

Report

MEETING OF THE PLANNING COMMISSION

MEETING DATE: June 6, 2011

SUBJECT: KRC Rock Expansion
CUP 00-477 (10M)

Recommendation

Conditionally approve a modification for expansion of the KRC Rock operation onto a contiguous property through a Major Conditional Use Permit.

Background

In 2001, a Conditional Use Permit (CUP) was approved for the construction and operation of KRC Rock, an outdoor wholesale rock and material business. Due to the need for additional storage space for rock inventory, KRC expanded onto a portion of the Hoover-Taylor industrial park unaware of the need to modify their CUP. Upon notification of the CUP modification requirement, a CUP application was subsequently filed to cover the expansion of the operation.

Introduction

The KRC Rock operation located at Twin Oaks Valley Road and Borden Road has a lease with the Hoover-Taylor (HT) property management to use one acre ("Expansion Area") of their 4.4 acre property (APN 218-110-12) to expand the outdoor storage and internal circulation of the KRC Rock operation, including an egress onto Windy Way as demonstrated on Attachment "B". The HT property consists of an older industrial park with an outdoor storage yard, a paved parking lot, and an unpaved parking lot located on the northeast corner of the property available to all HT property uses, including KRC Rock. KRC will occupy an unpaved portion of the west side of the property. The activities proposed to occur in the Expansion Area are storage, bulk material unloading/loading, and full movement truck egress.

The KRC Rock operation was originally approved to allow up to 70 peak truck trips. The requested modification is now proposing a peak of 80 truck trips, a 10 trip increase. A peak usage for the Windy Way driveway is estimated to be 40 truck trips, which will include truck trips which had previously exiting from the driveways of Borden Road and Twin Oaks Valley Road.

KRC Rock has prepared a Truck Management Plan (TMP) included in the Negative Declaration (Attachment "F") which provides a KRC Rock truck circulation plan and a narrative outlining delivery operational standards and a compliance strategy.

Discussion

Prior to and during the processing of the CUP, staff received several public comments. A Public Workshop was held on April 14, 2011, and comments included potential impacts to roadway truck capacity, traffic safety, air pollution/dust, noise, and visibility/screening.

Residents expressed concern regarding the structural stability of Windy Way to handle the weight of the trucks trips proposed by the KRC Rock operation. The roadway is constructed to the City's industrial street standard which is designed to accommodate the weight of the trucks used by KRC Rock and its contractors/clients.

Residents also expressed concern regarding the potential impact of the truck turning movements, and staging at the Windy Way driveway, as well as potential impacts to turning movements at the intersection of Twin Oaks Valley Road/Windy Way. In response, to these concerns, the applicant modified the project scope, making the Windy Way driveway an egress point only. In addition, the City will limit the Windy Way driveway to a right out only in order to prevent trucks from making an immediate stop at the Windy Way/Windy Point intersection, and potentially crossing over the centerline. A City project to restripe the Windy Way left-turn pocket at the Twin Oaks Valley/Windy Way intersection to move the stop bar back will serve to improve the intersection and address the turning movement concern.

Based on the American Association of State Highway and Transportation Officials (AASHTO) truck turning template for the anticipated largest trucks utilizing the KRC Rock site (Wheel Base – 50), it was determined that trucks exiting the site onto Windy Way will cross the center line of the road. To address this cross-over into westbound traffic, the applicant has been conditioned to provide improvements along the Windy Way driveway to the satisfaction of the City Engineer, as to eliminate this cross-over into westbound traffic.

The existing KRC onsite circulation is paved. To mitigate for potential dust generation on the Expansion Area, the applicant has agreed to improve the Windy Way egress only access driveway. A compacted decomposed granite driveway (340 feet long by 16 feet wide) will be installed in compliance with the San Marcos Fire Protection District. This will serve to reduce the dust from the trucks leaving the site from Windy Way. The increase of 10 truck trips to the existing industrial area is a nominal increase to the originally approved KRC operation.

