

RESOLUTION PC 12-4306

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT MODIFICATION TO ALLOW THE ADDITION OF A NEW LANE AT AN EXISTING DRIVE-THRU RESTAURANT AND REMODEL OF STRUCTURES, LANDSCAPE AND HARDSCAPE IN THE NORDAHL MARKETPLACE SPECIFIC PLAN (SPA) ZONE IN THE RICHLAND NEIGHBORHOOD

CUP 84-11(12M)  
McDonalds USA, LLC.

WHEREAS, on May 23, 2012, an application was received from Bickel Underwood on behalf of McDonald's USA, LLC. requesting a modification to a Major Conditional Use Permit to allow the addition of a new lane at an existing drive thru restaurant and remodel of structures and associated landscape and hardscape within an existing commercial shopping center located at the southwest corner of Montiel and Nordahl Roads in the Nordahl Market Place Specific Plan (SPA) zoning district, more particularly described as:

Parcel 16 of Parcel Map 14529, in the City of San Marcos, State of California, filed in the Office of the San Diego County Recorder  
Assessor Parcel Number: 226-111-42

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

WHEREAS, an Administrative Amendment (SP 82-01(12M#2)) to the Nordahl Marketplace Specific Plan was adopted on August 6, 2012 adding Parcel Number 226-111-42 to the Nordahl Marketplace Specific Plan; and

WHEREAS, the required public hearing held on August 6, 2012 was duly advertised and held in the manner prescribed by law; 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 all facilities are existing; and

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

1. The granting of the Conditional Use Permit modification will not be materially detrimental to the public health, safety and welfare or injurious to property or improvements within the area in that the modification of existing existing facilities will comply with all relevant provisions of the San Marcos Municipal Code, the Nordahl Marketplace Specific Plan and the conditions contained herein and all building improvements will be constructed to the standards of the latest adopted California Building Code.
2. The granting of this Conditional Use Permit will not adversely affect the implementation of the General Plan in that the project will ensure the automobile-oriented business will

AGENDA ITEM

# 2

have a pedestrian friendly exterior design (LU-5.8) and ensure high architectural standards and aesthetic design quality (LU-6.9).

NOW, THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. The Conditional Use Permit is approved per the submitted site plan (4,500 square-foot restaurant with two drive-thru lanes), floor plans, architectural/color elevations, and conceptual landscaping plans dated July 17, 2012, except as modified herein.
- C. The site plan shall be modified as follows:
  - 1. Add a note indicating that the landscaping and ADA ramp shall be installed within ninety (90) days after the completion of Nordahl Road Right-of-Way improvements.
  - 2. The outdoor seating area shall be labeled. The perimeter fencing material shall be identified on the plans and include notes that state final colors and materials shall be subject to the approval of the Planning Division.
  - 3. Revise the location of the proposed outdoor dining area perimeter fence so that it does not obstruct pedestrian access.
  - 4. The existing McDonald's monument sign on Nordahl Road shall be labeled as: "...to be replaced (or resurfaced) under a separate permit."
  - 5. All property lines and setbacks shall be correctly identified on the site plan.
  - 6. The height of the ultimate Nordahl Road curb elevation and the longitudinal ramp slopes shall be added to the plans. The proposed ADA access ramp from Nordahl Road shall be of sufficient length to accommodate an appropriate slope to negate the use of handrails. Should they be determined necessary to use, handrail materials shall be subject to the approval of the Planning Division.
  - 7. The on-site circulation of this project shall be designed to accommodate the turning and backing movements of emergency vehicles and drive-thru customers (i.e. the new turning radius at the exit of the drive-thru) to the satisfaction of the Fire Marshal and City Engineer.
- D. The architectural elevations shall be modified as follows, and are subject to final approval of the Planning Division Director:
  - 1. The proposed design of the "tower element" (formerly the "faux lighthouse") are not approved. The proposed tower element shall incorporate architectural details from the surrounding shopping center (e.g. KFC, Coldstone, Starbucks, etc.) consistent with the Nordahl Marketplace Specific Plan.
  - 2. Applicant shall add a brand wall façade to the east elevation of the "drive-thru pop-out" of the building that is identical to the proposed brand wall located on the west elevation of the "drive-thru pop-out."

