

RESOLUTION PC 11-4244

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING  
COMMISSION APPROVING A CONDITIONAL USE PERMIT  
TO ALLOW THE CONSTRUCTION OF A NEW DRIVE-THRU  
RESTAURANT IN THE COMMERCIAL (C) ZONE IN THE  
BUSINESS INDUSTRIAL DISTRICT

CUP 11-844  
Del Taco LLC

WHEREAS, on February 8, 2011, an application was received from Desmond Wong on behalf of Del Taco LLC, requesting a Major Conditional Use Permit to allow the replacement of a 2,026 square foot retail/restaurant building with the construction of a 2,452 square-foot drive-thru restaurant within an existing commercial shopping center located at the northwest corner of Rancho Santa Fe Road and San Marcos Boulevard in the Commercial (C) zoning district, more particularly described as:

A portion of Parcel 4 of Parcel Map No. 9761, in the City of San Marcos, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County on March 6, 1980, as File No. 80-077806 of Official Records.  
Assessor's Parcel Number: 221-023-12

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

WHEREAS, the required public hearing was continued from September 6, 2011; and

WHEREAS, the required public hearing held on December 5, 2011 was duly advertised and held in the manner prescribed by law; and

WHEREAS, the Planning Commission did consider a Negative Declaration (ND 11-813) 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 proposed use is consistent with the objectives of the Zoning Ordinance and the purpose of the Commercial (C) Zone, in that the proposed use is conditionally permitted within the Commercial (C) Zone and the use as conditioned will not adversely affect the implementation of the General Plan.
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 the proposed drive-thru restaurant will provide adequate setbacks and separation from



surrounding buildings within the commercial center, the drive-thru aisle will be screened from public view by the decorative heavy gauge tubular steel/pilaster fence and landscaping; circulation will be improved in the parking lot due to the reconfigured parking/drive aisle; sufficient parking will be provided for the drive-thru and shopping center in an amount demonstrated to be adequate through a Parking Study; and will meet Federal and State requirements for disabled access.

NOW, THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. A Mitigated Negative Declaration (ND 11-813) is hereby approved pursuant to the California Environmental Quality Act (CEQA).
- C. The Conditional Use Permit is approved per the submitted site plan (2,452 square-foot drive-thru restaurant), floor plans, architectural/color elevations, and conceptual landscaping plans dated November 16, 2011, except as modified herein, and subject to compliance with the conditions of approval of this Resolution PC 11-4244.
- D. The site plan shall be modified as follows:
  - 1. A 5-foot high maximum decorative screen wall/fence shall be added along the length of the drive-thru aisle fronting the project building in order to screen the drive-thru from off site locations and block headlights from Rancho Santa Fe Road. The wall design shall incorporate stone pilasters and heavy gauge decorative tube steel fencing (comparable to the Creekside Marketplace shopping center detail). Final height of the wall/fence (3' - 5') shall be determined by the Planning Division Director upon site inspection during the construction phase of the project by use of story poles to demonstrate the revised heights of the wall. At the time of inspection and determination, the building shall be in the framing stage and shall demonstrate the final height of the building and drive-thru window relative to the height of the wall. To further screen the drive-thru, dense landscaping shall be planted along the wall facing Rancho Santa Fe Road and southerly driveway off of Rancho Santa Fe Road. Drive-thru areas not screened by the wall/fence (the north and west ends of the drive thru) shall be screened with dense landscaping.
  - 2. Individual parking spaces shall be a minimum of nine (9) feet wide by twenty (20) feet depth. The depth may be decreased down to seventeen and one-half (17.5) feet when there is allowable curb overhang onto adjacent landscaped areas. Curb overhang may be allowed adjacent to sidewalks as long as there is a minimum unobstructed sidewalk width of four (4) feet. The two parking spaces located on the west side of the trash enclosure, and walkway adjacent to the trash enclosure, shall be revised to comply with this standard. Parking stalls immediately to the north of the project area may contain compact parking stalls with dimensions of eight and



one-half (8.5) feet wide by twenty (20) feet in depth (seventeen and one-half (17.5) feet when there is allowable curb overhang onto adjacent landscaped areas). The site plan shall reflect the revised parking space configuration to accommodate through circulation on the west side of the building, designed to the satisfaction of the City Engineer.

