

RESOLUTION PC 13-4327

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING
COMMISSION APPROVING A CONDITIONAL USE PERMIT
TO ALLOW FOR THE CONSTRUCTION OF A DRIVE-IN
RESTAURANT WITHIN THE COMMERCIAL (C) ZONE

CUP 12-001
Sonic Drive-In

WHEREAS, on September 26, 2012 an application was received from Sonic Drive-In requesting a Conditional Use Permit to allow for the construction of a 1,795 square feet drive-in restaurant, including a drive-thru lane, with 899 square-feet covered outdoor seating on a 0.9-acre lot located at the southeast corner of Grand Avenue and Via Vera Cruz within the Commercial (C) Zone, more particularly described as:

Parcel 2 and a portion of Parcel 3 of Parcel Map No. 1473, in the City of the San Marcos, County of San Diego, State of California, according to map thereof, filed in the Office of the County Recorder of San Diego County on April 19, 1973

Assessor's Parcel Numbers: 219-152-58 and 219-152-59

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

WHEREAS, the required public hearing held on January 7, 2013 was duly advertised and held in the manner prescribed by law; and

WHEREAS, the Planning Commission did consider a Mitigated Negative Declaration (ND 12-002) for said request pursuant to the California Environmental Quality Act (CEQA); and

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

1. The granting of the Conditional Use Permit will not adversely affect the implementation of the General Plan in that the proposed drive-in restaurant is consistent with the "Commercial" land use designation per the General Plan; and helps to promote a variety of commercial activities within the area. In addition, the Conditional Use Permit is consistent with the Commercial (C) Zone in that a drive-in facility is allowed in said zone upon granting of a Conditional Use Permit which assures compatibility of use with the surrounding area.

2. The granting of the Conditional Use Permit will not be materially detrimental to the public health, safety and welfare or injurious to property or improvements in that the proposed drive-in restaurant will provide adequate setbacks and separation from

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surrounding properties; screening of the drive-thru lane from public view by the building and landscaping; adequate parking and access for customers and employees; and will meet Federal and State requirements for disabled access.

NOW, THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. A Mitigated Negative Declaration (ND 12-002) is hereby approved pursuant to the California Environmental Quality Act (CEQA).
- C. The Conditional Use Permit is approved per the submitted site plan (1,795 square-feet drive-in restaurant, including a drive-thru lane, with an 899 square-feet covered outdoor seating area), floor plans, architectural/color elevations, conceptual landscaping plan, and materials board, except as modified herein, and subject to compliance with the conditions of approval of this Resolution PC 13-4327.
- D. The site plan shall be modified as follows:
 1. An additional parking space shall be shown along the south side of the site for a total of twenty-four (24) parking spaces on site.
 2. The existing raised median along Via Vera Cruz shall be shown to be extended to the south approximately twenty-five (25) feet in order to prevent left-in and left-out turns at the Via Vera Cruz driveway entry to the site. Final design shall be reviewed and approved by the City Engineer.
 3. A raised median shall be shown along Grand Avenue in order to ensure safe separation of vehicles leaving and entering at the Grand Avenue driveway entry to the site. Final design shall be reviewed and approved by the City Engineer.
 4. A raised median shall be shown within the parking lot near the Grand Avenue driveway entry in order to ensure safe separation of vehicle leaving and entering the subject site and adjacent property (APN 219-152-57) to the east. Said median shall not hinder emergency vehicle access.
 5. The site plan sheet index shall be revised to accurately show the numbered call-outs and the corresponding descriptions.
 6. The proposed railing (Index call-out #32) on the north and south sides of the covered outdoor dining area shall be decorative railing per the approval of the Planning Division Director.
 7. The building square footage shown on the site plan shall be revised to be consistent with the square footage identified in the site analysis table and title block.
 8. Property lines shall be clearly identified on the site plan.