3. A note shall be added indicating that all signs are to be reviewed and approved through a separate building permit application submittal.
  4. The cables, tie rods and associated hardware of the proposed metal window awnings shall be heavy gauge and shall remain proportional.
  5. The proposed cultured stone veneer (Country LedgeStone – White Oak) and proposed paint colors, metal coping are not approved. The Applicant shall prepare and submit a revised material board containing paint swatches of proposed colors and samples of proposed building materials (e.g. stone veneer, metal coping, etc.).
  6. The trash enclosure shall incorporate complementary colors as the main building and the use of split face CMU, matching colors, and a solid roof shall be required.
  7. The applicant shall provide a separate “roof plan cross section” that demonstrates all existing and any proposed roof mounted equipment will be screened from the street and parking lot.
  8. Proposed building exterior light fixtures shall be compatible with the Nordahl Marketplace. Plans shall include photos of the proposed fixture and manufacturer specifications indicating dimensions, materials, colors, bulb type, etc.
  9. A second accent color shall be used on the recessed surface of the “ceramic tile inlays.”
  10. The building cornice is not approved. Proposed cornice shall be compatible to other buildings in the Nordahl Marketplace.
  11. Utility/service doors on the east (“rear”) elevation shall include a “faux panel” effect on each door. No utility/service door shall contain louvered vents unless required by the California Building Code.
  12. A new monument sign (or resurface of the existing sign) on Nordahl Road compatible with proposed architecture of the project shall be required to replace the existing sign. Said replacement shall be submitted under a separate permit.
- E. Landscaping is not approved. A separate landscape permit is required for review and approval by the Planning Division Director prior to the installation of project landscaping. Revise the conceptual landscape plans as follows:
1. Where possible, existing trees shall be protected in place during construction and integrated into new landscape designs.
  2. The plant palette shall comply with the Nordahl Marketplace Specific Plan standards and complement the existing landscaping; this includes the integration of plant and tree species from around the shopping center.
  3. Add a note indicating that landscape installation shall occur after the completion of Nordahl Road Right-of-Way improvements and the installation of the ADA ramp.

4. Increase the density and height of planting along the drive-thru "vegetated screen wall" in order to provide full screening of the drive-thru activities (i.e. vehicle queue) from both Nordahl Road and the Montiel Road exit.
  5. Plant material shall also be added to screen onsite utilities (i.e. back flow prevention device, etc.).
  6. Red bark mulch shall be used throughout all planter areas for weed and erosion control purposes.
  7. The minimum height and spread of all proposed plant materials shall be indicated. Compliance with the minimum standards of the City's Tree Standards is required.
  8. Planting adjacent to the trash enclosure shall be designed to deter graffiti and conceal the presence of the enclosure from the Right-of-Way and/or adjacent properties.
  9. Additional trees are required along Nordahl Road.
  10. The proposed private landscaping along the Nordahl frontage shall include the additional area created by the Nordahl/Montiel Road curb return reconfiguration.
  11. The applicant shall comply with all provisions outlined in Chapter 20.82 of the San Marcos Municipal Code (Water Efficient Landscape Ordinance).
- F. Prior to issuance of any Building Permit, the following conditions shall be complied with:
1. All corrections outlined in conditions C, D and E shall be incorporated into the plans.
  2. Within thirty (30) days of the approval of this Conditional Use Permit, three (3) printed sets of the site plan, elevations, floor plans, etc. shall be submitted as well 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 12-4306." 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 the issuance of Building Permit.
  3. 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 comply with all provisions of the Nordahl Marketplace Specific Plan and 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. If applicable, 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. Prior to installation, the proposed plants shall be inspected and approved by the Planning Division for plant quality and compliance with minimum size requirements. The placement of plants shall be installed in accordance with the approved landscape plans. Upon completion of installation, all landscaping/irrigation shall be inspected and approved by the Planning Division. The applicant/developer shall be responsible to contact the Planning Division for landscaping inspections.
- 4. 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.
  - 5. 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.
  - 6. 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.
  - 7. 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.
  - 8. 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.
  - 9. 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.
  - 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 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.
12. 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.
13. 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.
14. 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.
15. All rooftop mechanical units, vents, ducts, etc. shall be screened from street grade view and surrounding properties by the use of 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.
16. All exterior lighting shall comply with City standards for energy efficient lighting as approved by the City. An architectural lighting plan shall be included with the building plans that show the type, style, and location of all exterior building lights. Proposed exterior light fixtures shall match existing lighting of the Nordahl Marketplace. Plans shall include photo of fixture and manufacturer specifications indicating dimensions, materials, colors, bulb type, etc.
17. 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. Use of split face CMU, 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 solid roof to minimize direct contact with precipitation and not inhibit the operation of the trash container lids.
18. 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.).
19. The applicant/developer shall sign a statement on the approved building site plan attesting to the fact that he/she has read Section 17.32.045 of the City's Grading Ordinance pertaining to permit exemptions, and that he/she believes to the best of his/her knowledge that he/she is exempt from the City's permit requirements based on one or more criteria set forth in said ordinance. Otherwise, a detailed grading plan shall be submitted to the City's Engineering Division for review and approval, and all related requirements must be met prior to issuance of a grading permit.