The existing KRC Rock CUP operational hours are 7:00 a.m. to 5:00 p.m., Monday through Saturday which serves to minimize noise activity to surrounding land uses. To further address the issue of operational noise to the surrounding area, a noise analysis was conducted for the original Conditional Use Permit review in 2001. In the analysis, it was determined that during a busy mid-morning period, 57.5 decibels (dBA) would result, which is below the 62.5 dBA City standard applicable for the varied Industrial and Low-density Residential zoning in the area. In addition, the analysis stated that a "single noise event", such as loading of large rocks would be audible. For this reason, bulk material loading and unloading activity is currently restricted to start after 8:00a.m on Saturdays. Given new concerns raised by residents regarding "single noise events" from the site, the project will be conditioned to restrict the bulk material loading/unloading to start after 8:00 a.m. Monday through Saturday. The daily operational hours will continue to apply to the Expanded Area.

Existing light industrial and industrial uses surround the project area. The Hoover-Taylor property contains an older industrial park constructed years before the newer development located to the north and west, including the single-family residential to the northwest ("Chesapeake Community"). There is an existing chain link fence with slats on the HT property that provides screening to the Expansion Area up to the six foot fence height. However, there is an elevation change from the entrance of the Chesapeake Community to the Expansion Area, thus creating a line of sight from the Chesapeake Community to the Expansion Area. Landscaping will be installed along the frontage of Windy Way as well as along a portion of the western property line to provide additional screening as shown on the

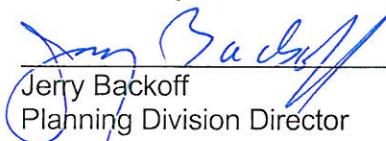
Landscape Plan (Attachment "E"). The landscaping will include a mixture of 24 inch box specimen trees (evergreen), shrubs, and vines.

Attachment(s)

Adopting Resolution

- A – Site & Project Characteristics
- B – Requested Entitlement
- C – Location Map
- D – Aerial Site Plan
- E – Landscape Concept Plan
- F – Negative Declaration ND 11-810

Submitted by:



Jerry Backoff
Planning Division Director



Michael D. Edwards
City Engineer

Reviewed by:



Charlie Schaffer
Development Services Director

ATTACHMENT A
Site & Project Characteristics

<u>Property Subject</u>	<u>Existing Land use</u>	<u>Zoning</u>	<u>General Plan Designation</u>
North	KRC Rock	Industrial (M)	Light Industrial
South	Industrial – HT Property	Industrial (M)	Light Industrial
East	Light Industrial	Light Industrial (LM)	Light Industrial
West	Industrial	Industrial (M)	Light Industrial
	Industrial	Industrial (M)	Light Industrial
	Light Industrial	Light Industrial (LM)	Light Industrial
Flood Hazard Zone		<u>yes</u>	<u>x</u> no
Resource Conserv. Area		<u>yes</u>	<u>x</u> no
Redevelop. Proj. Area 2c		<u>x</u> yes	<u>x</u> no
Sewers		<u>x</u> yes	<u> </u> no
Septic		<u>x</u> yes	<u> </u> no
Water		<u>x</u> yes	<u> </u> no
Gen. Plan Conformance ¹		<u>x</u> yes	<u> </u> no
Land Use Compatibility ¹		<u>x</u> yes	<u> </u> no