9. Locations of monument and directional signs shown on the site plan are not approved. Final locations shall be approved through issuance of a separate sign program and sign permit. Monument and directional signs shall incorporate an enhanced material into its design which matches the approved building materials.
10. The trash enclosure shall be architecturally compatible in color and texture with the proposed building. The enclosure shall include a curved metal roof to match the building.
11. All utilities (i.e.: cabinets, transformers, back-flow preventer, etc.) shall be shown on the site plan. Above-ground utilities shall be located internal to the site and screened from view by landscaping or screen walls where possible.
12. A detail showing the color and pattern of the proposed concrete-stamped driveway entries shall be submitted to the Planning Division for review and approval prior to issuance of grading permit.
13. Color samples of the proposed concrete parking lot and hardscape shall be submitted to the Planning Division for review and approval prior to issuance of grading permit.

E. The conceptual grading plan shall be modified as follows:

1. Conceptual grading plan shall be revised to be consistent with the site plan.
2. The proposed bioretention trench shall be relocated outside of the VWD sewer easement.

F. The architectural elevations shall be modified as follows:

1. On the north and south elevations, the center column, supporting the covered dining area, shall be widened to provide a more substantial appearance.
2. On the tower structure of the building, the gable sides of the roof shall be enhanced with corbels, metal rafter ends, or braces as approved by the Planning Division.
3. On Note 7 of the elevations, the cornice or trim shall be a different material other than stucco.
4. Material samples of the stone veneer and metal roof shall be submitted to the Planning Division for review and approval prior to issuance of building permit.
5. Exterior stucco shall have a smooth acrylic finish. A material sample shall be submitted to the Planning Division for review and approval prior to issuance of building permit.
6. The proposed car canopy design shall be revised to incorporate a curved metal roof

to match the tower structure and stone veneer at the base of the columns to match the building.

7. The west elevation shall be revised to show only the car canopy closest to the building.
8. The elevations shall show by dashed line the location of future roof equipment. All rooftop mechanical units, vents, ducts, etc. shall be screened by parapet walls or architectural features from State Route 78, street grade view, and adjacent properties. Cut sheets of actual units shall be provided with revised elevations.
9. Signage shown on the elevations, including fountain, is not approved. Signage shall be approved per a Comprehensive Sign Program to be submitted and approved by the City.

G. The floor plans shall be modified as follows:

1. The depth of the three (3) column pop-outs on the south side shall be increased to match the columns on the north side.

H. The conceptual landscape plans shall be modified as follows:

1. The proposed pilasters along Grand Avenue shall have a decorative cap per the approval of the Planning Division Director.
2. The proposed stone veneer covering the pilasters, fountain base, seat walls, and planter dish columns shall match the veneer on the building.
3. The fountain base and seat walls shall be raised in height to twenty-four (24) inches and incorporate a design which prevents potential skateboarding damage.
4. A material sample of the proposed tile for the fountain shall be submitted to the Planning Division for review and approval.
5. A detail and operational specifications of the proposed fountain shall be submitted to the Planning Division for review and approval.
6. On Sheet L3, an alternative tree shall be proposed instead of the Carrot Wood per the approval of the Planning Division.
7. On Sheet L3, an alternative shrub shall be proposed instead of the Grevillea Noelli per the approval of the Planning Division.
8. On Sheet L3, the proposed plant material in the landscape planter along the east side of the drive-thru lane shall be enhanced in order to reduce visibility of the menu order board from view from Grand Avenue.

9. On Sheet L3, a landscape planter shall be added to the north side of the covered outdoor dining area in order to match the south side.
10. On Sheet L3, additional shrubs shall be added to the landscape planter along Grand Avenue between the parking spaces and fencing.
11. On Sheet L3, the proposed queen palms shall have minimum height of 20 feet BTH.
12. On Sheet L3, the minimum height and spread of trees shall be indicated in the plant schedule in accordance with City Minimum Tree Standards.
13. On Sheet L4, Detail 6, the proposed tubular steel fencing along Grand Avenue shall include a metal mesh on the back side of the fencing for vine growth. A material sample of the proposed fencing shall be submitted to the Planning Division for review and approval.
14. On Sheet L4, Detail 5, shall be labeled as pilasters, and not concrete paving.
15. Footings for fencing and pilasters shall not encroach into City right-of-way.
16. Plant material within the sewer easement along the southern property line shall be approved by the Vallecitos Water District. Applicant shall submit proof of approval to the City.
17. The applicant/developer shall obtain permission from the adjacent property owner to the south (APN 219-152-60) for installation of landscaping within the area between the southern property line and the driveway entry of said property.
18. Red bark mulch or equivalent durable material shall be used throughout all planter areas for weed and erosion control purposes.
19. Municipal Storm Water Permit Requirements that require water quality and hydro-modification landscape details such as efficient irrigation, bioretention facilities, shall be coordinated with the Water Quality Improvement Plan (WQIP) and incorporated as part of the landscape plan.