20. The applicant shall meet with the Public Works Inspector in the field in order to coordinate the extent of the scope of parking lot/drive aisle pavement rehabilitation work and the final pavement structural section. At said meeting, the areas of rehabilitation shall be delineated on the pavement. Building plans shall be updated to reflect the proposed work.
  21. Based upon the required pavement rehabilitation scope of work, the applicant shall resubmit the "Stormwater Assessment and Determination Checklist" to the Engineering Division. If the project is determined to be a priority or significant redevelopment project a water quality improvement plan shall be submitted for review and approval. The project may then be subject to additional water quality and hydromodification requirements.
  22. All parking and driveway areas shall be surfaced with Asphaltic Concrete (AC) or Portland Cement Concrete (PCC) over a prepared base.
  23. Six (6) inch high Portland Cement Concrete (PCC) curbing shall be installed separating all paved areas from all landscaped areas.
  24. The applicant shall provide a deposit to the Engineering Division for reimbursement of the Public Works Inspector's time as it relates to the parking lot construction and inspection.
  25. The applicant shall coordinate with the adjoining westerly property owner (APN 226-111-76) in making pavement repairs to the southbound travel lane of the entry driveway.
  26. For any work performed outside of the property, the applicant shall provide written documentation from the property owner that they have approved the proposed work and will allow this work to occur on their property.
  27. For commercial areas that share access and/or parking, an unsubordinated reciprocal access, parking and maintenance 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.
- G. During the construction phase, the following conditions shall be complied with:
1. 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.
  2. The project shall comply with Regional Air Quality Standards.
  3. 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.

4. During 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.
5. The applicant shall provide a seventy-two (72) hour notification to adjoining property owners of any construction activities that may impact their business or traffic circulation.
6. The applicant shall obtain a right-of-way permit for any work within the public right-of-way.
7. Prior to any construction occurring, the applicant shall notify the Public Works and Building Inspectors. A pre-construction meeting may be required in order to coordinate the Nordahl Road corridor work and discuss traffic control and traffic control plan requirements. The applicant shall provide the Public Works Inspector with an updated construction schedule on a weekly basis.
8. 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.
9. Installation of landscaping and irrigation per the approved landscape plans shall commence at time of completion of hardscape areas and Nordahl Road Improvements.
10. Repair and paving of roads/parking lots shall be completed as early as possible to mitigate short-term dust problems associated with construction.
11. 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.
12. Paving, 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.
13. 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.



14. The applicant/developer shall ensure that 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
  15. This project has been designated a SUSMP Exempt project based on the submitted Stormwater Assessment form. This project shall be responsible for full compliance with the latest adopted Standard Urban Stormwater Management Plan (SUSMP), latest adopted stormwater quality permit, and conditions the conditions contained herein for your project's designation. Changes to the project that affect the SUSMP designation of Exempt shall require approval of the City Engineer and may be subject to further conditions.
  16. 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.
  17. 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.
- H. Prior to occupancy of any structure, the following conditions shall be complied with:
1. All Conditions of Approval related to Specific Plan Modification SP 82-01(12M#2) and Conditional Use Permit Modification CUP 84-11(12M) shall have been fulfilled to the satisfaction of the Planning Division Director.
  2. The applicant/developer shall stabilize all slopes per a City approved method.
  3. 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.
  4. 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.
  5. 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.
  6. The ADA ramp to Nordahl Road shall be constructed to the satisfaction of the City Engineer and Planning Division Director. If Nordahl Road Right-of-Way ("ROW") improvements are not complete, the Applicant shall contact the City Engineer to coordinate the installation of the ADA ramp by the Applicant at a future time after the installation of the ROW improvements.
  7. After the required repairs have been completed, the Applicant/developer shall apply a Type I slurry, or equivalent, to seal the parking lot within the limits of work and beyond

if necessary to provide a uniform appearance. Limits of slurry seal shall be to the satisfaction of the City Engineer.

