

AGENDA REPORT

Meeting of the San Marcos Planning Commission

MEETING DATE: November 5, 2012
SUBJECT: Frontera Investment, Inc., 218 W. San Marcos Blvd., Suite No. 107
APN: 220-140-25
CASE: Conditional Use Permit (CUP) 12-901

Recommendation

Conditionally approve a Conditional Use Permit (CUP) to allow an existing business to provide loans on secondhand merchandise (i.e. "pawn shop") within an existing building in the Commercial (C) Zone.

Introduction

The approximately two (2) acre site is currently developed with a four (4) building commercial strip-retail center, a paved parking lot containing ninety-one (91) spaces and perimeter landscaping adjacent to San Marcos Boulevard and throughout the property. The proposed project site (Suite No. 107) is an existing 1,000 square foot tenant space that is currently occupied by the San Marcos Postal Center. The San Marcos Postal Center provides a number of financial services such as check cashing, money transfers/wires, cash advances and other non-financial services such as selling prepaid phone cards and leasing post office boxes.

Discussion

The zoning of the project site is "Commercial" (C) with a General Plan Land Use Designation of "Commercial." Pursuant to Table 1 of Section 20.56.020 of the San Marcos Municipal Code (S.M.M.C.), financial institutions are allowed in the Commercial Zone. Although the current operations of the San Marcos Postal Center don't require a Conditional Use Permit, the owner wishes to transfer the business to Frontera Investment, Inc. which will add a "nontraditional pawn shop" function to the aforementioned business operations of the San Marcos Postal Center.

As described in the proposed Statement of Operations submitted with the application, the pawn transactions would occur as follows: (1) a customer would present the applicant with gold jewelry. (2) The applicant would verify the authenticity of the gold jewelry and then offer the customer a loan for up to 85% of the value of the jewelry presented. (3) If the customer accepts the offer, the applicant will



execute the loan and hold the gold jewelry as collateral during the loan period and then return it to the customer upon full repayment of the loan. (4) If the customer defaults on the loan, then the applicant would ship the jewelry off-site to "melt it down" and sell the resulting gold bullion on the open market.

As conveyed by the applicant, the business is not a "traditional pawn shop" since the collateralized items would be limited to only gold jewelry which will not be resold on the premises. Although the operation may not be a "traditional pawn shop," the transactions involve the acquisition of property secondhand and therefore the use is considered "pawn." As such, a Conditional Use Permit required. In addition to this land use entitlement (i.e. CUP 12-901), the applicant is required to obtain a Secondhand Dealer's License in conformance with Chapter 5.28 San Marcos Municipal Code (S.M.M.C.) and a Pawnbroker's License from the State of California.

Since pawn activities may provide a means of disposing of stolen goods, the Secondhand Dealers Ordinance (Chapter 5.28 S.M.M.C.) was established to regulate the business practice. To this end, Condition H(8) will require the applicant to keep all property acquired onsite for thirty (30) days after acquisition. This onsite "waiting period" will aid in the prompt recovery of stolen goods, should they ever be acquired. In addition, conditions of approval also require the applicant to cooperate with the Sheriff's Department in the event there is an instance of stolen property acquisition. Lastly, to mitigate potential project level impacts to public services and facilities, the applicant/property owner has been required to annex into (or pay fees in lieu of annexation) Community Facility Districts (CFD) 98-01IA1: Police Services, 98-02: Lighting, Landscaping, Open Space and Preserve Maintenance and 2001-01: Fire and Paramedic Services.

Attachment(s)

Adopting Resolution

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



Prepared by:

A handwritten signature in blue ink, appearing to read "S. del Solar".

Sean del Solar, Assistant Planner

Reviewed by:

A handwritten signature in blue ink, appearing to read "Jerry Backoff".

Jerry Backoff, Planning Division Director

Approved by:

A handwritten signature in blue ink, appearing to read "Charlie Schaffer".