3. A sheet number shall be assigned to the site plan.
  4. The outdoor dining area fence shall include pilasters with stone and heavy gauge tubular steel fencing. Design of outdoor dining barrier shall match the screen wall/fence.
  5. The entryway into the restaurant drive thru area shall be marked "Keep Clear".
  6. All property lines and setbacks shall be correctly denoted on the site plan.
- E. The architectural elevations shall be modified as follows:
1. A sheet number shall be assigned to the elevation drawings.
  2. A note shall be added indicating that all signs are to be reviewed and approved through a separate building permit application submittal.
  3. The windows shall be recessed.
  4. The tie rods on the west and south elevations shall be heavy gauge. Final design to be approved by the Planning Division Director after review of sample building materials.
  5. Metal cornices shall be wider.
  6. The trash enclosure shall be modified to be architecturally compatible with the proposed building. Use of stone, smooth stucco finishing, matching colors, and a solid roof shall be incorporated into the structure design.
  7. The applicant shall provide a separate cross section of the roof that demonstrates all roof mounted equipment is screened from the street and parking lot.
  8. Proposed building exterior light fixtures shall be approved by the Planning Division Director. Plans shall include photo of fixture and manufacturer specifications indicating dimensions, materials, colors, bulb type, etc
  9. Add the scale to the sheets.
  10. A detail of the drive thru screen wall specifying the final wall height, materials,



and design shall be submitted, reviewed, and approved by the Planning Division Director.

F. The floor plans shall be modified as follows:

1. A sheet number shall be assigned to the floor plan.
2. Each room shall be identified and dimensioned on the floor plans.
3. The outdoor dining area shall be included on the floor plan, including specifications for all outdoor furniture to be used. Potted plants shall be incorporated into the outdoor dining area design.

G. The landscape plans shall be modified as follows:

1. All trees proposed to be removed from the site shall be identified with a symbol and all trees proposed to remain shall be identified with a separate symbol. All trees removed along Rancho Santa Fe Road shall be replaced with 36" box evergreen trees. Species and locations are to be approved by the Planning Division.
2. Increase the density and height of planting along the drive thru screen wall in order to provide full screening of the drive thru activities. Final plant material to be approved by the Planning Division. Planting on the slope separating the drive thru from Rancho Santa Fe Road shall be modified to contain a mixture of shrubs.
3. Red bark mulch shall be used throughout all planter areas for weed and erosion control purposes.
4. A palm tree shall be added to the landscape planter at the northwest corner of the building.
5. The minimum height and spread shall be indicated for each type of proposed tree in accordance with the City's Minimum Tree Standards.
6. Additional landscaping shall be added along the screen wall and areas on both ends of the screen wall to provide natural screening of the drive thru aisle.
7. Planting adjacent to the trash enclosure shall be designed to deter graffiti.
8. Additional landscaping shall be added to the slope separating the drive thru from the sidewalk on Rancho Santa Fe Road. The plant palette shall complement the existing landscaping. All proposed landscaping shall be reviewed and approved by the Planning Division Director.



