

Planning Commission

AGENDA REPORT

MEETING DATE: May 7, 2012

SUBJECT: APPEAL of Conditional Use Permit: Pacific Safety Solutions, by James Flores of ZRG Inc.

CASE: CUP 11-869

Recommendation

Staff recommends denial of the appeal.

Introduction

On October 21, 2011, an application was received from Pacific Safety Solutions requesting a Minor Conditional Use Permit for the operation of a 3,108 square-foot occupational safety training facility within an existing industrial building located at 2892 S. Santa Fe Avenue, Suite 110, in the Light Industrial and Design Overlay (LM/DZ) Zone in the College Neighborhood. On April 4, 2012, Conditional Use Permit 11-869 was approved at an Administrative Hearing. On April 16, 2012, an attorney representing James Flores of ZRG Incorporated filed a written appeal of the Administrative Hearing Officer's action.

Discussion

While processing Conditional Use Permit 11-869, staff received two (2) written opposition letters from the attorney representing the appellant, Mr. Flores. The first letter, which was sent February 7, 2012, outlined concerns over parking, compliance with Conditional Use Permit 08-772 (original CUP for San Marcos Flex Center), Zoning Ordinance compliance, and land use compatibility (See Attachment F). In response to the first opposition letter, staff worked with the applicant to resolve the issues raised, and provided a response letter to the appellant prior to the administrative hearing addressing his concerns (See Attachment G). On April 4, 2012 (the day of the administrative hearing), a second opposition letter was provided by the attorney representing the appellant to the administrative hearing officer requesting denial of the Conditional Use Permit based on the same issues raised in the original opposition letter, and added compliance with California Environmental Quality Act (CEQA) as shown in Attachment E. In response to the 2nd letter, the appellant was invited to attend the public hearing to communicate his objection on the project. However, neither the appellant, nor the attorney representing the appellant, attended the public hearing to voice their concerns. Following approval of the Conditional Use Permit, the attorney representing the appellant filed a written appeal of the Administrative Hearing Officer's action. Several of the issues raised in the appeal letter are consistent with the issues raised in the previous letters, with exception to compliance with the City's public noticing requirements. The following lists the specific appeal items outlined within the appeal letter and staff's response.

AGENDA ITEM NO. 3



Appeal Item:

The use is not permitted in the City's Zoning Ordinance.

Staff Response:

The use is an office and occupational safety training facility. The occupational safety training portion of the use is unique and is not defined or listed in the City's Municipal Code. Pursuant to Table 3 of San Marcos Municipal Code (SMMC) 20.60.240, the City Manager or Designee (Planning Division Director) may allow any use that is similar in character and anticipated impacts to those listed which conform to the purpose and intent of the zone. SMMC 20.60.240(B) states that any similar use or commercial and service type use which conforms to the purpose and intent of the Light Industrial zone may be permitted with approval of a Conditional Use Permit. Pursuant to SMMC 20.60.230, the purpose and intent of the Light Industrial zone is to provide zoning districts for the grouping together of light industry, wholesale, professional uses, service commercial uses, and stand alone/retail showrooms in an environment which will be beneficial to such uses and to provide protection for surrounding uses.

Pacific Safety Solutions is an Environmental Health and Safety (EHS) consulting firm providing safety training services to construction contractors who build and maintain telecommunication facilities, electrical towers, and associated facilities. Specifically, the facility provides three services: field assessments and evaluations for client safety conditions; preparation of client safety programs and manuals; and, "hands on" training and certification to client employees. Field assessments and preparation of safety manuals require use of an office only, which is permitted by right within the Light Industrial zone, while the training session portion of the business requires a "hands on" instructional environment for clients as part of the certification process. Although most training sessions will occur at offsite locations utilizing mobile training equipment, some training equipment is not mobile, and can only be utilized at the project site. Training sessions at the project site are offered in a small group setting (6 students max) utilizing a standard size meeting room (comparable to an office meeting room) and related training equipment (climbing structure, tower equipment, etc.) which will be stored and utilized in the warehouse portion of the space. Training sessions will occur at the site once per week and no more than one session will occur on the same day. Considering all services provided, the space will be used as both an administrative office as well as an occupational safety training facility for clients.

As a unique use not identified within the City's Municipal Code, staff identified Pacific Safety Solutions as a service type use that offers safety training services to electrical, telecommunication, and construction contractors only. As contractor offices and services, as well as the storage of equipment and materials, are permitted by right within the Light Industrial zone, staff determined Pacific Safety Solutions to be in conformance with the purpose and intent of the Light Industrial zone, and determined the use compatible with other businesses within the industrial park. It should also be noted that several similar training and vocational facilities have been approved in the Light Industrial (LM) zones with approval of a Conditional Use Permit. These similar requests were reviewed on a case by case basis, and were evaluated to ensure an adequate parking and land use compatibility.

Appeal Item:

The use is incompatible with other uses in the Santa Fe Hills Business Center.