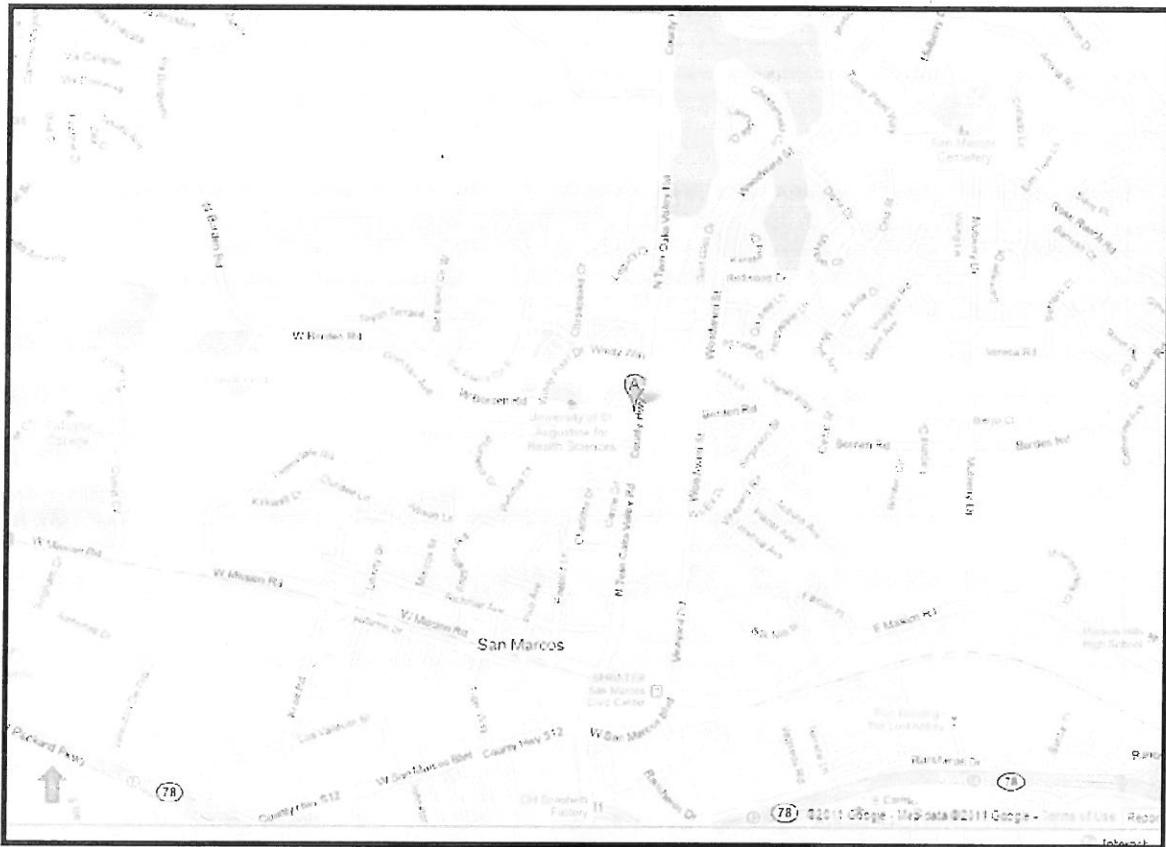
¹With approval of CUP.

ATTACHMENT B
Requested Entitlement

- A Conditional Use Permit modification to allow the expansion of the KRC Rock operation into one acre of the Hoover-Taylor property.

ATTACHMENT C

Location Map



AGENDA ITEM NO.

ATTACHMENT D
Aerial Site Plan

ATTACHMENT E
Landscape Plan

ATTACHMENT F
Negative Declaration 11-810

RESOLUTION PC 11-4233

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT MODIFICATION TO ALLOW THE EXPANSION OF THE KRC ROCK OPERATION INTO ONE ACRE OF THE HOOVER-TAYLOR PROPERTY (APN 218-110-12) FOR THE PURPOSE OF EXPANDING OUTDOOR STORAGE AND CIRCULATION, INCLUDING AN EGRESS FROM WINDY WAY WITHIN THE INDUSTRIAL ZONE LOCATED IN THE RICHMAR NEIGHBORHOOD

CASE NO. CUP 00-477 (10M)
KRC ROCK

WHEREAS, KRC Rock proposes a modification of Conditional Use Permit CUP 00-477 (10M) to allow expansion of the operation onto one acre of the 4.1 acre Hoover-Taylor property to expand outdoor storage, and allow egress to the site from Windy Way within the Industrial Zone. The expansion area is located at 760 N. Twin Oaks Valley Road, in the Richmar Neighborhood on the northwest corner of Twin Oaks Valley Road and Borden Road, and both project area properties are more particularly described as:

A portion of Lot 3, Block 49 of the Los Vallecitos de San Marcos Map 806 and PAR A of PM 19038
Assessor's Parcel Number: 218-110-23 and 218-110-12.