9. Water quality features, as approved by the City Storm Water Manager, shall be shown and identified on the landscape plans and grading plans.
  10. The applicant shall comply with all provisions outlined in Chapter 20.82 of the San Marcos Municipal Code (Water Efficient Landscape Ordinance).
- H. The lighting plans shall be modified as follows:
1. A sheet number shall be assigned to the site lighting plan.
  2. The two wall lights at the south end of the building shall be relocated to be consistent with the approved elevation drawings.
- I. Within thirty (30) days of the approval of the Conditional Use Permit (CUP 10-844), the site plan, elevations, floor plans, etc. shall be submitted as a digital file (including the resolution and a title page) to the Planning Division. This title page shall include the statement "I (we), \_\_\_\_\_, the applicant/owner(s) or the applicant/owner's representative, have read, understand and agree to the conditions of Resolution PC 11-4244." Immediately following this statement shall appear a signature block for the owner or the owner's representative which shall be signed. Signature blocks for the Project Planner and the Project Civil Engineer shall also appear on this title page. The digital file shall be approved by the City prior to any grading plan, improvement plan, or building permit submittal.
- J. Prior to issuance of any grading permit, the following conditions shall be complied with:
1. The applicant shall submit an application for a Boundary Adjustment Parcel Map or other document to modify the Assessor Parcel boundary to reflect the new building footprint. No permits will be issued until the Parcel Map/Boundary Adjustment is reviewed and approved by the Planning and Engineering Divisions.
  2. The applicant shall obtain a demolition permit from the Building Division prior to demolition of the existing structure. A certified asbestos consultant shall inspect the buildings for asbestos-containing materials and lead-containing paint and to provide recommendations for proper removal of said materials prior to demolition. All recommendations shall be followed during the demolition process.
  3. The applicant/developer shall submit a sample of the proposed pavers to the Planning Division. Material shall be approved by the Planning Director and City Engineer.
  4. The on-site circulation of this project shall be proven to accommodate the turning and backing movements of emergency vehicles to the satisfaction of the Fire Marshal and City Engineer.



5. The applicant/developer of CUP 11-844 shall submit plans and specifications for drainage facilities to the City of San Marcos ("City") Engineering Division for approval. Said plans shall show all existing and proposed drainage facilities including surface and subsurface construction. In addition, a signage and striping plan shall be included with the plans, as deemed necessary to ensure functional traffic flow of the proposed site within the existing centre. All to the satisfaction of the City Engineer.
6. The applicant/developer shall submit plans showing how existing parking configuration will be revised to accommodate the proposed Del Taco site. Revision shall include a Type I slurry, or equivalent, to accommodate a straight-thru circulation immediately west of the building (south-north direction) between the two nearest driveways fronting Rancho Santa Fe Road. All work, including adjacent impact revisions and limits of work, shall all be to the satisfaction of the City Engineer.
7. The applicant/developer of the property shall bear the expense of all on-site grading and construction of curb, gutter, sidewalk, paving, pedestrian lights, utility undergrounding or relocation, and drainage facilities, as required by the City Engineer.
8. The applicant/developer shall post securities to the City of San Marcos, in amounts approved by the City Attorney and the City Engineer or their designees, for the construction of private improvements including but not limited to the following: grading and erosion control, storm drain facilities, water quality BMP's, landscaping, and off-site street repair. Said security shall be in a form acceptable to the City and shall remain in force until completion of the project and final approval by the City. Said security shall insure the construction of the "Approved" improvements.
9. The applicant/developer shall make necessary arrangements with each of the serving utilities, including cable television, for the undergrounding of all utilities fronting, abutting, or within the property with the exception of sixty-nine (69) KVA or greater power lines within the site.
10. The applicant shall comply with all rules, regulations and design requirements of the respective sewer and water agencies regarding services to the project.
11. The permanent placement of Vallecitos Water District's large meter services, detector checks, fire hydrants, etc., shall be placed outside of the ultimate right-of-way.
12. The approval of this project does not guarantee that potable water and/or sewer capacity will be available for the project at the time of grading or building permit



application.