AGENDA ITEM NO. _____



Staff Response:

As indicated above, staff has identified Pacific Safety Solutions as a service type use that offers safety instruction services to electrical, telecommunication, and construction contractors only. As contractor offices, services, and warehouses are permitted by right within the Light Industrial zone, staff determined Pacific Safety Solutions to be in conformance with the purpose and intent of the Light Industrial zone, and determined the use compatible with other businesses within the industrial park, which includes a construction contractor, several manufacturing and warehouse uses, and administrative offices. Additionally, a number of conditions have been incorporated into the resolution to prevent the business from becoming a nuisance. Conditions include requiring all business activities to occur inside of the building, limiting patron count within the facility to seven (7) to prevent parking and traffic impacts, and requiring all doors to the facility to remain closed during business operations to eliminate any potential noise impacts. Furthermore, the use has been approved by the Santa Fe Hills Business Center Owners Association (SFHBCOA), who had their legal counsel review the proposed use for compliance with all Codes, Covenants, and Restrictions (CC&Rs) and applicable bylaws, and concluded the use to be in compliance.

Appeal Item:

Pacific Safety Solutions does not have sufficient parking spaces to comply with the City's parking regulations.

Staff Response:

The Santa Fe Hills Business Center (formerly known as San Marcos Flex Center) was originally approved with a parking ratio of one parking stall for every 500 square feet of gross floor area, and included 15 additional spaces for overage parking (51,703 square foot building / 118 parking spaces). Given the center's allocation ratio, the project condominium space is allocated seven (7) parking spaces. The City's Zoning Ordinance does not specify a required number of parking spaces for an occupational safety training facility. Therefore, the applicant has been conditioned to limit the number of students and employees at any given time to a maximum count of seven (7) to ensure that no more than seven (7) parking spaces would be needed. Additionally, training sessions will occur once per week (never exceeding one session per day), which eliminates the potential for overlapping of classes.

Appeal Item:

The project does not qualify for a Class 1 Categorical Exemption under the California Environmental Quality Act (CEQA).

Staff Response:

Pursuant to California Environmental Quality Act (CEQA) Guideline 15301 (Existing Facilities), Class 1 categorical exemptions consist of the operation, repair, maintenance, permitting, leasing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.



Located within in an existing industrial park, Pacific Safety Solutions will operate within an existing condominium space and is requesting no expansion to the building. Additionally, given the low number of patrons permitted within the facility at any given time and the activities taking place, it has been determined that the use is no more intense than that of an office or light industrial use with regard to parking, traffic, or noise. Therefore, the facility has been found to be categorically exempt, pursuant to CEQA Guideline 15301, Class 1 (Existing Facilities), in that the facility involves negligible or no expansion of use beyond those uses found allowed within the Santa Fe Hills Business Center.

Appeal Item:

The City did not comply with the public notice requirements for the Administrative Hearing.

Staff Response:

Pursuant to SMMC 20.104.080(a), notifications shall be given by mail not less than ten (10) days prior to the date of the hearing, to the owners of property within a radius of five hundred (500) feet of the exterior boundaries of the property for which the above permit application is sought with the exception of variances.

The administrative hearing for the item took place on April 4, 2012. On March 21, 2012 (13 days prior), a Notice of Public Hearing was sent to all property owners within a 500 foot radius. The legal advertising submittal for the hearing was made to the North County Times on March 15, 2012, and the notice was published on March 22, 2012 (12 days prior). It should also be noted that a sign was posted at the site (approximately 4.5 months prior to the hearing) in a conspicuous location while the application was being processed, and a photo indicating sign placement was submitted to staff.

In addition to the City's noticing requirements, on January 20, 2012, the Santa Fe Hills Business Center Owners Association held a meeting to approve a letter confirming their approval of Pacific Safety Solutions. Notice of the meeting was given four (4) days in advance, and was provided to all owners and tenants within the industrial park. With a majority vote, the letter was approved (See Attachment H).

Attachment(s)

Adopting Resolution

A - Vicinity Map

B - Site and Project Characteristics

C - Floor Plan

D - Appeal Letter

E - Request to Deny CUP 11-869 (April 4, 2012)

F - Opposition Letter (February 7, 2012)

G - Staff Response Letter (April 2, 2012)

H - Santa Fe Hills Business Center Owners Association Letter



Prepared by:

A handwritten signature in blue ink.

Art Pinon, Assistant Planner

Approved by:

A handwritten signature in blue ink.

Jerry Backoff, Planning Division Director

Reviewed by:

A handwritten signature in blue ink.