WHEREAS, KRC Rock operates a wholesale operation of various rocks and associated materials used as landscape and architectural features in the construction industry on 4.4 acres in the Industrial Zone at 700 N. Twin Oaks Valley Road in accordance with Conditional Use Permit 00-477 approved on February 5, 2001 per Resolution PC 01-3320; and

WHEREAS, all conditions set forth in Resolution PC 01-3320 applicable to the KRC operation located on Assessor Parcel Number 218-110-23 (previously Assessor Parcel Numbers 218-110-08 & 218-110-18) shall remain in full force and effect; and

WHEREAS, the Developmental Services Department did study said request and does recommend approval of the expanded operation; and

WHEREAS, the required public hearing held on June 6, 2011 was duly advertised and held in the manner prescribed by law; and

WHEREAS, the Planning Commission did consider a Negative Declaration (ND 11-810) for said application pursuant to CEQA; and

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

1. 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 the operational hours will continue to occur from 7:00a.m. to 5:00 p.m, Monday through Saturday, with bulk material loading and unloading activity being conducted no earlier than 8:00a.m. Adherence to operational parameters set forth in the Truck Management Plan for delivery operations to the site will also serve to prevent any detriment as well as landscaping to screen the KRC Rock storage and loading activities on the Hoover-Taylor property.
2. The granting of the Conditional Use Permit will implement the Richmar Neighborhood Plan of the General Plan by locating employment opportunities and environments in close proximity to housing, and further by not adversely the implementation of the other General Plan policies for the Richmar Neighborhood Plan in that the continued operation of KRC Rock, including the expansion area, will adhere to Noise standards and comply with traffic safety measures, and therefore provide for compatibility with surrounding land uses.

NOW THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. The Conditional Use Permit modification is approved per the submitted site plan for the existing 4.4 acre KRC Rock site (Assessor Parcel Number 218-110-23) and the one acre lease area on the 4.1 acre Hoover-Taylor property (Assessor Parcel Number 218-110-12), and shall not be expanded unless a modification to this permit is approved.
- C. The Planning Commission approves Negative Declaration (ND 11-810) for the proposed modification to allow the expansion of the KRC operation into one acre of the Hoover-Taylor property for the purpose of outdoor storage and egress from Windy Way.
- D. The Conditional Use Permit is approved subject to compliance with the conditions contained herein.
- E. The Planning Commission approves the proposed project site plan subject to the following conditions:
 1. The site plan shall be modified to reflect the following conditions:

- a. Modify the site plan to depict a design which will prevent the truck cross over into westbound Windy Way traffic to the satisfaction of the City Engineer.
- b. Change note identifying "asphalt concrete" to "compacted decomposed granite" material for the driveway access dimension of 340 feet in width and 16 feet in length stating that the driveway specification shall be constructed to the to the satisfaction of the San Marcos Fire Protection District and the City Engineer.
- c. Modify site plan to include stabilized entrance/exit at connection point of decomposed granite driveway access with driveway apron.
- d. Change the Windy Way "egress only" to include "right out only" on the plan.