13. For commercial areas that share access and/or parking, an unsubordinated reciprocal access and parking agreement, in a form satisfactory to the City Attorney, shall be recorded with the Office of the San Diego County Recorder. A copy of the recorded agreement shall be submitted to the City's Planning Division.
14. Individual parking spaces shall be a minimum of nine (9) feet wide by twenty (20) feet depth. The depth maybe decreased down to seventeen and one-half (17.5) feet when there is allowable curb overhang onto adjacent landscaped areas. Curb overhang maybe allowed adjacent to sidewalks as long as there is a minimum unobstructed sidewalk width of four (4) feet. The two parking spaces located on the west side of the trash enclosure, and walkway adjacent to the trash enclosure, shall be revised to comply with this standard. Otherwise, wheel stops shall be installed to prevent vehicles from hanging over the sidewalk. Parking stalls immediately to the west of the project area may contain compact parking stalls with dimensions of eight and one-half (8.5) feet wide by twenty (20) feet in depth (seventeen and one-half (17.5) feet when there is allowable curb overhang onto adjacent landscaped areas).
15. The applicant/developer 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):
  - a. CFD 98-01, Improvement Area No. 1, Police Only
  - b. CFD 2001-01, Fire and Paramedic
  - c. CFD 98-02, Lighting and Landscape
  - d. CFD 2011-01, Congestion Management

No development entitlement or grading 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. 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.

16. Applicant/developer shall apply a Type I slurry, or equivalent, to the parking lot within the limits of work and beyond if necessary to provide a uniform appearance. Limits of slurry shall be to the satisfaction of the City Engineer.
17. A detailed grading plan shall be submitted to the City's Engineering Division for review and approval. Grading plans and activities shall be based on a comprehensive investigation of surface and subsurface conditions. Results of this



investigation and recommendations shall be submitted in the form of a report.

18. A geologic and soils study shall be conducted for the proposed project. Said study shall give recommendations for cut and fill slopes, compaction and suitability for step foundations on individual lots. Said study shall be prepared by a registered Civil and/or Geotechnical Engineer and approved by the City's Engineering and Building Divisions. Recommendations of the Civil and/or Geotechnical Engineer, City Engineer and Building Official shall be implemented at the time of development.
19. 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 and codes, San Diego Regional Water Quality Control Board's (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.
20. A hydrology report (calculations) shall be prepared for the proposed project to determine the existing and future runoff flow after development 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 improvement requirements. 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. This report shall be subject to approval of the City Engineer.
21. At the discretion of the Fire Marshal, a digital disk shall be submitted containing the following information: street centerline, subdivision boundary, lot lines, street right of way, building footprints and fire hydrants. Said files shall be in an Autocad format acceptable to the City of San Marcos and shall be on the correct coordinate system.
22. All on-site drainage shall be conveyed onto public streets through on-site drainage conveyance measures and routed into the public right-of-way in a form acceptable to the City Engineer. These facilities shall be constructed in accordance with City standards and privately maintained.
20. The developer shall provide a Water Quality Improvement Plan (WQIP) and Operation and Maintenance Plan as part of the grading plan to reflect the latest City of San Marcos Storm Water Standards Manual guidelines and California Regional



Water Quality Control Board, San Diego Region, Order No. R9-2007-0001. Low Impact Development standards and Interim Hydromodification requirements may be applicable. Said WQTR shall be prepared by a registered civil engineer and shall be to the satisfaction of the City Engineer. The WQIP shall, at a minimum:

- a. Identify affected receiving water bodies.
- b. Identify applicable water-quality objectives (Regional Water Quality Control Board (RWQCB) and San Diego Association of Governments) and pollutants of concern.
- c. Identify post-construction discharge rates (with all BMPs in place).
- d. Explain why the projected pollutant loads will not cause a violation of the water quality objectives.

The structural treatment controls shall remove project pollutants anticipated to be generated by the project and downstream impaired water bodies listed by the SWRCB 303(d) listing to the efficiency listed in the Approved City of San Marcos Stormwater Standards Manual.

The WQIP shall be submitted with/on the grading plans to the City's Engineering Division for review and approval. Prior to final approval of the grading plans, the grading plans shall be reviewed by the City for substantial conformance with the approved WQIP. Developer shall provide geotechnical confirmation for all infiltration BMPs or for not using infiltration BMPs.

A Stormwater Management and Discharge Control Maintenance Agreement, to include an Operation and Maintenance Plan and Treatment Control facilities, shall be submitted for review and approval prior to recordation with the County Recorder. Proof of said recordation shall be provided to the City.