Charlie Schaffer, Development Services Director

AGENDA ITEM NO. _____



ATTACHMENT A

Vicinity Map



AGENDA ITEM NO. _____



ATTACHMENT B

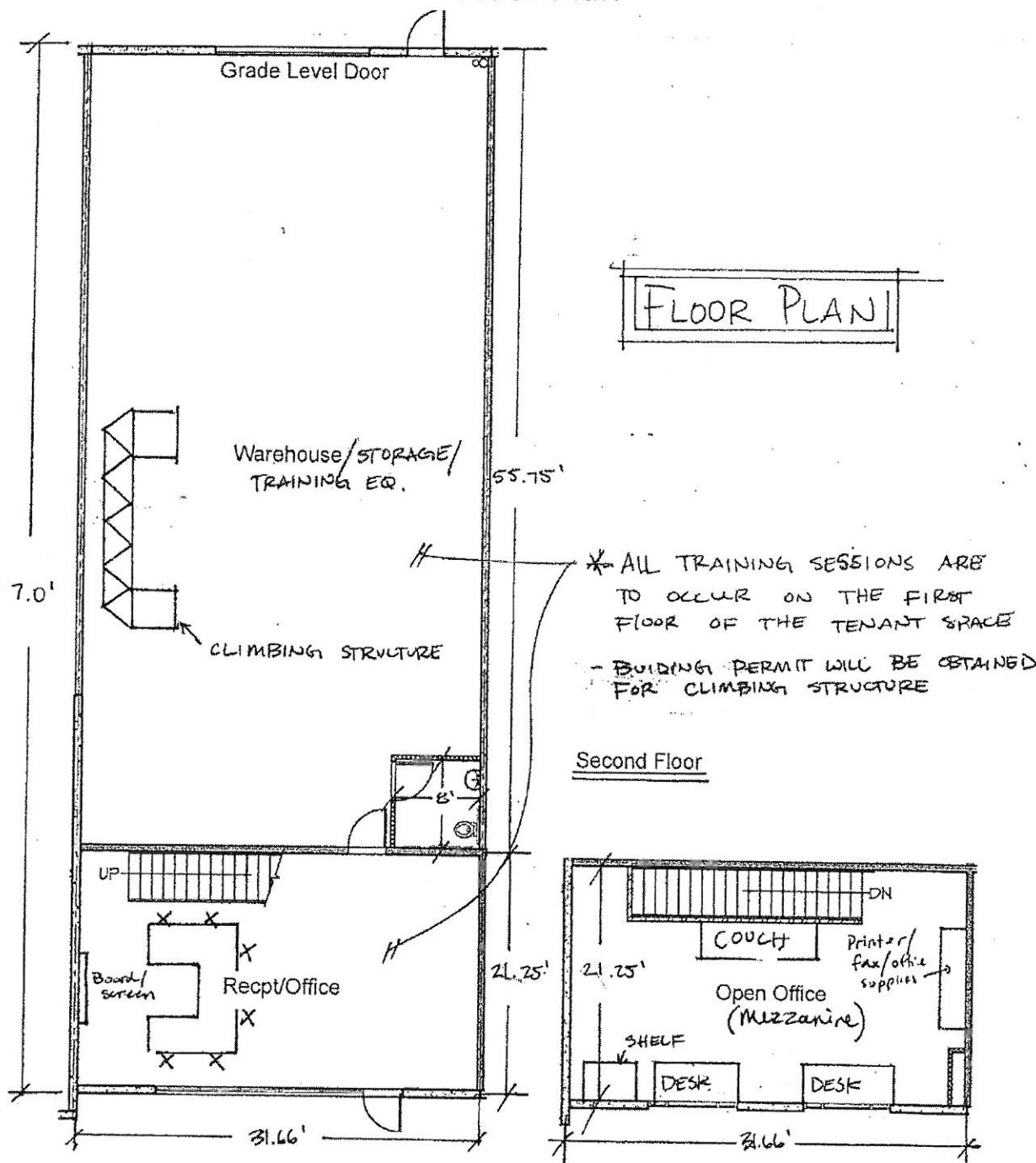
Site and Project Characteristics

<u>Property</u>	<u>Existing Land Use</u>	<u>Zoning</u>	<u>General Plan Designation</u>
Subject	Industrial	LM/(DZ)	Light Industrial
North	Vacant	LM	Light Industrial
South	Residential - Mobile Home Park	R-MHP	Low Density Residential 4.1 – 8.0 DU/AC
East	Commercial	LM/(DZ)	Commercial
West	Light Industrial	LM/(DZ)	Light Industrial
Flood Hazard Zone		<u> </u> yes	<u>x </u> no
Redevelopment Project Area 3		<u>x </u> yes	<u> </u> no
Resource Conservation Area		<u> </u> yes	<u>x </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
General Plan Conformance		<u>*x </u> yes	<u> </u> no



ATTACHMENT C

Floor Plan



AGENDA ITEM NO. _____



ATTACHMENT D
Appeal Letter

AGENDA ITEM NO. _____

SELTZER | CAPLAN | McMAHON | VITEK
A LAW CORPORATION

ERIK L. SCHRANER, ESQ.
schranner@scmv.com
619.685.3187
619.702.6848 FAX

April 16, 2012

RECEIVED

APR 16 2012

CITY OF SAN MARCOS
PLANNING DIVISION

Via Hand Delivery

Office of the Planning Commission
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

✓Planning Division Secretary
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

City Manager
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

RE: Pacific Safety Solutions
Application Number CUP 11-869
Appeal of Hearing Officer Decision

Dear City of San Marcos:

James Flores and ZRG, Inc., the owner of two condominium units in the Santa Fe Hills Business Center, a light industrial condominium project appeals the Hearing Officer decision approving Pacific Safety Solutions application (Application Number CUP 11-869) to the Planning Commission.

