

Planning Commission

AGENDA REPORT

MEETING DATE: May 7, 2012

SUBJECT: Tamasebi, LLC., d.b.a. San Marcos Car Company

CASE: CUP 96-294 (11R)

Recommendation

Conditionally approve a major Use Permit renewal to allow the continued operation of a used automotive sales lot.

Introduction

On March 4, 1996 the Planning Commission approved CUP 96-294 allowing the operation of a used automotive sales lot. Since that time, the project was developed and operated in accordance with the approved plans and terms and conditions of CUP 96-294. Subsequently, the Planning Commission approved renewals of CUP 96-294 allowing the continued operation of the facility.

Discussion

The approximately .75 acre site consists of a paved parking lot located at the northwest corner of Grand Avenue and Pawnee Street. This site contains a landscaped frontage, parking lot lighting and a 1,200 square foot building containing a sales office and automotive detailing area. The building has a stucco finish and a Spanish tile mansard roof similar to the architectural character of other commercial properties in the vicinity. The garage door for the detailing area is located on the north side of the building facing away from the view of the public street.

Upon a site inspection by staff, several minor violations of the existing Conditional Use Permit were observed. These violations included some deficiencies in site maintenance, unpermitted signage and automotive detailing/repair activities occurring outdoors. These violations were discussed with the applicant and he has agreed to make the corrections included in Section "C" of PC Resolution 12-4292. While the applicant is already working on correcting these violations, staff has included a provision to allow the applicant an additional ninety (90) days after approval to correct all remaining issues.



Conditions have been included in the CUP to ensure the orderly operation of the facility in a manner that continues to be least impactful to other properties in the area. These conditions include the following: prohibiting the sale of Off-Highway Vehicles (OHV's) at the site, limiting automotive repair to "light repair work" (e.g. tune-ups, oil changes, etc.) for vehicles intended for sale at the site, prohibiting "junked" or severely damaged vehicles from being stored at the site and requiring all repair and detailing work to be conducted within the building for water quality and visual blight reasons.

Staff recommends conditional approval of the use permit for a term of five (5) years with PC Resolution 12-4292. The Applicant has requested no expiration date be included, however with the terms and conditions staff has recommended a term of five (5) years.

Attachment(s)

Adopting Resolution

- A Vicinity Map
- B Aerial Photo
- C Requested Entitlement
- D Site Photos
- E Site & Project Characteristics

Prepared by:


Sean del Solar, Assistant Planner

Approved by:


Jerry Backoff, Planning Division Director

Reviewed by:

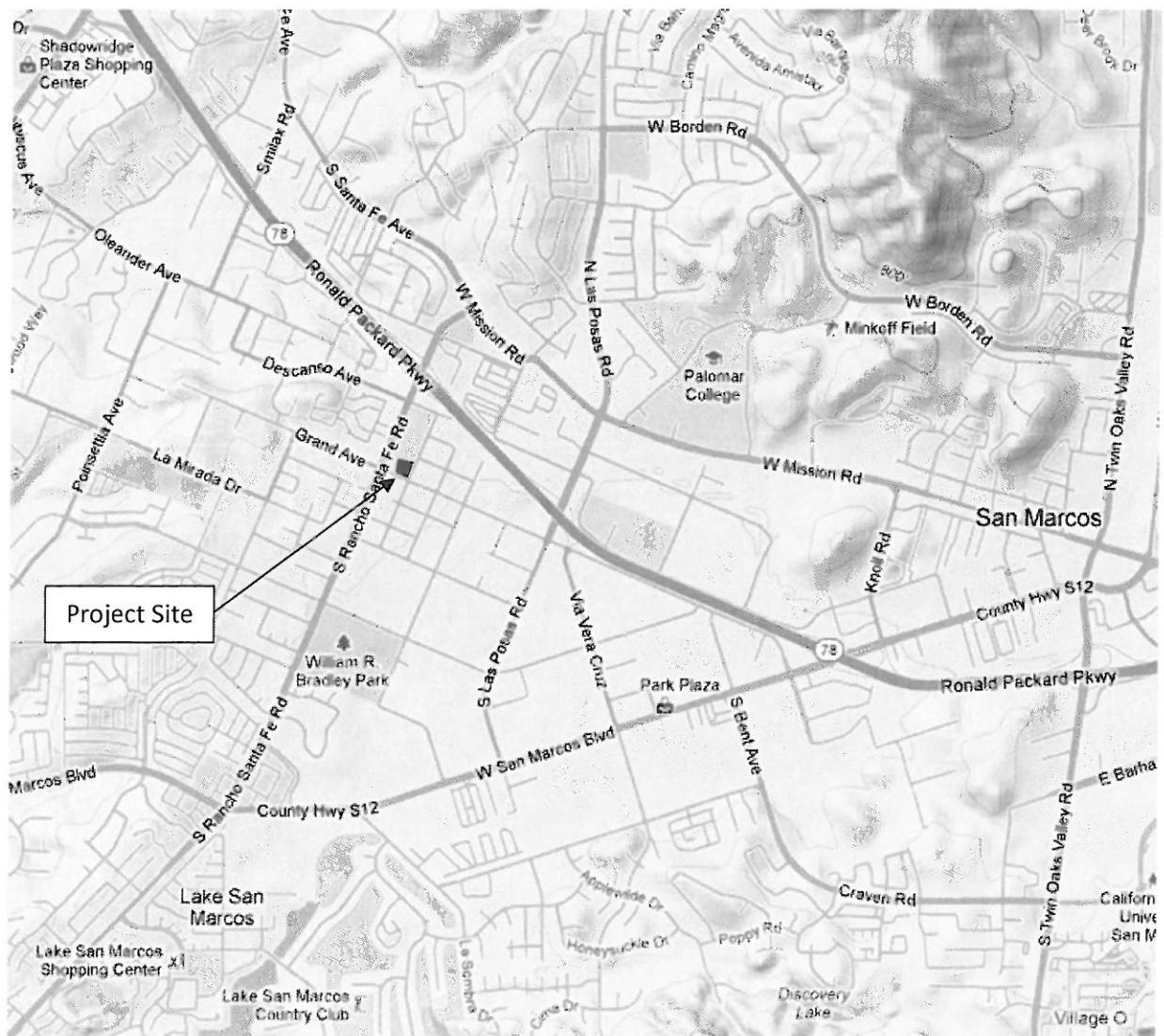

Charlie Schaffer, Development Services Director

AGENDA ITEM NO. _____

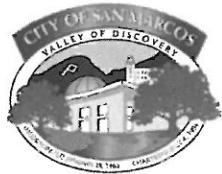


Attachment A

Vicinity Map

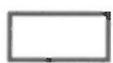
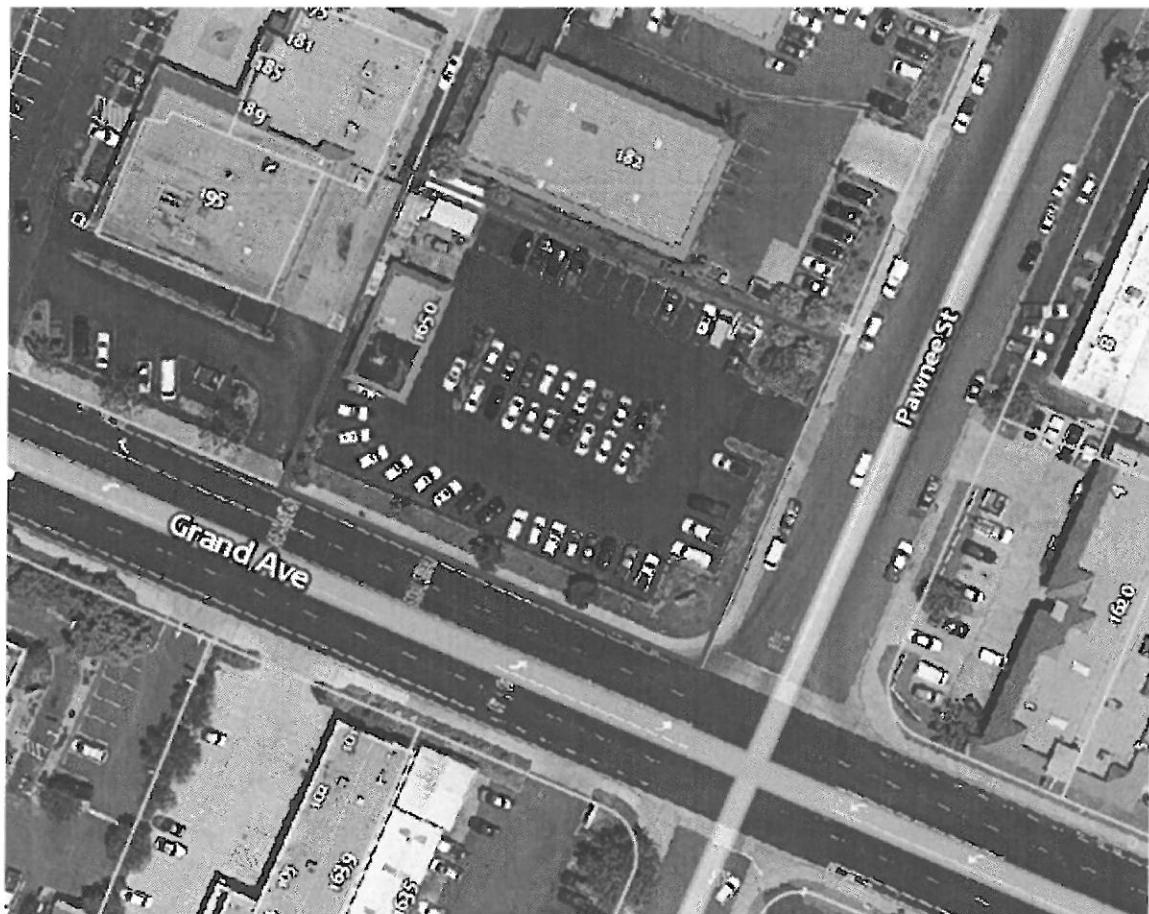


AGENDA ITEM NO.



Attachment B

Aerial Photo



Project Site

AGENDA ITEM NO. _____



Attachment C

Requested Entitlements

A major Conditional Use Permit renewal to allow the continued operation of a retail used automotive sales lot on a 0.77 acre parcel in the Commercial (C) zone of the Business and Industrial District.

AGENDA ITEM NO. _____



Attachment D

Site Photos



View of the project site from the intersection of Grand Avenue and
Pawnee Street



View of the southeast facing elevations of the building

AGENDA ITEM NO. _____



Attachment E

Site & Project Characteristics

Development Summary:

Property	Existing Land Use	Zoning	General Plan Designation
Subject	Retail Used Automotive	C	Mixed Use 1 and Park
North	Automotive Repair	C	Mixed Use 1 and Park
South	Retail/ Automotive Repair	C	Mixed Use 1 and Park
East	Automotive Repair	M	Industrial
West	Retail/ Strip Commercial	C	Mixed Use 1

Flood Hazard Zone	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no
Resource Conservation Area	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no