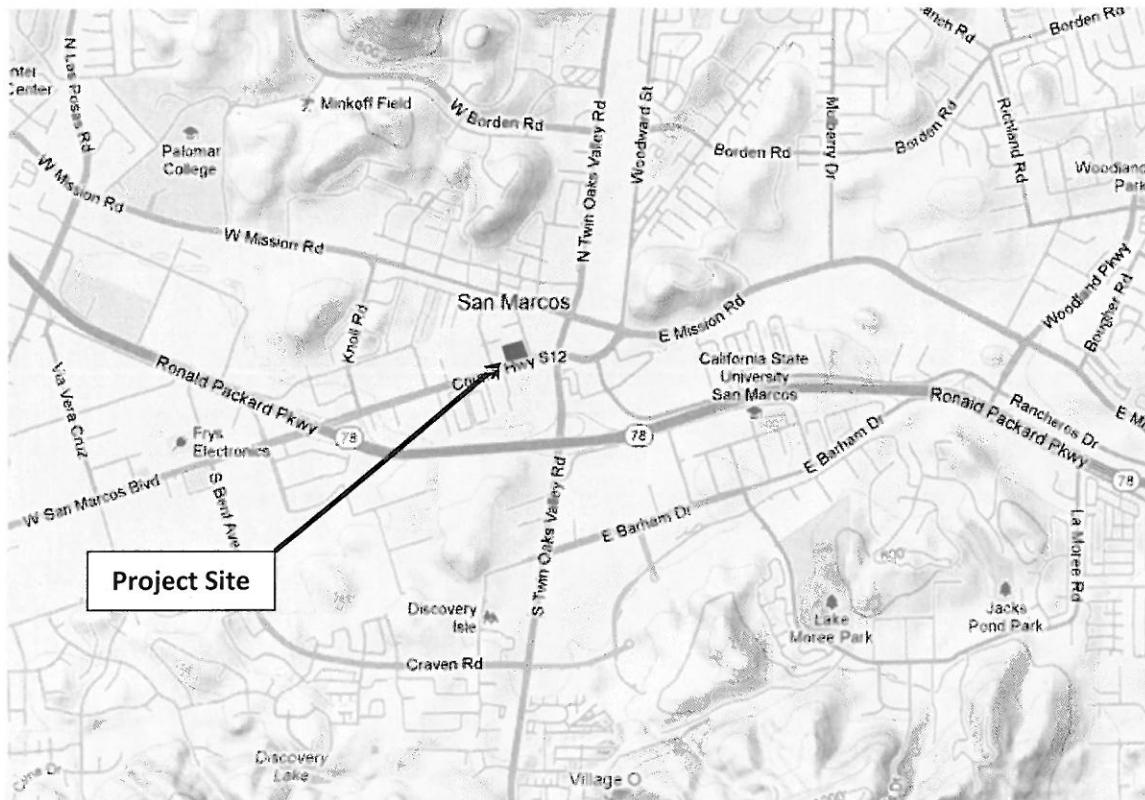
Charlie Schaffer, Development Services Director

AGENDA ITEM NO. _____



ATTACHMENT A

Vicinity Map



AGENDA ITEM NO. _____



ATTACHMENT B

Aerial Photo



Project Site



AGENDA ITEM NO. _____



ATTACHMENT C

Requested Entitlements

- Conditionally approve a Conditional Use Permit (CUP) to allow loans on secondhand merchandise (i.e. "pawn shop") within an existing building located at 218 W. San Marcos Blvd, Suite No. 107.

AGENDA ITEM NO. _____



ATTACHMENT D

Site & Project Characteristics

<u>Property</u>	<u>Existing Land use</u>	<u>Zoning</u>	<u>General Plan Designation</u>
Subject	Financial Institution/ Postal Services	C	Commercial
North	Public Gym	R-3-6	Public Institutional (PI)
South	Vacant	C	Commercial
East	Gas Station	SPA	Specific Plan Area (HOC)
West	Apartments	R-3-6	MHDR (20-30 du/ac)

Flood Hazard Zone	<u> </u> yes	<u>x</u> no
Resource Conserv. 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
Gen. Plan Conformance	<u>x*</u> yes	<u> </u> no
Land Use Compatibility	<u>x*</u> yes	<u> </u> no

*with approval of Conditional Use Permit

Development Standards per the Commercial (C) Zone:

<u>Setbacks</u>	<u>Required</u>	<u>Existing</u>
North	10 ft.	~ 40 ft.
South	15 ft.	~ 15 ft.
East	10 ft.	~ 40 ft.
West	10 ft.	~ 10 ft.
Height	60 ft. (maximum)	~ 15 ft.