8. The pavement rehabilitation, stripping, and signage shall be to the satisfaction of the Public Works Director and/or Building Official. The applicant shall pay their balance of the Public Works Inspection fees prior to occupancy.
  9. The ribbon gutter in the primary driveway shall be repaired and constructed to the satisfaction of the Public Works Director.
  10. 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.
- I. The ongoing operation of the facility shall be comply with the following:
1. The drive-thru facility shall be used for a restaurant use only.
  2. The approved architecture, paint colors and/or exterior building materials (including the outdoor dining area) shall not be modified by the owner(s) or subsequent owner(s) in the future without City approval.
  3. The outdoor dining area shall comply with the following:
    - a. The outdoor dining area shall be limited to the 500 square-foot hardscape area directly to the west of the subject building, as shown on the submitted plans.
    - b. The outdoor dining area shall not obstruct pedestrian access to the facility.
    - c. The outdoor dining area shall be for customers of the restaurant only.
    - d. The outdoor dining area shall include decorative paving and shall be subject to the approval by the Planning Division.
    - e. 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 prior to occupancy. Applicant shall submit specification sheets and photos for review and approval.
    - f. Outdoor speakers for announcements or outdoor entertainment (e.g. live band, etc.) are prohibited.
    - g. Outdoor cooking or food preparation is prohibited.
    - h. A covered 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.

- i. Any new light fixtures or space heaters for the outdoor dining area shall be of a style consistent with those of the commercial center.
4. For water quality protection purposes, the operation of the business shall comply with the following standards:
  - a. All Discharges to the City's MS4 (Municipal Separate Storm Sewer System, i.e. street, curb, gutter, onsite drainage, etc.) are prohibited. This prohibition includes the discharge of water used for external cleaning (i.e. "spray down water") into the City's MS4.
  - b. All new employees shall receive training on Stormwater Quality Best Management Practices (BMP's). Employee training on Stormwater Quality BMP's shall be ongoing and "renewed" annually. Records of employee training shall be kept on site and available for review by City Inspectors or Code Enforcement Officers. Training resources for Stormwater Quality BMP's can be found at: <http://www.cabmphandbooks.com/>.
  - c. Ongoing maintenance of the grease interceptor shall be conducted in conformance with the manufacturer's specifications and the requirements of the California Plumbing Code and/or direction from the Vallecitos Water District or City Stormwater Program Manager.
  - d. The trash enclosure area shall be kept clean and clear of all debris and or grease. All trash containers shall be kept in the covered trash enclosure and all lids on said containers shall be kept closed at all times. Trash containers shall be emptied on a regular basis to prevent overfilling. The trash enclosure area shall be cleaned thoroughly using dry methods prior to October 1<sup>st</sup> (beginning of the rainy season) of every year.
  - e. All spills shall be reported immediately to the City Storm Water Hotline 760-481-3878 or 911 for after hour emergencies. The hotline number shall be included in employee training and posted in a prominent location in the business.
  - f. A spill kit with adequate equipment to isolate, remove and properly dispose of spill materials shall be kept onsite at all times. The location of the spill kit and proper use of the equipment shall also be included in the employee training.
5. Operation of the "loud speaker" for order intake purposes of the drive-thru shall be monitored by the Applicant/Operator and noise levels shall maintained at a level compliant with the City's Noise Ordinance and be least impactive to surrounding residences and businesses.
6. 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 with equal or greater quality (i.e. height, branch/leaf density, maturity, etc.) plant materials. Landscape and hardscape areas shall be kept in good condition and clear of any trash and/or debris.

7. The Applicant/Operator shall maintain a City Business License.
8. All banners and temporary signs require the approval of a temporary sign permit and shall comply with the standards outlined in the City's Temporary Sign Ordinance. The use of unpermitted signage (e.g. "feather signs," A-frames, etc.) on or off-site are prohibited.
9. Any change in occupancy 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/Divisions 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.
- J. The applicant shall submit materials to amend the existing comprehensive sign program for Nordahl Marketplace to include McDonald's. 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, sail-flag, 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 new design and style of the upgraded 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.
- K. 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.
- L. Any future expansion and/or modification of the drive thru restaurant shall require a modification to CUP 84-11(12M). 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.
- M. The applicant shall be responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.
- N. 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.
- O. 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.
- P. This Conditional Use Permit shall expire on August 6, 2013 unless a building permit is obtained by this date and construction has begun in accordance with the submitted plans.

- Q. To the extent permitted by law, the Applicant shall defend and hold the City of San Marcos ("City"), its agents and employees harmless from liability from: (i) any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permits arising from the project as defined in the conditions of approval, or issuance of grading or building permits; (ii) any damages, liability and/or claim of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the Applicant or its contractors, subcontractors, agents, employees or other persons acting on Applicant's behalf which relate to the project; and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. Applicant further agrees that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of City by counsel selected by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project, but shall survive in perpetuity.

PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, State of California, at a regular meeting thereof, this 6th day of August, 2012, by the following roll call vote:

AYES:

NOES:

ABSENT:

APPROVED:

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Dean Nelson, Chairman  
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

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Lisa Kiss, Office Specialist III  
SAN MARCOS CITY PLANNING COMMISSION