Districts, and if approved by City, the applicant shall pay an in-lieu fee for the special tax assessment as follows: For CFD 98-01 and CFD 2001-01, the in-lieu fee for a 3-year period is \$292.77; and for CFD 98-02, the in-lieu fee for a 3-year period is 266.40. The in-lieu fee shall be paid for the three term of the CUP.

2. The applicant shall submit a modified floor plan to include a dimensional seating plan to demonstrate the number of proposed occupants for use by the Building Division prior to the required building safety inspection.
3. A building safety inspection shall be scheduled with the Building Division prior to re-issuance of a Certificate of Occupancy (“C of O”).
4. In accordance with the San Marcos Municipal Code Chapter 20.84 (Off-Street Parking Ordinance), eight (8) parking spaces shall be designated for the religious assembly use based upon a maximum congregation of forty (40) people.

5. All visitor and employee parking shall occur on site. Parking on the public street is prohibited. Parking shall be located primarily on the northeast side of the parking lot, and away from parking for adjacent retail uses. If complaints are received from neighbors, the applicant shall be required to take corrective action to respond to such complaints.
6. The religious assembly hall hours shall be limited to Tuesday and Thursday evenings between 6:30 p.m. to 9:30 p.m. and on Sunday between 9:00 a.m. to 11:00 a.m. The religious assembly hall site may be used as an office during the week Monday through Friday between 8:00 a.m. to 5:00 p.m.
7. Maximum occupancy shall not exceed forty (40) people or as permitted by the California Building Code, whichever is less, and in accordance with the Fire Codes for two suites comprising 1,600 square feet including approximately 1,050 square feet of sanctuary area.
8. All religious assembly hall activities, including fellowship, shall occur within the building at all times.
9. Signage must comply with the City of San Marcos Sign Ordinance and be compatible with the center theme and style. Wall signs shall be individual channel letters. Portable signs (i.e.: A-frame, T-frame, etc.), on or off site, shall not be allowed. Temporary signage, including banners and A-frames shall be removed from the site. A separate permit shall be required for any new signage. The proposed religious assembly hall use "Iglesia De Sol Justica" installed a sign without a City Building Permit. A City Building Permit shall be obtained prior to reliance upon the Conditional Use Permit, and the required penalty fee for installation of a sign without a permit shall be accessed.
10. Applicant shall obtain and maintain a City of San Marcos Business License.
11. Assembly activity shall be limited to non-amplified music/noise activity which shall not become a noise nuisance to neighboring uses. If complaints are received, the applicant shall be required to take corrective action to respond to such complaints, including but not limited to, the installation of sound proofing materials for walls.
12. No special events shall occur on site unless a Special Event Permit is issued by the City.
13. Outdoor PA (public address) system/loudspeakers are prohibited.
14. A school facility shall not operate in the 1,600 square foot (Suites A&B) religious assembly hall.

15. All existing landscaped areas shall be kept in a healthy, thriving manner, and free of weeds, trash, and debris.
16. Any new construction, alteration, improvement, or modification to an existing building requires the issuance of a building permit and compliance with the minimum code requirements of the latest adopted California Building Code.
17. Prior to the issuance of any building permits associated with the proposed religious assembly hall operation, the following shall be complied with:
 - a. Buildings and structures shall be designed to conform to the latest standards adopted by the State of California in the California Building Code, Part 2, Title 24, and California Code of Regulations.
 - b. Building plans and instruments of service shall be signed and sealed by a California licensed design professional as required by the State Business and Professions Code.
 - c. 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.
 - d. Assembly occupancy shall comply with smoke control, panic hardware, emergency lighting, and fire alarm systems as required by the latest adopted building and fire codes, and shown on building plans. Life safety systems shall be inspected and approved by the Building Division prior to occupancy.
 - e. The storage, use or handling of hazardous, toxic or flammable materials shall be clearly indicated on all floor plans submitted for a building permit. Materials shall be identified in accordance with Health and Safety Code Section 25101.
 - f. The proposed development/use shall comply with Federal Law, Americans with Disabilities Act ("ADA-90"), and State Law, California Code of Regulations, Title 24, for accessibility standards for the disabled, including access to stages and raised platforms.
 - g. An automatic fire extinguishing system shall be maintained in accordance with the latest adopted California Building Code and San Marcos Fire Code Ordinance. Fire suppression systems and shall conform to the National Fire Protection Association standards.

- h. The applicant/developer for the proposed development/use, redevelopment, or discretionary use is required to pay Public Facilities Fees as established by the latest adopted Public Facilities Fee. The fee shall be based on the proposed land use and shall be paid prior to the issuance of the building permit for the development/use.
- i. The proposed new development/use 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.
- j. Any new rooftop mechanical units, vents, ducts, etc. shall be screened by parapet walls or architectural screen enclosure from street grade view as approved by the Planning Division Director.

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

- a. 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 as appropriate. Citations for hours of work violations require a mandatory court appearance in North County Superior Court.
- b. 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. Work on the project may be delayed until the City determines that the project is in compliance with the storm water requirements.

19. Prior to the occupancy of the religious assembly use, any change in occupancy in an existing building shall be approved by the City Building Official as required by the latest adopted California Building Code. A new Certificate of Occupancy will be issued after the City has inspected and approved the new use. Buildings or structures shall not be used or occupied until the appropriate City departments and agencies have accepted or approved the buildings for occupancy. A Certificate of Occupancy ("C of O") shall not be issued until the conditions of approval for the proposed use have been satisfied.

20. The permittee shall be responsible for conducting the use in a manner as not to become obnoxious by reason of noise, refuse matter, odor, dust, smoke, maintenance of grounds and buildings or have a detrimental effect on the surrounding properties and uses.
21. The project shall comply with all applicable standards for the proposed use of the Urban Runoff Management Program adopted by the City of San Marcos.
22. The applicant shall be responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.
23. 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.
24. Any future expansion of the religious assembly use shall require a modification to CUP 10-831. 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.
25. This Use Permit shall be reviewed annually by the Planning Division to determine if it is having a detrimental impact on surrounding uses and to determine conditions of approval of approval are being met. If the Planning Division determines that such is the case, a public hearing shall be scheduled before the Administrative Authority for possible permit modification or revocation.
26. This Conditional Use Permit shall expire on May 2, 2014. Any request for a permit extension shall be applied for by the permittee no later than thirty (30) days prior to the expiration date. It is the permittee's responsibility to track the expiration date.
27. This Conditional Use Permit shall become null and void if not acted upon within twelve (12) months of the adoption of this resolution.
28. To the extent permitted by law, the Applicant 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 Applicant'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. Applicant 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 City of San Marcos, State of California, this 2nd day of May 2011.

APPROVED:

Steve Kildoo, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

Lisa Kiss, Planning Secretary
SAN MARCOS CITY PLANNING COMMISSION