AGENDA ITEM NO. _____



ATTACHMENT E
Project Floor and Site Plans

AGENDA ITEM NO. _____

RECEIVED

AUG - 7 2012

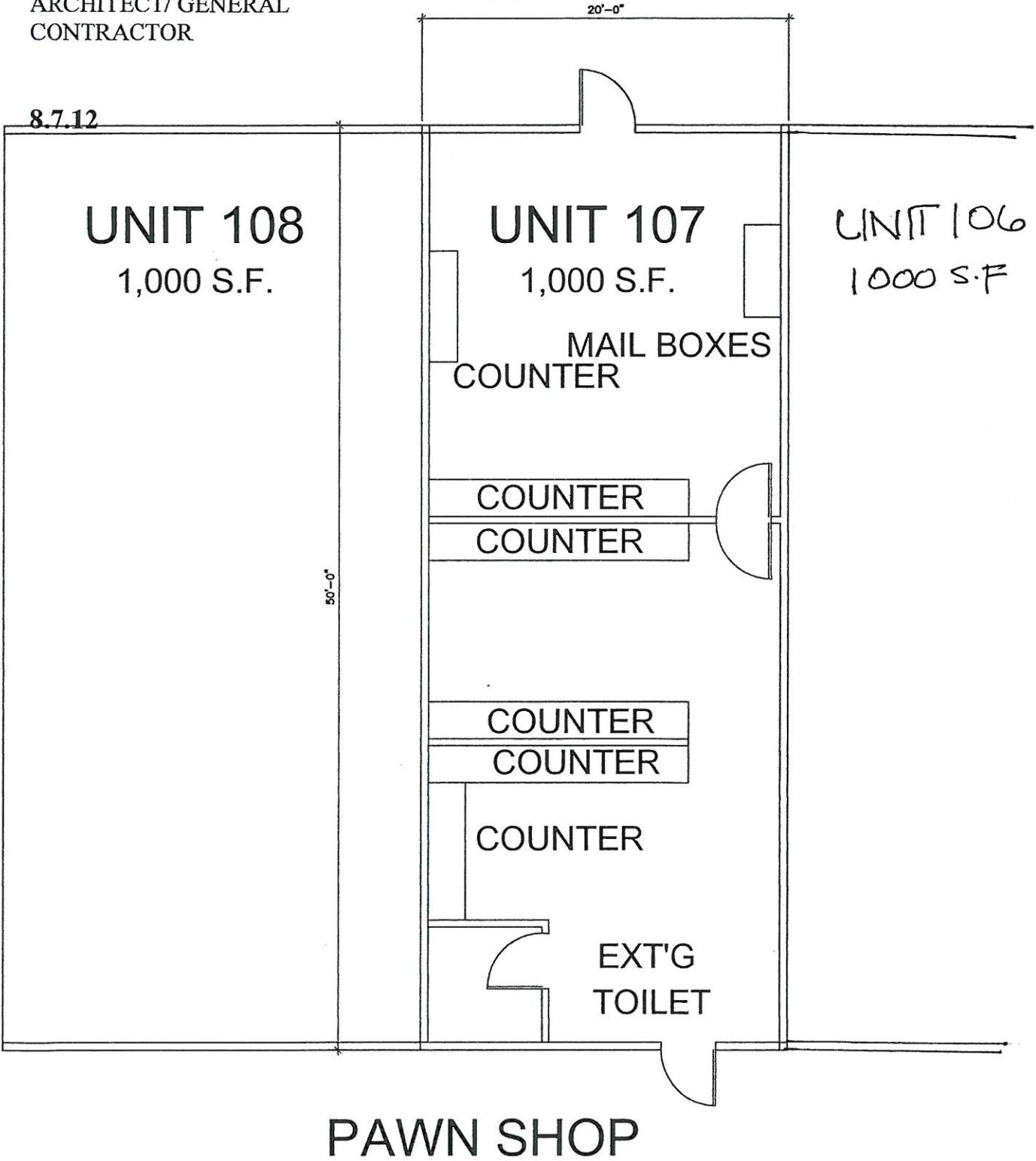
JRH

CITY OF SAN MARCOS
PLANNING DIVISION

ARCHITECT/ GENERAL
CONTRACTOR

CUP 12-901

Chucri "Joe" El-Masri (Frontera
Investment)
218 W. San Marcos Blvd.. #107



RECEIVED

OCT 30 2012

CITY OF SAN MARCOS

204-808-218

INDIVIDUAL
IMPROVEMENT

SUMMARY

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ASSOCIATES

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SAN MARCOS CROSSROADS
DEVELOPED BY
THE O'REILLY COMPANY
JOHN THOMAS BAKER COMPANY INC.
701 "B" STREET SUITE 1300 SAN DIEGO, CA 92101 (619) 236-8900

JOHN POTOCKI
ASSOCIATES

1100
ROUTE 154
SUITE 100
SAN DIEGO,
CALIFORNIA
92123
619 292 4442

RESOLUTION PC 12-4340

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT TO ALLOW LOANS ON SECONDHAND MERCHANDISE (I.E. "PAWN SHOP") WITHIN AN EXISTING BUILDING IN THE COMMERCIAL (C) ZONE IN THE RICHMAR NEIGHBORHOOD

CUP 12-901
Frontera Investment, Inc.