2. The landscape plan shall be modified to reflect the following conditions:
 - a. Change note identifying "asphalt concrete" to "compacted decomposed granite" material for the driveway access dimension of 340 feet in width and 16 feet in length stating that the driveway specification shall be constructed to the to the satisfaction of the San Marcos Fire Protection District and the City Engineer. Specifications of the decomposed granite driveway access shall be shown on the revised plan.
 - b. The chain link fence gate identified on the plan shall include slats. Language shall be modified from "do not swing out to Windy Way" to gate shall open internal to the site or be a slide gate, and shall include hardware (lock, knox box, etc.) for emergency access to the satisfaction of the San Marcos Fire Protection District.
 - c. The following are the tree specifications required for screening purposes along the westerly and northerly property lines of the Hoover-Taylor property KRC lease area, as included on the landscape plan, and to a sufficient distance as determined by the Planning Director. The revised landscape plan shall incorporate 24" box specimen trees for all proposed trees, and as approved by the City, as follows.
 - i. A multi-trunk Lagerstroemia indica (Crape Myrtle) - 9'-10' x 3'-4', with 1.25" to 1.50" caliper for a 24" box tree.
 - ii. Tristania Conferta (Brisbane Box) - 9'-10' x pyramidal, with 1.25" to 1.50" caliper for a 24" box tree.

- d. Any and all post construction structural BMPs shall be shown in detail on the landscape plans and submitted to the City Planning Division for review and approval.
- e. Any construction and landscape related BMPs shall be shown in detail on the landscape plans submitted to the City for review and approval.

3. Prior to reliance on this Conditional Use Permit/Occupancy, the following conditions shall be complied with:

- a. Under a separate landscape permit, the applicant/developer shall submit landscape plans to the Planning Division for review and approval, per the plan correction conditions contained herein, and in accordance with the following procedural requirements:
- i. The applicant/developer shall submit landscape plans with characteristics that maximize infiltration, provide retention, reduce irrigation and storm runoff, use efficient irrigation, and minimize the use of fertilizers, herbicides and pesticides.
- ii. Final landscape and irrigation plans shall be prepared by a licensed landscape professional.
- iii. Trees used for screening shall have branching along entire trunk within 12-18" of the root ball. A Landscape professional shall provide details for planting and irrigation.
- iv. Linear application of root barrier is required for all trees within 10' of the public right-of-way. The barrier is to be installed from the manufacturer recommendation.
- v. All plant material shall meet minimum standards set by the American Association of Nurseryman and the City of San Marcos.
- vi. Plant material and irrigation design shall comply with the City's landscape Water Efficiency Ordinance, Section 20.82 of the San Marcos Municipal Code.
- vii. The Contractor shall contact the City of San Marcos Planning Director or his designee for approval of placement for all perimeter shrubs and trees prior to planting.

- viii. Upon verification in the field, it may be deemed necessary to install additional evergreen plants to adequately screen views from nearby residences.
- ix. The applicant will notify the City in advance for a site inspection of the trees before they are removed from the delivery truck to confirm these trees satisfy the criteria. Any tree that is rejected must be replaced with an acceptable tree.
- x. This project is subject to the payment of a landscape permit and inspection fee. The landscape permit and inspection fee shall be four and one-half percent (4.5%) of the Landscape Architects estimate for the completion of all landscaping shown on an approved plan. All submitted estimates shall be stamped and signed by the Landscape Professional, and the estimate shall include the cost of plant and irrigation materials only.
- xi. Landscape plans shall contain a mixture of trees, shrubs, and vines as conditioned herein, and be provided with an irrigation system. The irrigation system shall include an automatic rain sensor switch, master valve, stainless steel enclosure for the backflow device, and stainless steel controller cabinet if within public view. The landscape plan shall list the quantities of each plant type, including a legend indicating what each symbol represents; height and spread of trees in accordance with City Council Resolution 2001-5747; and method of installation and irrigation.
- xii. Prior to installation, the proposed plants shall be inspected and approved by the Planning Division for plant quality and compliance with minimum size requirements. The placement of plants shall be installed in accordance with the approved landscape plans. Upon completion of installation, all landscaping/irrigation shall be inspected and approved by the Planning Division. The applicant/developer shall be responsible to contact the Planning Division for all required landscaping inspections.