21. Sediment, silt and grease traps shall be included in drainage improvements.
22. The applicant/developer applicant shall submit landscape plans with characteristics that maximize infiltration, provide retention, reduce irrigation and storm water runoff, use efficient irrigation, and minimize the use of fertilizers, herbicides and pesticides.
23. The applicant/develop shall submit, for City review and approval, a mechanism which will ensure on-going long-term maintenance of all construction BMP's. Said mechanism shall address maintenance of the BMP's if project delays or abandonment occurs.
24. All construction and grading related BMPs shall be shown in detail on the construction plans submitted to the City for review and approval.
25. The applicant/developer shall submit a schedule to the City for review and approval,



with proposed dates, demonstrating the minimization of grading during the wet season and coinciding the grading with dry weather periods, permanent re-vegetation and landscaping as early as feasible, temporary stabilization and reseeding of disturbed soil areas as early as feasible.

26. The applicant/developer shall submit to the City for review and approval a BMP sheet that includes a combination of BMPs in accordance to the City's latest Storm Water Standards Manual requirements and California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-0001. The project landscape architect shall sign this plan certifying the BMP's have been incorporated into the landscape plans. Said plan shall be a separate sheet incorporated into the grading plan set. Each structural treatment control BMP shall have the following information listed on the BMP sheet:
  - a. Latitude and Longitude
  - b. Maintenance Requirements
  - c. Assessor Parcel Number location for each BMP
  - d. Type of BMP per CASQA classification
  - e. Pollutants removed by each BMP and Efficiency
  - f. Anticipated Project Generated Pollutants
  - g. Downstream Impaired Water Body Pollutants
  - h. Model number, manufacturer, manufacturer phone number, treatment flow, retention times for each BMP
  - i. Area of project treatment for each BMP
  - j. A unique BMP ID number shall be assigned by the City and shall be shown on the BMP sheet.
27. All permanent BMP's per the approved grading plan shall be shown on the landscape plans. Landscape plans shall be reviewed and signed by the engineer of work stating the proposed landscape design complies with the requirements of the Water Quality Improvement Plan and/or Storm Water Standards Manual.
28. All permanent manufactured fill slope banks shall be constructed at a gradient no steeper than 2:1 (horizontal to vertical). The Civil and/or Geotechnical Engineer shall verify slope stability for any cut slope greater than 2:1; in no case shall the cut slope exceed 1.5:1. The City Engineer will require support documentation from a licensed Civil and/or Geotechnical Engineer for graded cut slopes greater than 2:1.
29. The owner of the subject property shall execute a "Hold Harmless" Agreement with the City of San Marcos regarding drainage across the adjacent property prior to approval of any grading or building permit.
30. The applicant shall submit a circulation signage and striping plan, designed to the satisfaction of the City Engineer.



31. Under separate permit, the applicant/developer shall submit construction landscape plans to the Planning Division for review and approval per the following requirements:
  - a. Final landscape and irrigation plans shall be prepared by a licensed landscape architect. Landscape plans shall incorporate all modifications as conditioned.
  - b. 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 Architect's estimate for the completion of all landscaping shown on approved mylars. All submitted estimates shall be stamped and signed by the Landscape Architect, and estimate the cost of plant and irrigation materials only.
  - c. Landscape plans shall contain a mixture of trees, shrubs, and ground cover, 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. 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 Minimum Tree Standards, City Council Resolution 2001-5747); and method of installation and irrigation.
  - d. Plant material and irrigation design shall comply with the City's landscape Water Efficiency Ordinance, Section 20.82 of the San Marcos Municipal Code.
  - e. All permanent Best Management Practices (BMPs) per the approved grading plan shall be shown on the landscape plans. Landscape plans shall be reviewed and signed by the engineer-of-work that the proposed landscape design complies with the requirements of the WQIP.
  - f. Prior to installation, the proposed plants shall be inspected and approved by the Planning Division and/or Landscape District Supervisor 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 and/or Landscape District Supervisor. The applicant/developer shall be responsible to contact the Planning Division for landscaping inspections.
- K. Prior to issuance of any building permit, the following conditions shall be complied with:
  1. All corrections outlined in conditions D, E, F, G, and H shall be incorporated into



the plans.