I. Within thirty (30) days of the approval of the Conditional Use Permit (CUP 12-001), the final approved site plan, landscape plans, floor plans, and elevations shall be submitted as a digital file on a CD including this resolution on the title page. 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 13-4327." 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 copy shall be approved by the City prior to any grading plan, improvement plan, or building permit submittal.

J. Prior to issuance of any grading permit, the following conditions shall be complied with:

1. A lot consolidation boundary adjustment shall be reviewed, approved, and recorded prior to building permit issuance.
2. The applicant and/or property owner shall perform or secure performance of the \$256,851.66 fair share street and street light assessment as stated in the Real Property Lien Agreement recorded March 2, 2007 per Document No. 2007-0143280.
3. The applicant/developer shall submit plans and specifications for improvement of all streets, rights-of-way (landscaping/irrigation) and drainage facilities to the City of San Marcos ("City") Engineering Division for approval. Plans shall include all off-site improvements as specified by the City Engineer. In addition, a signage and striping plan shall be included with the improvement plans utilizing CalTrans standards and acceptable to the City Engineer.
4. Improvement plans shall delineate street alignments and grades including the change of any existing or proposed street alignments and grades required by the City Engineer and City's "Urban Street Design Criteria" in effect at the time of project approval.
5. The applicant/developer of the property shall bear the expense of all on-site and offsite grading and construction of curb, gutter, sidewalk, paving, street lights, utility undergrounding or relocation, and drainage facilities, as required by the City Engineer.
6. The applicant/developer shall irrevocably offer to dedicate to the City of San Marcos easements or rights-of-way for all public streets, utilities, drainage facilities and appurtenances thereto, and all other interests in real property required by these conditions and as shown on the site plan. All property or property interests shall be granted to the City free and clear of all liens and encumbrances and without cost to the City and free of environmental hazards, hazardous materials or hazardous wastes.
7. An irrevocable offer of dedication shall be offered by the applicant/developer along Via Vera Cruz in order to accommodate a future ten (10) feet wide right turn lane. Offer shall include enough area to accommodate the future traffic signal relocation and associated signal cabinets. Said offer shall be to the satisfaction of the City Engineer.
8. A design for the southerly Via Vera Cruz median extension shall be submitted for review and approval of the City Engineer.
9. A design for the Grand Avenue median and lane channelization improvements shall be submitted for review and approval of the City Engineer.
10. The applicant/developer shall provide a concept on the grading plans which validates the Via Vera Cruz driveway will operate safely after an additional lane in Via Vera

Cruz has been constructed.