b. Submit a final Truck Management Plan (TMP) to the City Engineer for review and approval. This plan shall be enforced by the company manager and shall clearly state the proper routes for traffic as well as informing distributors of the hours of operation and the gate use procedures. No delivery trucks may be staged on

public streets. Truck ingress and egress to and from the site shall be addressed on said plan all to the satisfaction of the City Engineer. For inclusion in the final TMP, the draft plan shall be modified as follows:

- i. Under Section I, modify to state Monday through Saturday (not Saturdays only), no boulders or bulk materials can be dropped, moved, or placed before 8 a.m.
- ii. Under Section III shall be modified to state that all dispatchers shall inform KRC Rock drivers, and also vendor trucks of the operational standards.
- iii. Under Section III, after the statement that All dispatchers shall take care of identifying all first time vendor drivers to the site, language shall be added to state that upon arrival, first time vendors shall also sign a TMP agreement understanding all truck delivery operational standards in the event that said driver returns to the site at a future date.
- iv. Under Section III, remove language in parenthetical to discussion with City staff.

- c. KRC Rock will be required to take corrective action for any non-compliance with the TMP by either KRC Rock staff and/or vendor drivers. If corrective action is not taken, City enforcement action will be taken which could result in the initiation in a CUP revocation action.
- d. Applicant shall provide improvements along the Windy Way driveway to the satisfaction of the City Engineer, as to eliminate the cross-over of vehicles into westbound traffic while performing a right turn exiting the site.
- e. The applicant/developer shall submit executed versions of separate petitions to annex into and establish the project lease area (Assessor Parcel Number 218-110-12) for the special taxes levied by the following Community Facilities Districts (CFD):
 - i. CFD 98-01, Improvement Area No. 1, Police Only
 - ii. CFD 2001-01, Fire and Paramedic
 - iii. CFD 98-02, Lighting and Landscape

No development entitlement 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. The applicant/developer shall comply with all rules, regulations, policies and practices established by State Law and/or by the City with respect to the Community Facilities Districts including, without limitation, requirements for notice and disclosure to future owners and/or residents.

- f. All improvements within the Public Right-of-Way, as specified in the conditions contained herein, and as approved by the City Engineer, shall be constructed and accepted by the Public Works Inspectors.
- g. The applicant shall submit a letter(s) by the landscape professional and/or landscape contractor to the Planning Division certifying that the plant materials and irrigation system have been installed in accordance with the approved landscape plans.

5. Prior to issuance of any construction permit for improvements within the City right-of-way, the following conditions shall be complied with:

- a. The applicant shall submit an application for a construction permit compliant with chapter 14.16 of the SMMC for the construction and/or modification of improvements within the public Right-of-Way as conditioned herein. Plans and specifications for the improvements of all streets, rights-of-way (landscaping/irrigation) and drainage facilities to the City of San Marcos ("City") Engineering Division for approval. Plans shall include all improvements as specified by the City Engineer.
- b. In the event that the applicant performs grading activities in association with the required construction permit that requires issuance of a grading permit per SMMC 17.32.040, the applicant shall comply with all requirements of chapter 17.32 of the SMMC including all submittal and security requirements. These requirements shall be at the expense of the applicant. Additionally, applicant shall comply with any grading restrictions, conditions or requirements as determined by the City Engineer.
- c. In the event that general vehicular parking is used in the area designated for this CUP, a minimum throat stacking distance for all driveways shall be twenty (20) feet (measured from the right-of-way

line). The entire twenty-(20) foot throat distance shall be designated by a raised curb.

d. The applicant shall be responsible for mitigating impacts created by changes in drainage runoff course, concentration, or quantity to the satisfaction of the City Engineer for both on-site and off-site drainage. This may require the applicant to provide all necessary easements and improvements to accommodate drainage and flood control structures extending beyond the boundaries of the project.