Redevelopment Area 1	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Sewer	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Septic	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no
Water	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
General Plan Conformance	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Land Use Compatibility	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no

Development Standards:

Setback	Minimum Required	Existing
Front	10 feet	57 feet
Rear	none	5 feet
Side (north)	none	57 feet
Side (south)	none	50 feet
Landscaping	8%	32%

AGENDA ITEM NO. _____

RESOLUTION PC 12-4292

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT RENEWAL TO ALLOW THE CONTINUED OPERATION OF A RETAIL USED AUTOMOTIVE SALES LOT IN THE COMMERCIAL (C) ZONE OF THE BUSINESS AND INDUSTRIAL DISTRICT

CUP 96-294(11R)
Tamasebi, LLC., d.b.a. San Marcos Car Company

WHEREAS, on May 23, 2011, an application was received from Tamasebi, LLC. requesting a Conditional Use Permit to allow the continued operation of a retail used automobile sales lot at 1650 Grand Avenue in the Commercial (C) Zone of the Business and Industrial District with a General Plan Land Use Designation of Mixed Use 1 (MU-1) and Park, more particularly described as:

Being a portion of lots 25 through 32 in block 78 of Rancho Los Vallecitos de San Marcos, according to the map thereof no. 806 filed in the Office of the County Recorder of the County of San Diego, State of California, on December 21, 1895.