The decision to approve was erroneous for the following reasons:

1. The use is not a permitted use under the zoning ordinance;
2. The use is incompatible with other uses in the Santa Fe Hills Business Center;
3. Pacific Safety Solutions does not have sufficient parking spaces to comply with the City parking regulations;
4. The project does not qualify for a Class 1 categorical exemption under the California Environmental Quality Act; and
5. The City did not comply with the public notice requirements for the Hearing Officer hearing.

City of San Marcos

April 16, 2012

Page 2

In addition, I request that the City notify me in advance of any public hearings regarding the Pacific Safety Solutions application, and that the City add me to the public notice list for this project.

Please contact me if you have any questions concerning this appeal.

Very truly yours,



Erik L. Schraner, Esq.
Seltzer Caplan McMahon Vitek
A Law Corporation

ELS:cld

cc: ZRG, Inc. (Via Email)



ATTACHMENT E

Request to Deny Conditional Use Permit 11-869 (April 4, 2012)

AGENDA ITEM NO. _____

www.scmv.com 2100 SYMPHONY TOWERS
619.685.3003 750 B STREET
619.685.3100 FAX SAN DIEGO, CALIFORNIA 92101

SELTZER | CAPLAN | McMAHON | VITEK
A LAW CORPORATION

ERIK L. SCHRANER, ESQ.
schranner@scmv.com
619.685.3187
619.702.6848 FAX

April 4, 2012

VIA E-MAIL

Administrative Hearing Officer
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

Art Pinon
Assistant Planner
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-2918

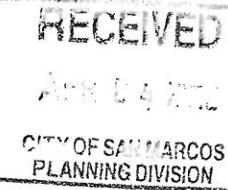
RE: Pacific Safety Solutions
Application Number CUP 11-869

Dear Mr. Pinon:

We represent ZRG, Inc. the owner of two condominium units in the Santa Fe Hills Business Center, a light industrial condominium project. Pacific Safety Solutions has applied to the City of San Marcos for permission to operate a trade, business or vocational school in the Santa Fe Hills Business Center.

Requested Action.

We request that the City deny Pacific Safety Solutions application for a conditional use permit because (1) the use is not a permitted use under the zoning ordinance, (2) Pacific Safety Solutions does not have sufficient parking spaces to comply with the City parking regulations, and (3) the project does not qualify for a Class 1 categorical exemption under the California Environmental Quality Act ("CEQA").



City of San Marcos
April 4, 2012
Page 2

The Pacific Safety Solutions Application does not comply with the Zoning Ordinance.

Pacific Safety Solutions' application does not comply with the City of San Marcos' Zoning Ordinance and CEQA for the following reasons:

1. Business and vocational schools are not a permitted use under the City's zoning.

The Santa Fe Hills Business Center is zoned L-M, a light industrial zone. The L-M zone's purpose is:

To provide districts for the grouping together of light industry wholesale and professional uses, service commercial uses, and stand alone/retail showrooms in an environment which will be beneficial to such uses and to provide protection for surrounding uses.¹

Permitted uses in the L-M zone are listed in Table 3 "Uses by Light-Industrial Zone (copy attached).² Although Table 3 permits "administrative offices" and warehouses in the L-M zone, business, trade, and vocational schools are not permitted uses with or without a conditional use permit.³ These uses are, therefore, not permitted within the L-M zone.

Pacific Safety's operations are most similar to a business, trade, or vocational school.

Furthermore, the City's contention that Pacific Safety Solutions may operate as a general office uses in incorrect. General office uses are not a permitted use in the L-M zone. Only "administrative offices" are permitted.

Although any similar use or commercial and service type use which conforms to the purpose of the L-M zone may be permitted with a conditional use permit, the Pacific Safety Solutions application is not a similar use and does not conform to the purpose of the L-M zone.⁴ The L-M zone permits light industry wholesale and professional uses, and service commercial uses. Training center and business, trade, and vocational schools are not a permitted use in the L-M zone.

Furthermore, a training facility is incompatible with light industrial uses. Manufacturing and assembly, furniture manufacturing and repair, and metal working are all uses permitted by right in the L-M zone. All of these uses generate high noise levels. A training facility requires a

¹ Municipal Code §20.60.230

² Municipal Code section 20.60.240.

³ Business, trade, and vocational schools are permitted within three other zones but not within the L-M zone.

⁴ Municipal Code section 20.60.240.

City of San Marcos
April 4, 2012
Page 3

quieter environment than can be obtained in an industrial complex and is, therefore, an incompatible use.

The Santa Fe Hills Business Center is a light industrial complex; not a commercial complex that is designed to handle students arriving and going, and loitering during class breaks.