WHEREAS, on August 7, 2012 an application was received from Joe El-Maasri on behalf of Frontera Investment, Inc. requesting a Conditional Use Permit to allow loans on secondhand goods (i.e. "pawn shop") at an existing 1,000 square-foot check cashing facility at 218 W. San Marcos Blvd, Suite # 107, within an existing building located in the Commercial "C" Zone and Commercial General Plan Land Use Designation, more particularly described as:

Parcel "C" of Parcel Map No. 16321, in the city of San Marcos, county of San Diego, state of California, as filed in the Office of the County Recorder of San Diego, on December 10, 1990.

Assessor's Parcel Number: 220-140-25

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

WHEREAS, the required public hearing held on November 5, 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 this is an existing facility with no expansion; and

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

1. The granting of the Conditional Use Permit will not be materially detrimental to the public health, safety and welfare or injurious to property or improvements within the area in that the operation of a pawn shop from existing facilities will comply with all relevant provisions of the San Marcos Municipal Code, including noise regulations and all building improvements will be built to the standards of the adopted California Building Code.
2. The granting of this Conditional Use Permit will not adversely affect the implementation of the General Plan for the Richmar Neighborhood in that a business with operations inclusive of loans on secondhand goods will aide in a balanced distribution and compatible mix of land uses to meet the present and future needs of all residents and the business community (Goal LU-1).

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

- A. The foregoing recitals are true and correct.

AGENDA ITEM # 3

- B. The Conditional Use Permit is approved per the submitted site and floor plans (approximately 1,000 square-foot facility in Suite #107) except as modified herein and shall not be expanded or revised unless a modification to this permit is approved.
- C. Prior to the reliance on this Conditional Use Permit allowing “loans on secondhand goods (“pawn”),” the Applicant shall:
 - 1. Remove the Western Union sign from Suite 106.
 - 2. Applicant shall obtain a State of California Pawnbrokers License and City of San Marcos Secondhand dealer’s license through the City Clerk Department.
 - 3. The applicant shall file an application for a City of San Marcos Business License (either for a “new business” or “change of ownership”) prior to the commencement of operations and shall maintain said business license for the duration of the business.
 - 4. The applicant/property owner shall submit executed versions of separate petitions to annex into and establish, with respect to the property, the special taxes levied by the following Community Facilities Districts (“CFD”):

CFD 98-01 IA1, Police Services

CFD 98-02, Lighting, Landscaping, Open Space and Preserve Maintenance

CFD 2001-01, Fire and Paramedic Services

No development entitlement, Certificate of Occupancy or business license will be issued without receipt of an executed petition for annexation into the above-referenced CFDs and establishment of the special taxes or payment of a fee in-lieu of annexation. The applicant/property owner shall comply with all rules, regulations, policies and practices established by the City with respect to the CFD’s including, without limitation, requirements for notice and disclosure to future owners or residents.

- D. Reliance on this Conditional Use Permit and the ongoing operation of the facility with operations that include loans on secondhand goods shall comply with the following:
 - 1. All conditions of Section “G” shall be completed to the satisfaction of the Planning Division Director and City Clerk.
 - 2. To ensure maximum visibility inside the store for public safety purposes, all window signage shall be kept minimal and comply with the Chp. 20.320 S.M.M.C. (Sign Ordinance).
 - 3. The applicant/operator shall maintain security measures and a video surveillance system to the satisfaction of the Sheriff’s Department. Video surveillance equipment shall be capable of recording a sufficient level of detail to positively identify persons recorded on such devices.
 - 4. Secondhand items accepted for loan shall be limited to jewelry containing precious metals and/or stones only and shall not be resold on the premises.