Assessor's Parcel Number: 219-097-34

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

WHEREAS, the required public hearing for the proposed renewal of the Conditional Use Permit was held on May 7, 2012, as duly advertised and held in the manner prescribed by law; and

WHEREAS, on March 4, 1996 Conditional Use Permit 96-294 was approved to allow the operation of a retail used automobile sales lot at 1650 Grand Avenue and the Conditional Use Permit was renewed by the Planning Commission in 2001 and 2007; and

WHEREAS, the APN: 219-097-34 has already been annexed into Community Facility District (CFD) 91-02: Police and Fire, and Landscaping and Lighting District 1 (LMD); and

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

WHEREAS, the Planning Commission's decision is based upon 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 associated with the operation of the used retail automobile sales lot from existing facilities will comply with all relevant provisions of the San Marcos Municipal Code, including noise regulations and all building improvements were built to the standards of the adopted Uniform Building Code at the time of construction.
2. The granting of this Conditional Use Permit will not adversely affect the implementation of the General Plan for the Business and Industrial District in that the operation of a used retail automobile sales lot site will promote commercial uses that provide a solid

AGENDA ITEM
2

economic base and employment opportunities (Goal LU-1.2) and because all facilities for the project are existing with no expansion proposed that may conflict with the goals and objects of the City's General Plan.

NOW THEREFORE, the City of San Marcos Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. The Conditional Use Permit is approved per the submitted site and floor plans (1,200 square-foot office with "work-shop" and an outdoor parking area for automobiles on display), and shall not be expanded or revised unless a modification to this permit is approved.
- C. Within ninety (90) days of approval, the applicant shall comply with the following:
 1. Replace the trash enclosure doors with a solid metal swing gate. The new swing gate shall be of matching color and architectural charter to the existing facilities.
 2. Install appropriate "media" in the onsite drainage filter in accordance with manufacture specifications.
 3. Complete and submit a "Responsible Party Operation & Maintenance Verification Request" form for review by the Stormwater Program Division.
 4. Applicant shall cease all outdoor automobile maintenance/detailing work at the site. All automobile maintenance/detailing work shall be conducted within the enclosed building.
 5. Auto parts (e.g. hoods, car seats, truck bed liners, etc.) shall be removed from public view around the site. All storage of such items, even on a temporary basis shall be within the enclosed building.
 6. Junk and debris (e.g. fence segments, wooden boards, etc.) from around the site shall be removed to ensure a clean appearance of the property.
 7. The only signs permitted at the site are the monument sign at Grand Avenue and Pawnee Street and the wall sign located on the Grand Avenue side of the building. The sign located adjacent to the driveway on Pawnee Street is unpermitted and shall be removed.
 8. All exterior lights shall be maintained with low pressure sodium or Light Emitting Diode (LED) type bulbs that meet City Standards. All lights shall be shielded and directed onto the property.
 9. Applicant shall ensure all onsite landscape irrigation devices are functioning and conduct basic landscape maintenance to enhance the condition of onsite landscaping.
 10. A compliance inspection by the Planning Division shall be scheduled by the applicant within ninety (90) days of the approval of CUP 96-294(11R). At the time of the inspection, compliance with conditions C(1) through C(9) shall be required.