The proper location for the training facility is either OP (office-professional) zone or the C (Commercial), both of which specifically authorize business, trade, or vocational schools.⁵ Either the OP or C zone would be an appropriate location for the proposed training center. A commercial center can also provide services compatible with a vocational training school and are designed to handle types of proposed activities.

2. The Pacific Safety Solutions application does not comply with City parking regulations.

Pacific Safety Solutions must comply with the City parking regulations. Since Pacific Safety will not be using the building for the approved light industrial uses, Pacific Safety must provide a sufficient number of parking spaces to comply with the parking regulations. The parking regulations require business, trade or vocational schools to provide the greater of the following: (a) one parking space for every two students and one space for each employee or (b) one space for every 200 square feet. Pacific Safety must therefore provide 16 parking spaces (one space for every 200 square feet).

According to the City, the applicant proposes to limit the number of students and employees that can use the facility at any one time. The City is requiring the applicant to provide 1 parking space for each permitted student and/or employee, for a total of seven parking spaces. The City's parking regulations, however, do not authorize the City to waive the parking space requirements. Furthermore, even if the applicant limits the number of students and employees, Pacific Safety does not have a sufficient number of parking spaces.

Even if Pacific Safety's operation qualified entirely as an office use, Pacific Safety would have to provide at least 8 parking spaces. The parking regulations require structures for "other permitted industrial/manufacturing uses not specified" to provide one parking space for each 200 square feet of floor area. The building leased by Pacific Safety includes 1,200 square feet of space; therefore, at least 6 parking spaces must be provided. Another 2 parking spaces are required for the warehouse. Thus, at least 8 parking spaces must be provided.

We have been informed that Pacific Safety has only been assigned seven parking spaces, which is insufficient for Pacific Safety's operations.

⁵ Business, trade, and vocational schools are permitted by right in the OP (office-professional) zone, and allowed in the C (Commercial) zone with a minor conditional use permit.

City of San Marcos
April 4, 2012
Page 4

3. The Project does not qualify for a Class 1 categorical exemption from the California Environmental Quality Act.

City proposes that the proposed project qualifies for a Class 1 categorical exemption and is therefore exempt from the provisions of the California Environmental Quality Act ("CEQA"). The Class 1 categorical exemption includes a categorical exemption for existing uses and structures. The exemption, however, does not apply to a change in use from a light industrial building to a use that can only be authorized by a conditional use permit.

Conclusion.

The Pacific Safety Solutions application to operate a business, trade, or vocational school in the Santa Fe Hills Business Center does not comply with the zoning or the parking regulations. We, therefore, request that the City deny the Pacific Safety Solutions application for a minor conditional use permit.

Very truly yours,



Erik L. Schraner, Esq.
Seltzer Caplan McMahon Vitek
A Law Corporation

ELS:cjl

cc: ZRG, Inc.

Pinon, Arthur

From: Schraner, Erik [schraner@scmv.com]
Sent: Wednesday, April 04, 2012 10:09 AM
To: Pinon, Arthur
Subject: CUP 11-869 - Pacific Safety Solutions
Attachments: Document.pdf

Art. Attached is a letter for the administrative hearing today. Please submit the letter to the administrative hearing officer.

In response to your request, ZRG owns units 116 and 117 in the Santa Fe Hills Business Center.

Thank you. Erik.]

Erik L. Schraner, Esq.

Seltzer | Caplan | McMahon | Vitek

750 B Street, Suite 2100, San Diego, California 92101

619.685.3187 (direct) | 619.702.6848 (fax) | schraner@scmv.com (email)

Please read the Legal Disclaimer that governs this email and any attachments.



ATTACHMENT F
Opposition Letter (February 7, 2012)

AGENDA ITEM NO. _____

www.scmv.com
619.685.3003
619.685.3100 FAX

2100 SYMPHONY TOWERS
750 B STREET
SAN DIEGO, CALIFORNIA 92101

SELTZER | CAPLAN | McMAHON | VITEK
A LAW CORPORATION

ERIK L. SCHRANER, ESQ.
schranner@scmv.com
619.685.3187
619.702.6848 FAX

February 7, 2012

Mr. Art Pinon
Assistant Planner
City of San Marcos
1 Civic Center Drive
San Marcos, California 92069-2918

Via Email & U.S. Mail

RE: Pacific Safety Solutions
Application Number CUP 11-869

Dear Mr. Pinon:

We represent ZRG, Inc. the owner of two condominium units in the Santa Fe Hills Business Center, a light industrial condominium project. It has come to our attention that Pacific Safety Solutions has applied to the City of San Marcos for a minor conditional use permit to operate a trade, business or vocational school for up to 6 students in the Santa Fe Hills Business Center.

Requested Action.

We request that the City deny Pacific Safety Solutions application for a minor conditional use permit because (1) CUP No. 08-772 restricts the Center to "light industrial uses", (2) the use is not permitted under the Zoning Ordinance, (3) the use cannot be approved with a minor conditional use permit, and (4) Pacific Safety Solutions does not have sufficient parking spaces to comply with the City parking regulations.