2. 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.
3. 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.
4. 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.
5. 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.
6. An automatic fire extinguishing system may be required in accordance with the latest adopted California Building Code and San Marcos Fire Code Ordinance. Fire suppression systems shall conform to the National Fire Protection Association standards.
7. The proposed development shall comply with Federal Law, American with Disabilities Act (ADA-90), and State Law, California Code of Regulations, Title 24, for accessibility standards for the disabled.
8. The applicant/developer for the proposed development, redevelopment or discretionary use is required to pay Public Facilities Fees as established by the latest adopted Public Facilities Fee Resolution. The fee is based on the proposed land use and shall be paid prior to the issuance of the first permit for the development.
9. The proposed development is subject to the approval of the Vallecitos Water District and all applicable fees and charges shall be paid to the District prior to permit issuance.
10. 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.
11. Sewer and water utilities shall be located wholly on the lot that serves the building in accordance with the latest adopted edition of the California Plumbing Code.
12. All rooftop mechanical units, vents, ducts, etc. shall be screened from street grade



view and surrounding properties, such as the adjacent multi-family development to the west, by parapet walls and/or architectural enhanced enclosures as approved by the Planning Director. 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.

13. The drive-thru screen wall location and architectural style shall be indicated on the building plans. Height of the wall shall be specified as varying in height, ranging from 3 feet to 5 feet.
14. All exterior lighting shall comply with City standards for energy efficient lighting as approved by the City.
15. An 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.
16. The trash enclosure (minimum dimensions of fourteen (14) feet wide by ten (10) feet deep by six (6) feet high) for trash and recycling containers shall be constructed to match the building in color and texture. Use of stone veneer, smooth stucco finishing, matching colors, and a solid roof shall be incorporated into the structure design. In addition, the enclosure shall have solid view-obscuring, double swinging gates; must have a flat impervious, concrete slab designed not to allow run-on from adjoining areas; contain attached lids on all trash and recycling containers; and a roof to minimize direct precipitation. Trash container lids shall be kept closed at all times.
17. Building address and suite numbers shall be clearly labeled for day and night-time emergency responses. In addition, adequate lighting shall be provided to deter potential criminal activities (i.e.: vehicle burglaries, prowlers, loitering, etc.).
18. All parking and driveway areas shall be surfaced with Asphaltic Concrete (AC) or Portland Cement Concrete (PCC) over a prepared base.
19. Six (6) inch high Portland Cement Concrete (PCC) curbing shall be installed separating all paved areas from all landscaped areas. Where curbing may conflict with vehicle turning movements, corner cutoffs or radii shall be provided as required by the Fire Department.
20. The Engineer-of-Work shall certify that all grading and construction of grading related improvements (erosion control, storm drains, etc.) have been in substantial



conformance with the approved plans, reports, and standards.

21. 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.
22. The applicant/developer shall contact the Delivery Retail Analyst for the branch of the U.S. Postal Service to determine the type and location of centralized delivery equipment required.

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

1. Varying drive-thru screen wall/fence heights (ranging from 3 feet to 5 feet) shall be demonstrated by use of story poles for review and approval from the Planning Division Director. During the Planning Division Director's review, the restaurant building shall be in the final framing stage demonstrating finished height of the building and drive-up window.
2. Dust and dust producing materials shall be controlled within the maximum acceptable concentrations for silica and silicates in accordance with the California Code of Regulation, Title 8, Section 5155. Water and dust palliative shall be used to prevent excessive dust during blasting and grading operations.
3. The project shall comply with Regional Air Quality Standards.
4. 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.
5. During grading and construction operations, the applicant shall maintain public and private driveway access to neighboring businesses/properties at all times unless previous arrangements have been made with the private parties affected. Copies of said agreements shall be provided to the City Engineer.
6. 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 Director of Public Works and comply with all necessary review.