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

a. The applicant shall design and construct erosion control devices of a type and size and at locations as approved by the City Engineer. Devices shall be installed and maintained in working condition during the rainy season (November 1 through April 1).

b. Work related work activities shall be conducted Monday through Friday between the hours of 7:00 am and 6:00 pm and on Saturdays between the hours of 8:00 am to 5:00 pm.

c. 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.

d. The applicant shall ensure that the grading and other construction activities meet the provisions specified in the California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-0001 – Section D.2.

e. Submittal letter from the State Water Resources Control Board (SWRCB), showing WDID number assigned to project, shall be on site during construction to show proof of coverage under the current SWRCB General Construction Permit.

f. During construction the owner/developer/contractor shall implement and maintain the storm water pollution prevention plan (SWPPP) measures as required on the approved plans and according to the current California State Water Resources Control Board General Construction Permit. Violations of the City's Storm Water Management Ordinance SMMC 14.15 will result in citations and orders to stop work with required report to the SDRWQB until the

City determines the project to be in compliance with the requirements.

- g. All construction and landscaping activity shall install appropriate BMP's as necessary to prevent the conveyance of any construction or irrigation runoff directly into the Municipal Separated Storm Sewer System.
7. The following operational standards, including applicable conditions as outlined in CUP 00-477, shall apply to the KRC Rock operation, including the expansion area:
 - a. During the operation of the facility, the applicant shall install measuring gauges throughout the outdoor storage areas clearly marking the maximum height of outdoor storage based on fence and screening heights. No material shall be stacked where it is visible from off-site and Material in storage bins shall not exceed height of the perimeter screen fence. The Planning Director may require the addition of measuring gauges at a future date, if deemed necessary.
 - b. Entry onto the expansion area property from Windy Way is prohibited.
 - c. Trucks exiting the site onto Windy Way shall be limited to a right turn out only (eastbound).
 - d. Bagging of materials may occur outdoors and said materials shall be moistened with water to reduce impacts of dust during the KRC Rock operational hours.
 - e. KRC Rock shall maintain the display area as shown on the approved site plan..
 - f. The following outdoor activities such as (1) placement of rock into various storage bins, (2) retrieval of stored material for sale, (3) dumping of rock into delivery trucks or into hopper for bagging operation, and (4) movement of a loader, forklift, delivery truck and distribution trucks around property shall not begin prior to 8:00 a.m., and shall cease prior to 5:00 p.m. on Saturdays. No bulk material loading/unloading shall occur prior to 8:00 a.m. Monday through Saturday. No operations will occur on Sundays.
 - g. Rock crushing is prohibited on this site.

- h. The Final approved Truck Management Plan (TMP) shall be implemented and comply with all conditions contained herein. The Final TMP and signed agreements for its use shall be maintained on site and available for review by the Engineering and Planning Division Directors upon request.
 - i. The applicant shall be responsible for the installed landscape such that it shall be maintained in a healthy, thriving manner.
8. Adequate light shall be installed to deter potential criminal activities. All new on-site lighting systems shall comply with City's standards for low-pressure sodium vapor.
9. The applicant shall be responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.
10. Use of the site shall be conducted so as not to become obnoxious by reason of parking impacts, noise, odor, refuse or maintenance of grounds and in such a manner as will not detrimentally affect adjoining properties and uses.
11. 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.
12. Any future expansion of the KRC Rock operation beyond the boundaries of this CUP as modified by the Conditional Use Permit shall require a modification to CUP 00-477 (10M).
13. The Planning Division shall 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, then a public hearing shall be scheduled for possible use permit modification or revocation.
14. This Conditional Use Permit modification for the Hoover-Taylor Assessor Parcel Number 218-110-12, as conditioned herein, shall have a term of five (5) years from approval of this permit, ending on June 6, 2016. The term of the KRC operation on Assessor Parcel Number 218-110-23 shall remain in force as approved in Resolution PC 01-3320. Any request for permit extension shall be applied for by the permittee no later than ninety (90) days prior to the expiration date.

15. 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.
16. 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 Applicant 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 Planning Commission of the City of San Marcos, State of California, at a regular meeting thereof, this 6th day of June 2011, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Steve Kildoo, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

Lisa Kiss, Planning Secretary
SAN MARCOS CITY PLANNING COMMISSION