Pacific Safety Solutions Application.

Pacific Safety Solutions has applied for a minor conditional use permit to authorize training classes for up to 6 students to conduct certification classes. According to the application, Pacific Safety proposes an adult vocational training facility.

City of San Marcos
February 7, 2012
Page 2

The Pacific Safety Solutions Application Does Not Comply with the Zoning Ordinance.

Pacific Safety Solutions' application does not comply with the City of San Marcos' Zoning Ordinance for the following reasons:

1. Conditional Use Permit 08-772 restricts the Santa Fe Hills Business Center to "light industrial uses".

The Santa Fe Hills Business Center is subject to Conditional Use Permit No. 08-772. Condition C.2. of the Conditional Use Permit restricts the use of the condominium units to "the permitted light industrial uses of the Light Industrial Zoning Ordinance." Pacific Safety's proposed training center is not a permitted light industrial use. In addition, the approval of a use not authorized by this conditional use permit would require an amendment to CUP No. 08-772.

2. Business, trade and vocational schools are not allowed in the L-M Zone.

The Santa Fe Hills Business Center is zoned L-M – a light manufacturing zoning designation. Permitted uses in the L-M zone are listed in Table 3 titled "Uses by Light-Industrial Zone" (copy attached).¹

Table 3 does not permit any uses in the L-M zone that would allow Pacific Safety's proposed training center. According to City's Notice of Application, the training center qualifies as a vocational facility. The businesss, trade, and vocational school use category is the most similar use category to Pacific Safety's proposed training center. Table 3, however, does not permit business, trade, or vocational schools in the L-M zone, with or without a conditional use permit.² Furthermore, none of the other uses allowed in the L-M zone allow training facilities.

A training facility is incompatible with light industrial uses. Manufacturing and assembly, furniture manufacturing and repair, and metal working are all uses permitted by right in the L-M zone. All of these uses generate high noise levels. A training facility requires a quieter environment than can be obtained in an industrial complex and is, therefore, an incompatible use.

Furthermore, the Santa Fe Hills Business Center is a light industrial complex; not a commercial complex that is designed to handle students arriving and going, and loitering during class breaks.

¹ Municipal Code section 20.60.240.

² Business, trade, and vocational schools are permitted within three other zones but not within the L-M zone.

City of San Marcos

February 7, 2012

Page 3

The proper location for the training facility is either OP (office-professional) zone or the C (Commercial), both of which specifically authorize business, trade, or vocational schools.³ Either the OP or C zone would be an appropriate location for the proposed training center. A commercial center can also provide services compatible with a vocational training school and are designed to handle types of proposed activities.

3. The City cannot authorize the uses proposed by Pacific Safety Solutions with a minor conditional use permit.

The City cannot authorize the training facility with a minor conditional use permit for two reasons. First, the L-M zone, Table 3, does not authorize business, trade, or vocational uses, or training facilities in the L-M zone with or without a conditional use permit. While Table 3 lists eleven uses allowed with a minor or major conditional use permit, training facilities, and business, trade, or vocational facilities are not listed in the table, and are therefore cannot be approved.

Second, the City's Use Permit regulations do not permit training facilities, or trade, business or vocational schools with a minor conditional use permit or with a major conditional use permit. The City, therefore, cannot approve Pacific Safety Solutions' application for a minor conditional use permit.

4. The Pacific Safety Solutions application does not comply with City parking regulations.

Pacific Safety Solutions must comply with the City parking regulations. Since Pacific Safety will not be using the building for the approved light industrial uses, Pacific Safety must provide a sufficient number of parking spaces to comply with the parking regulations. The parking regulations require business, trade or vocational schools to provide the greater of the following: (a) one parking space for every two students and one space for each employee or (b) one space for every 200 square feet.

Pacific Safety must therefore provide 16 parking spaces (one space for every 200 square feet).

We have been informed that Pacific Safety has only been assigned seven parking spaces within the Santa Fe Hills Business Center. Seven parking spaces is inadequate for Pacific Safety's proposal.

³ Business, trade, and vocational schools are permitted by right in the OP (office-professional) zone, and allowed in the C (Commercial) zone with a minor conditional use permit.

City of San Marcos
February 7, 2012
Page 4

Conclusion.

The Pacific Safety Solutions application to operate a business, trade, or vocational school in the Santa Fe Hills Business Center does not comply with the zoning or the parking regulations. We, therefore, request that the City deny the Pacific Safety Solutions application for a minor conditional use permit.