7. A test sample of the proposed exterior colors shall be applied to an area of the building large enough to be representative of the finished color scheme. This sample shall be inspected and approved by the Planning Division prior to painting of the entire building. If determined necessary upon inspection, the color scheme may be required to be modified at the discretion of the Planning Division Director. The applicant/developer shall be responsible to contact the Planning Division for inspection.
8. Installation of landscaping and irrigation per the approved landscape plans shall commence at time of completion of hardscape areas.
9. The applicant/developer 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.
10. The applicant/developer shall submit a traffic control plan for all phases of construction for approval by the Director of Public Works. Said plan shall include all traffic control devices including traffic signals as required.
11. Paving of roads/parking lots shall be completed as early as possible to mitigate short-term dust problems associated with construction.
12. During grading and construction phases of development, the application of water or other means of dust control shall be performed to the satisfaction of the Building Inspector and the Public Works Director.
13. 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.
14. 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 with result in the issuance of citations. Citations required a mandatory court appearance in North County Superior Court and courts costs up to \$1,000 per offense. Repeat violations will result in suspension of all work on premises until the City determines that appropriate measures are in place to insure that hours of work violations will not occur.
15. During grading and construction operations, the applicant/developer shall maintain



public and private driveway access to neighboring businesses/properties at all times unless previous arrangements have been made with the private parties affected. Copies of said agreements shall be provided to the City Engineer.

16. Dewatering activities during construction shall not be conducted without appropriate permits and approvals from all regulatory agencies involved (SDRWQCB, SWRCB, ACOE, and other Resource agencies). The City Stormwater Program Manager shall be notified one week in advance of any dewatering activities and a copy of all permits shall be submitted to the City. Dewatering activities will be conducted and planned for in compliance with the SDRWQCB, SWRCB, and project specific dewatering permit requirements obtained. Should the quality of the ground water be such that it does not meet the permitting requirements, then the water will need to be treated prior to discharge.
  17. The applicant/developer 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
  18. The applicant/developer shall utilize sediment controls only as a supplement to erosion prevention for keeping sediment on-site during construction – NEVER as a single or primary method.
  19. The applicant/developer shall clear and grade only the areas on the project site that are necessary for construction. These areas shall be clearly denoted on the plans.
  20. The applicant/developer shall minimize exposure time of disturbed soil areas. Paving of parking lot shall be completed as early as possible to mitigate short term dust associated with construction activities.
- M. Prior to occupancy of any structure, the following conditions shall be complied with:
1. All improvements shown on the approved plans, shall be constructed prior to release of any improvement securities.
  2. Prior to release of any securities, a digital disk of all as-built drawings is required on a CD. Said files shall be in an Autocad format acceptable to the City of San Marcos. Said drawings shall be on the correct coordinate system. PDF versions of all approved drawings and recorded documents shall be provided. In addition, electronic files of the project reports (i.e. soils report, drainage study, SWPPP, Water Quality Improvement Plans, structural calculations, title report and guarantee, etc.) shall be submitted on a CD. Copies of the final as-built drawings shall be submitted on a CD in a format acceptable to the City. A Mylar of the map, after recordation is also required.



3. "As-Built" reproducible grading plans shall be submitted and approved by the City's Project Construction Inspector. "As-Built" plans shall reflect minor field changes and approved construction changes in accordance with the City's "As-Built" policy. The plan set shall also include the as-built layout for all utilities (gas, telephone, electric, television, and street lighting) as depicted on the individual utilities plan sheets.
4. The applicant/developer shall submit for City review and approval, plans showing source control BMPs in place and a certified letter noting the implementation plans for said BMPs.
5. All water quality BMP's shall be inspected and approved by the Public Works Director, City Engineer, and Planning Director.
6. The City assigned BMP ID number of all water quality BMP's shall be shown on the installed BMP. Said ID number may be delineated with a stencil or sign to the satisfaction of the Public Works Director.
7. The applicant/developer shall ensure that the grading and other construction activities meet the provisions specified in the California RWQCB, San Diego Region, Order R9 2007-0001 – Section D.2.
8. The applicant/developer shall stabilize all slopes per a City approved method.
9. The applicant/developer shall provide evidence of existing coverage under the State of California's statewide General NPDES Permit for Storm Water Discharges Associated with Construction Activities at all times
10. 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 Director.
11. All landscaping shall be completed, and inspected and approved by the Planning Division. The applicant/developer shall be responsible to contact the Planning Division for inspection.
12. 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 Technical Report, respectively.
13. The applicant/developer shall stabilize all slopes per a City approved method.
14. 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. For phased developments, the conditions of approval shall be satisfied prior to requesting the first occupancy in the phase.