D. Reliance on this Conditional Use Permit and the ongoing operation of the facility shall comply with the following:

1. This Conditional Use Permit authorizes only the sale of used vehicles in good operating condition at the site (the sale of damaged or otherwise inoperable vehicles at the site is prohibited). The onsite wholesale and/or auctioning of vehicles is prohibited. If the retail sale of any vehicle is unsuccessful and the applicant determines it necessary to sell a vehicle wholesale, then the applicant shall take the vehicle to an offsite location to do so.
2. This project is approved for the operation of one (1) dealership only. Sublease of any portion of the facilities described in this Conditional Use Permit by the applicant shall be prohibited.
3. Automobiles offered for retail sale at the lot are limited to passenger vehicles as defined by the Federal Highway Administration, inclusive of pick-up trucks, vans, motorcycles and golf carts only. The sale of any other vehicles (e.g. motor homes/trailers, OHV's, commercial vehicles, etc.) at the site is prohibited.
4. Golf carts offered for sale at the site shall be in good condition, parked internal to the site (not adjacent to any street frontage) and not exceed a total quantity of three (3) on-site at any one time.
5. Vehicles for sale shall be primarily positioned along the perimeter of the sales lot fronting both Grand Avenue and Pawnee Street, with overflow parking provided in the center parking area. Parking along the north side of the property shall be reserved for customers, employees and vehicles pending sale on the lot. A minimum of five (5) spaces shall be reserved for customers at all times. The disabled ("ADA") parking space and associated ADA compliant access shall remain clear and unobstructed at all times.
6. The appropriate "containment media" in the onsite drainage filter shall be maintained in accordance with manufacture specifications.
7. Annual filing of a "Responsible Party Operation & Maintenance Verification Request" form with the Stormwater Program Division shall be required.
8. Operation of the facility shall be conducted in compliance with the Storm Water Management requirements adopted by the City of San Marcos and at a minimum, shall comply with the following requirements:
 - a. All discharges to the storm drain system (e.g. street, curb, and gutter) shall be prohibited, including water from car washing.
 - b. All new employees shall receive Best Management Practices (BMPs) training. Employees shall be trained annually on BMPs and training records shall be kept onsite and available for review by City inspectors or Code Enforcement Officers. Employee training shall consist of a list of activities, BMPs, spill kits and emergency spill procedures and notification requirements. Records shall indicate the name of employees who receive training, training materials received and the date of training. The BMPs to be included in employee training shall be from

current California Stormwater Quality Association (CASQA) manuals available at <http://www.casqa.org>.

- c. Work areas shall be cleaned using dry methods (e.g. shop vacuum, broom, etc.).
- d. Any discharges into the storm drain system, street, curb, and gutter shall be reported immediately to the City Stormwater Hotline. The hotline number (760) 481-3878 (or 911 for afterhours emergencies) shall be posted in a prominent location in the business and included in ongoing employee training.
- e. A spill kit shall be kept onsite at all times.
- f. Annual review and/or inspection by the City of San Marcos Stormwater Program Division required.
- g. Records of maintenance shall be kept on site at all times and available for review by City Inspectors or Code Enforcement Officers.
- h. Containers, fluids used for the business and all auto parts shall be stored inside or under a cover.
- i. At a minimum, the following CASQA BMPs shall be implemented: SC-11, SC-20, SC-21, SC-22, SC-30, SC-31, SC-32, SC-33, SC-34, SC-41, SC-42, SC-43 and SC-44 (Source: Section 3 of the Commercial/ Industrial CASQA BMP Handbook, <http://www.cabmphandbooks.com/Industrial.asp>)
- j. Trash containers shall be kept closed, covered or otherwise protected from precipitation at all times.
- k. For additional information on stormwater BMPs, contact the City of San Marcos Stormwater Program at (760) 744-1050 ext. 3217.

9. All signage shall comply with the requirements of the City's Sign Ordinance. A separate permit shall be required for any new signage. All temporary signage (e.g. banners, ambient air inflatables, etc.) requires a permit. Portable signs (e.g. A-frame, T-frame, feather, etc.) are prohibited. In addition, the following sign types are prohibited: signs or stickers affixed to automobiles other than what is required by law (e.g. sticker price, specs, gas mileage, etc.). Said information shall be limited to the driver and passenger side windows only. Only the year of the used automobile will be allowed on the windshield.

10. Automobiles shall not be displayed on racks or any other apparatus, which elevates automobiles above the ground.

11. All activities related to office/administration and vehicle restoration shall take place within the enclosed building. All work conducted on vehicles shall be limited to the following:

- a. Detailing (e.g. washing, waxing, vacuuming automobiles, etc.)

- b. Light maintenance (e.g. minor tune-ups, oil changes, tire maintenance, etc.) of vehicles only-- the major repair (i.e. an engine rebuild) and/or dismantling of automobiles shall be prohibited onsite
- c. Installation of automotive electronics or other specialty devices
- d. All work on vehicles conducted onsite shall be for vehicles intended for sale at the property

12. The storage of dismantled, wrecked, or otherwise inoperable automobiles shall be prohibited on-site. All vehicles accepted (stored onsite for resale) at the site (i.e. "trade-ins") shall be in good operable condition. Vehicles shall not be stored or displayed on the public street or adjacent properties.