Very truly yours,



Erik L. Schraner, Esq.
Seltzer Caplan McMahon Vitek
A Law Corporation

ELS:cll
Enclosure

TABLE 3
USES IN THE LIGHT INDUSTRIAL ZONE

LIGHT INDUSTRIAL LAND USES	L-M ZONE
Accessory Dwelling Unit	X
Administrative Offices	P
Appliance & Electrical Repair Shops	P
Art & Craft Production Studios	P
Athletic/Recreational Facilities	C-Mi
Auctions (Indoor only)	C-Mi
Automotive Repair/Bodywork, Upholstery(existing facility)	C-Mi
Automotive Repair/Bodywork, Upholstery(new facility)	C-Ma
Blueprinting, Printing & Lithography	P
Boat Building	X
Bookbinding, Printing and Lithography	P
Building Material Storage & Sales Yards	X
Cabinet and Carpenter shops (pallet manufacturing prohibited)	C-Mi
Child Care Centers	DP
Churches (In existing facilities)(renewals DP)	C-Mi
Commercial Bakeries (including associated thrift shop outlets)	P
Contract Construction Offices & Services	C-Mi (P-6)
Creameries	X
Delicatessen's and Employee Cafeteria's	P
Dental, medical, X-ray, biochemical and optometrical laboratories (services for humans only)	P
Dry Cleaning, Laundering, and Dyeing Plants (wholesale only)	X
Employee Recreational Facilities & Play Area	P-9
Equipment Rental Yards	X
Food Processing, Manufacturing	P-12
Fuelling Stations for Industrial Fleets	X
Furniture Upholstery	P
Furniture Manufacturing & Repair (including antique restoration)	P

P = Use Permitted By Right

C-Ma = Major Conditional Use Permit

P# = Use Permitted by Right But
Special Use and Development
Use OnlyC-Mi = Minor Conditional Use Permit
T = Use Permitted as TemporaryStandards Apply
DP = Director's Permit

X = Use is Prohibited

TABLE 3 (cont)
USES IN THE LIGHT INDUSTRIAL ZONE

LIGHT INDUSTRIAL LAND USES	L-M ZONE
Garment Manufacturing & Associated Factory Outlets	P
Home Furnishing/Appliance Showrooms (within Highway 78 view corridor)	P-10
Kennels	X
Machine Repair Shops	X
Manufacturing and Assembly	P
Metal Working Shops (including sheet metal operations, except no drop hammers or foundries permitted)	P
Mini-Storage Facilities	C-Ma(P16)
Moving and Storage Facilities (excluding mini-storage facilities)	X
Newspaper Printing	P
Outdoor Manufacturing	X
Outdoor Recreation Facilities	C-Ma
Outdoor Storage	X
Plumbing and Supply Shops	P
Public Utilities	C-Ma
Research and Development	P
Restaurant	DP
Service Stations	X
Studios for Industrial Designing, Model Making, Sculpture	P
Union Hiring Hall	X

P = Use Permitted By Right

C-Ma = Major Conditional Use Permit

P# = Use Permitted by Right But
Special Use and DevelopmentC-Mi = Minor Conditional Use Permit
T = Use Permitted as

Temporary Use Only

X = Use Is Prohibited

Standards Apply

DP = Director's Permit

TABLE 3 (cont)
USES IN THE LIGHT INDUSTRIAL ZONE

Veterinarians and/or small or large Animal Hospitals	C-Mi
Warehousing	P-11
Water Treatment and Filtering Services	X
Wholesale and Distribution Establishments	P
Any similar use in character and anticipated impacts to those listed above which conforms to the purpose and intent of the Zone, as determined by the City Manager or Designee	Director

P = Use Permitted By Right

P# = Use Permitted by Right But
 Special Use and Development
 Temporary Use Only
 Standards Apply

DP = Director's Permit

C-Ma = Major Conditional Use Permit

C-Mi = Minor Conditional Use Permit

T = Use Permitted as

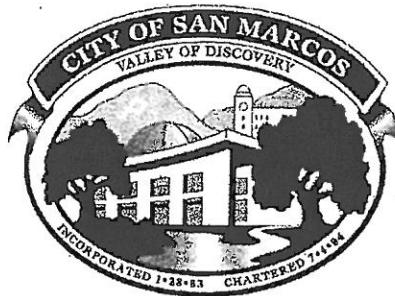
X = Use is Prohibited



ATTACHMENT G
Staff Response Letter (April 2, 2012)

AGENDA ITEM NO. _____

Development Services
1 Civic Center Drive
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April 2, 2012

Eric L. Schraner Esq.
Seltzer Caplan McMahon Vitek
750 B Street, Suite 2100
San Diego, CA. 92101

Re: Conditional Use Permit (CUP) 11-869; Staff Response to Deny CUP 11-869 (Pacific Safety Solutions)
2892 S. Santa Fe Ave., Suite 110, San Marcos, CA. 92069
APN: 217-161-25-10

Mr. Schraner,

This letter serves as a response to your letter dated February 7, 2012. In that letter, you requested the City of San Marcos deny Minor Conditional Use Permit 11-869 for the following reasons:

- (1) Conditional Use Permit No. 08-772 restricts the Center to "light industrial uses".
- (2) The use is not permitted under the Zoning Ordinance.
- (3) The use cannot be approved with a Minor Conditional Use Permit.
- (4) The facility does not have a sufficient amount of parking to comply with City parking regulations.