15. All constructed water quality BMP's shall be inspected and approved by the Public Works Director, City Engineer, and Planning Director or a certification letter from proprietary storm water controls showing that the devices have been installed and activated in accordance with manufacturer requirements and design.
  16. 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 approves 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 development have been satisfied.
  17. The applicant shall obtain a City-issued business license.
- N. The drive-thru facility shall be used for a restaurant use only.
- O. The approved architecture, paint colors and materials shall not be modified by the owner(s) or subsequent owner(s) in the future without City approval.
- P. The outdoor dining area shall be compliant with the following conditions:
1. The outdoor dining area shall be limited to the 200 square-foot hardscape area directly to the south of the subject building between the building side entrance and the drive thru aisle, as shown on the submitted plans.
  2. The outdoor dining area shall not obstruct the sidewalk along the side entrance of the building.
  3. The outdoor dining area shall be for customers of the restaurant only.
  4. Style of chairs, tables, umbrellas, and heaters shall compliment the architectural style of the building and shall be reviewed and approved by the Planning Division Director prior to occupancy. Applicant shall submit specification sheets and photos for review and approval.



5. Outdoor speakers for announcements or outdoor entertainment (i.e.: live band, etc.) are prohibited.
  6. Outdoor cooking or food preparation is prohibited.
  7. A trash receptacle, consistent with the style for the building shall be located within the outdoor dining area for customer disposal of trash. Said area shall be maintained free of litter and cleaned up by the applicant/operator on a routine basis during business hours.
  8. Any new light fixtures or space heaters for the outdoor dining area shall be of a style consistent with those of the commercial center.
- Q. The applicant shall submit materials to amend the existing comprehensive sign program for Palomar Plaza to include the new Del Taco restaurant. Said sign program shall incorporate signage compliant with the City of San Marcos Sign Ordinance, and shall be reviewed and approved by the Planning Division Director. Signs shall be designed with individual channel letters; cabinet signs are not permitted. Portable signs (i.e.: A-frame, T-frame, etc.), on or off site, are prohibited. Any proposed monument sign for the shopping center/restaurant shall be designed with a solid base, shall be architecturally compatible with the restaurant building, and is subject to the review and approval of the Planning, Building, and Engineering Divisions. Following review and approval of the comprehensive sign program, all proposed signage requires approval of a separate building permit.
- R. All landscaping and planting areas shall be continually maintained in good condition and kept watered, clean and weeded. Dead or dying plant material shall be replaced. Landscape and hardscape areas shall be kept free of trash and debris.
- S. 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.
- T. Any future expansion and/or modification of the drive thru restaurant shall require a modification to CUP 11-844. The Conditional Use Permit application must be submitted for review and approval by the City of San Marcos prior to issuance of any building permits.
- U. All banners and temporary signs require approval of a temporary sign permit and shall comply with the standards outlined in the City's Temporary Sign Ordinance.
- V. The applicant shall be responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.
- W. 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.

- X. 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.
- Y. This Conditional Use Permit shall expire on December 5, 2012 unless a building permit is obtained by this date and construction has begun in accordance with the submitted plans.
- Z. 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 5<sup>th</sup> day of December, 2011, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

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Steve Kildoo, Chairman  
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

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Lisa Kiss, Planning Secretary  
SAN MARCOS CITY PLANNING COMMISSION