5. Procedures for the acquisition of secondhand items and their subsequent sale shall conform to the applicable provisions of Chapter 5.28 (Secondhand Dealers) of the San Marcos Municipal Code (S.M.M.C.).
6. Prior to the acceptance of any secondhand items for loan, the applicant/operator shall require the borrower to present adequate evidence of authority to sell as set forth in the Section 5.28.040 S.M.M.C. Under no circumstance shall the applicant/operator accept secondhand items for loan without adequate evidence of the borrower's authority to sell.
7. At the end of each business day, the applicant/operator shall submit records of acquisitions (i.e. "buy sheets") to the Sheriff's Department. All acquisition records shall fully document secondhand items accepted for loan and shall accurately identify the borrower.
8. All secondhand items accepted for loan shall remain onsite for a retention period of no less than thirty (30) days and be made available to the public for viewing purposes (a photographic record of all secondhand items in possession of the applicant/operator is acceptable, however it shall be kept "up-to-date" and made available to any member of the public on demand). The thirty (30) day retention period shall commence on the next business day following the submittal of the record of acquisition (i.e. "buy sheet") to the Sheriff's Department.
9. The applicant/operator or agent/employee shall report any suspicious activity, person or suspected stolen property immediately to the San Diego County Sheriff's Department.
10. The applicant/operator or any agent/employee shall fully cooperate with Sheriff's Department personnel and/or City Inspectors; this includes, but is not limited to, making any secondhand item under loan available for viewing and/or seizure, sharing of videographic evidence of a crime, and/or the inspection of the complete premises.
11. All required Federal, State and City licenses and/or certifications shall be maintained by the applicant/operator during the operation of the business.
12. Operations of the business shall conform to the "Statement of Operations" filed with the Planning Division on August 7, 2012, except as modified herein. Changes or modifications to the operations may require modification to this Conditional Use Permit and are not authorized until reviewed and approved by the City.
13. All activities shall be conducted within the enclosed building.
14. The Applicant shall be prohibited from subleasing the use of any part of the facility to a third party.
15. A separate permit shall be required for any new permanent signage. Signage shall comply with all provisions of the Master Sign Program for the site. For the site, portable signs (e.g. A-frame, T-frame, feather-signs, etc.) either on or off site are prohibited. Temporary signage (e.g. banners, ambient air balloons, etc.) requires a permit and is subject to the approval of the Planning Division.
16. Regular operation and maintenance of the facility shall implement Best Management Practices (BMP's) for the protection of stormwater quality, including employee training

for all pollutant generating activities. As needed, maintenance of the trash dumpster facilities and parking lot facilities are required year round. The parking lot and dumpster facilities must be thoroughly cleaned no later than October 1st of each year.

17. Any improvements or modifications to structures and/or changes of Occupancy shall comply with the latest adopted version of the California Building Code (CBC) and require the issuance of either a Building Permit or a new Certificate of Occupancy ("C of O") as deemed necessary by the Building Official.

E. Prior to the Issuance of a Building Permit, compliance with the following conditions are required:

1. New buildings and remodeled structures shall be designed to conform to the latest design standards adopted by the State of California in the California Building Code, Part 2, Title 24, California Code of Regulations.
2. Building plans and instruments of service submitted with a building permit application shall be signed and sealed by a California licensed design professional as required by the State Business and Professions Code.
3. 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.
4. All improvements shall comply with the latest adopted California Fire Code and San Marcos Fire Code Ordinance.
5. Tenants are required to obtain written permission from the building owner, or owner's agent, prior to obtaining a building permit from the city. Per San Marcos Municipal Code Chapter 17.08.030 Section 105.10, the tenant must obtain written permission from the building or property owner that the applicant is authorized to proceed with the proposed construction.
6. 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.
7. 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.

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

1. 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 will result in the issuance of STOP WORK NOTICES, REVOCATION OF PERMITS and the issuance of citations and fines as appropriate. Citations for hours of work violations require a mandatory court appearance in North County Superior Court.

2. 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.

G. Prior to the final inspection and/or issuance of a Certificate of Occupancy ("C of O"), the following conditions shall be complied with:

1. 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.

H. The applicant/operator shall comply with all provisions and requirements as set forth in the San Marcos Municipal Code, City ordinances, City policies and City resolutions, and with all applicable state and federal regulations, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated herein by reference.

I. Failure to comply with any provision of CUP 12-901 or the acceptance of stolen property by the applicant shall be grounds for a revocation/modification hearing.

J. The Planning Division shall inspect the premises annually to ensure compliance with all conditions of CUP 12-901. If the Planning Division determines that compliance is not being achieved and cannot be attained during a cure period, then a public hearing shall be scheduled for possible Conditional Use Permit modification and/or revocation.

K. The City shall approve changes in the use or occupancy of the suite. The City shall inspect and approve 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.

L. This Conditional Use Permit shall expire on November 5, 2017. Any request for permit extension shall be applied for by the permittee no later than thirty (30) days prior to the expiration date. Renewal application and approval process of the permit shall comply with all provisions of the Zoning Ordinance at the time of application filing.

M. This Conditional Use Permit shall become null and void if not acted upon within twelve (12) months of the adoption of this resolution, or the approved use ceases to operate at the subject property for a period more than twelve (12) months.

N. 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.

O. The Applicant shall comply with all provisions and requirements set forth in the San Marcos Municipal Code, City ordinances, City policies and City resolutions, and with all applicable state and federal regulations, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are incorporated herein by reference as though fully set forth at this point.

P. 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 5th day of November, 2012, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Dean Nelson, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

Lisa Kiss, Office Specialist III
SAN MARCOS CITY PLANNING COMMISSION