After reviewing your letter and cited authority, City staff will recommend approval of Minor Conditional Use Permit 11-869. Addressing your concerns, staff is providing the following responses:

- (1) Concern: Conditional Use Permit (CUP) No. 08-772 restricts the Center to "light industrial uses".

Staff Response: The City agrees with your reference to Condition C.2 of Resolution PC 08-4066 (CUP 08-772) in that that use of the condominium suites shall be limited to light industrial land uses outlined in San Marcos Municipal Code (SMMC) 20.60.240. However, the applicant has clearly indicated the proposed use is not a trade, business, or vocational school as indicated in your letter. Rather, the use has been identified as an occupational safety training facility, which is not defined or listed in the City's Municipal Code. Pursuant to SMMC 20.60.240, the City Manager or Designee (Planning Division Director) may allow any use that is similar in character and anticipated impacts to those listed which conform to the purpose and intent of the zone. Per SMMC 20.60.230, the purpose and intent of the Light Industrial zone is to provide districts for the grouping together of light industry wholesale and professional uses, service commercial uses and stand alone/retail showrooms in an environment which will be beneficial to such uses and to provide protection for surrounding uses.

As a unique use that is not identified within the City's Municipal Code, Staff has identified Pacific Safety Solutions as a service type use that offers safety instruction services to electrical, telecommunication, and construction contractors only. As electrical, telecommunication, and construction contractor offices and warehouses are permitted by right within the Light Industrial zone, staff has determined the proposed Pacific Safety Solutions use in conformance with the purpose and intent of the Light Industrial zone, and well grouped with other businesses that may benefit from the services provided by the facility.

(2) Concern: The use is not permitted in the City Zoning Ordinance.

Staff Response: As indicated, the use has been identified as an occupational safety training facility, which is not defined or listed in the City's Municipal Code, but has been determined to be consistent with the purpose and intent of the Light Industrial zone. Pursuant to SMMC 20.60.240, the City Manager or Designee (Planning Division Director) may allow any use that is similar in character and anticipated impacts to those listed which conform to the purpose and intent of the zone.

(3) Concern: The use cannot be approved with a Minor Conditional Use Permit.

Staff Response: SMMC 20.60.230(B) states that any similar use or commercial and service type use which conforms to the purpose and intent of the Light Industrial Zone may be permitted with approval of a Conditional Use Permit. As staff has been determined Pacific Safety Solutions to be consistent with the purpose and intent of the Light Industrial zone, approval of the Conditional Use Permit has been determined to be warranted. Additionally, the Conditional Use Permit review has allowed staff to add a number of conditions relative to the number of students/employees, parking, noise, and loitering, all of which were raised as concerns in your letter.

(4) Concern: The facility does not have a sufficient amount of parking to accommodate the facility.

Staff Response: The applicant has agreed to limit the number of students and employees to a maximum count of seven (7), which eliminates the assumed need of sixteen (16) parking spaces identified in your letter. With seven (7) parking spaces allocated to the space, all parking needs will be met and will not have any negative impacts to surrounding businesses.

In conclusion, Staff has found the application to be in compliance with all conditions as part of Resolution PC 08-4066 (CUP 08-772), the City of San Marcos Municipal Code, and Parking Requirements as conditioned. Furthermore, the proposed use has been approved by the Santa Fe Hills Business Center Owners Association, which reviewed the proposed use for compliance with all Codes, Covenants, and Restrictions (CC&Rs) and applicable bylaws. After review of the proposed Conditional Use Permit application, staff will recommend conditional approval of the request. The Administrative Hearing has been scheduled at 11:00 am on April 4, 2012.

If you have any additional questions, comments or concerns, please feel free to contact me directly.

Sincerely,



Art Piñon

Assistant Planner

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CC: File



ATTACHMENT H

Santa Fe Hills Business Center Owners Association Letter

AGENDA ITEM NO. _____

From:
Santa Fe Hills BCOA
2890-2 SO. Santa Fe Ave
San Marcos CA 92056

Dear Corey,

Use. The Association offers this writing for your meeting with the City regarding the proposed conditional use permit. The Association has retained counsel who reviewed the Association's CC&R's and Bylaws and found nothing inconsistent with your proposed use as a corporate offices and part time safety training center, as approved by the City.

Parking. The Association held a meeting amongst its members to discuss what appeared to be a parking issue arising from your use. However, as you presented the facts, it became clear that your proposed use requires less than the seven parking spaces already allocated to your square footage, and therefore is not an Association issue. However, even if your use was to require more parking, the CC&R's indicate that a limited amount of additional parking could be allocated to your space from other owners – and some owners have agreed to conditionally make a limited allocation.

Political. During the meeting, it became clear that the primary concern with your proposed use was the perception that up to 20 additional people would be accessing the project on a regular basis. While you have made it clear that this perception is untrue, some Association members retain concerns that, as your business grows, your actual use will outgrow the project's parking limitations. Should same occur, the Association reserves its right to revisit these issues and preliminary findings.

Sincerely,

As Managing agent for the SFHBCOA
Paul Danner
Independent
Association Manager
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