13. Use of a tow truck onsite as part of the business operation is prohibited.

14. The hours of operation for this facility shall be limited to 7:00 a.m. to 10:00 p.m.

15. The applicant shall comply with the following conditions of the San Marcos Fire Department:

- a. Fire extinguishers shall be maintained in working order in the proposed office and in the automobile detailing area.
- b. Gates shall be secured by a Fire Department approved device.
- c. The applicant shall be responsible for ensuring that the used automobiles within the sales lot are arranged to the satisfaction of the San Marcos Fire Protection District (parked in marked spaces). Prior to any changes in the designated parking (e.g. employee/employer parking, general public parking or display of automobiles for sale), said changes must be approved by the Planning Director.

16. All landscaped areas shall be maintained in a healthy, living, thriving manner and kept clear of weeds, trash and/or debris. If any landscaping becomes diseased, damaged and/or dies, then the affected landscaping shall be replaced in numbers and quantities to provide the same landscaping and/or screening value (100% coverage to be maintained at all times).

17. The applicant shall be responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.

18. Use of the site shall be conducted so as not to become obnoxious by reason of noise, odor, refuse, parking impacts, or maintenance of grounds and in such a manner as will not detrimentally affect adjoining properties and uses.

19. The proposed development shall comply with the latest Federal Law, Americans with Disabilities Act ("ADA-90"), and State Law, California Code of Regulations, Title 24, for accessibility standards for the disabled.

20. Any future expansion to the facility/use shall require a modification to CUP 96-294(11R). The Conditional Use Permit application must be submitted for review and approval by the Development Services Department prior to the issuance of any building permits.
21. Any new construction, alteration, improvement, or modification to the existing building requires the issuance of a building permit and compliance with the minimum code requirements of the latest adopted California Building Code.

E. Prior to the issuance of any building permits and/or Certificate of Occupancy, the following conditions shall be complied with:

1. 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.
2. The proposed development is subject to approval by the Vallecitos Water District and all applicable fees and charges shall be paid to the District prior to permit issuance.
3. 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.
4. The proposed 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.
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. 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.

F. The applicant shall notify the City of San Marcos Planning Division in writing of any transfer of operation of the site to new buyers or lessee(s) of the site. The applicant shall also provide potential buyer(s) or lessee(s) a copy of Resolution PC 12-4292. The potential new buyer/lessee shall submit a letter of intent to the City of San Marcos Planning Division describing the proposed operation relative to the Conditional Use Permit and consent to the terms and conditions of Resolution PC 12-4292 for CUP 96-294(11R).

G. The Planning Division shall inspect the premises annually to ensure compliance with all conditions of CUP 96-294(11R). If the Planning Division determines that compliance is not being achieved, then a public hearing shall be scheduled for possible Conditional Use Permit modification or revocation.

- H. The City shall approve changes in the use or occupancy of an existing building. The City shall inspect and approval all new uses prior to the issuance of a Certificate of Occupancy ("C of O"). Buildings or structures shall not be occupied until the appropriate City departments and agencies have approved the buildings for occupancy.
- I. This Conditional Use Permit shall expire on May 7, 2017. Any request for permit extension shall be applied for by the permittee no later than thirty (30) days prior to the expiration date.
- J. This Conditional Use Permit shall become null and void if the terms and conditions of Section "C" are not acted upon within ninety (90) days after the adoption of this resolution, or the approved use ceases to operate at the subject property for a period more than twelve (12) months.
- K. 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.
- L. To the extent permitted by law, the Developer shall defend and hold the City of San Marcos ("City"), its agents and employees harmless from liability from: (i) any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permits arising from the project as defined in the conditions of approval, or issuance of grading or building permits; (ii) any damages, liability and/or claim of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the Developer or its contractors, subcontractors, agents, employees or other persons acting on Developer's behalf which relate to the project; and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. Developer further agrees that such indemnification and hold harmless shall include all defense-related fees and costs associated with the defense of City by counsel selected by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project, but shall survive in perpetuity.

PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, State of California, at a regular meeting thereof, this 7th day of May 2012, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Dean Nelson, Chairperson
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

Lisa Kiss, Office Specialist III
SAN MARCOS CITY PLANNING COMMISSION