11. The grading plans shall reflect any proposed improvements within the adjoining property (APN 219-152-57). Written design approval from the adjacent property owner shall be submitted to the City.
12. The exact alignment, width and design of all median islands, turning lanes, travel lanes, driveways, striping, and all other traffic control devices and measures, including turnouts, bike lanes, and width transitions, shall be approved by the City Engineer.
13. In lieu of designing a fiber optic conduit system along the project's two street frontages, the applicant/developer shall be responsible for designing a fiber optic traffic signal interconnect system which will replace the existing copper wire with fiber optic cable within Grand Avenue, between Las Posas and Via Vera Cruz. Furthermore, a design shall be provided for a conduit (no fiber) along the project's Grand Avenue frontage. Pull boxes shall be designed and spaced per the City standards. Said design shall be to the satisfaction of the City Engineer/Public Works Director.
14. For any traffic signal modifications, a \$10,000 in-lieu fee will be required for development of a traffic signal timing plan. Said fee shall be to the satisfaction of the City Engineer.
15. A Transportation Demand Management (TDM) Plan shall be submitted for review by the City Engineer and Planning Division Director. Said TDM plan shall address coordination with local transit districts regarding existing and future bus routes and stops, shuttle service to rail stations and incentives for bus & rail passes. The TDM plan shall also include investigations into staggered work hours, carpools, education and financial incentives. The TDM plan shall be implemented at occupancy. Applicant will be responsible for the submission of an annual report consistent with the TDM goals and general strategies for review by the City Engineer and Planning Director.
16. The design of all private drainage systems for this project shall be approved by the City Engineer. All private drainage systems shall be inspected by the City, and the standard plan check fees and inspection fees shall be paid and appropriate bonds shall be posted with the City prior to issuance of any grading for this project.
17. The exact depth of street structural section and subgrade requirement shall be determined based on subgrade "R" value tests and the appropriate Traffic Index for the type of street as described in the City's "Urban Street Design Criteria". All existing streets shall be "core tested" to determine the existing structural section and the extent of overlay or reconstruction necessary to achieve the required structural section described above. Tests shall be taken by a qualified engineer at locations approved by the Director of Public Works.

18. Improvement plans shall show all existing and proposed drainage facilities including surface and subsurface construction. All drainage channels shall be lined with a suitable material as approved by the City Engineer. All required drainage easements shall be monumented along the boundaries as approved by the City Engineer. Access easements shall be provided where necessary and shall be improved, fenced and aligned to the satisfaction of the City Engineer and/or the Director of Public Works.
19. The applicant/developer shall post securities to the City of San Marcos, in amounts approved by the City Attorney and the City Engineer or their designees, for the construction of all public and private improvements including but not limited to the following: grading and erosion control, street improvements, traffic signals, storm drain facilities, water quality BMP's, landscaping, and off-site street repair. Said security shall be in a form acceptable to the City and shall remain in force until completion of the project and final approval by the City. Said security shall insure the construction of the "Approved" public improvements within a period to be specified in the Development Improvement Agreement.
20. The applicant/developer shall enter into a Development Improvement Agreement with the City to complete the Via Vera Cruz and Grand Avenue road improvements and all required off-site transitions within 360 days from the issuance of grading permits, or satisfy the City Engineer that said work is in a suitable stage toward completion by the deadline.
21. The existing low pressure sodium street light shall be replaced with a LED light to the satisfaction of the City Engineer/Public Works Director.
22. The applicant/developer shall pay all applicable fees and deposit with the City a sum of money sufficient to energize, operate and maintain the public street landscaping (medians and parkways) and lighting system for a period of eighteen (18) months.
23. The applicant/developer shall make necessary arrangements with each of the serving utilities, including cable television, for the undergrounding of all utilities fronting, abutting, or within the property with the exception of sixty-nine (69) KVA or greater power lines within the site. Overhead power (less than 69 KVA) and other utility lines currently on 69 KVA transmission poles/towers shall be relocated underground along the subdivision boundary.
24. The applicant/developer shall coordinate with all utility companies to ensure there are no above ground utility facilities or shall be placed in locations to be screened from view to the satisfaction of the Planning Division Director. Said utility facilities shall be depicted on the grading, improvement, and landscape plans. Any variances from this requirement shall be approved by the Planning Division Director and City Engineer. Locations of the utility facilities and conduits shall be shown on the grading and improvement plans and shall be approved prior to grading permit issuance.

25. The applicant/developer shall comply with all rules, regulations and design requirements of the respective sewer and water agencies regarding services to the project.
26. The permanent placement of Vallecitos Water District's large meter services, detector checks, fire hydrants, etc., along circulation element streets shall be placed outside of the ultimate right-of-way and if applicable, trail easement, to avoid reconstruction or modification of same.
27. 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.
28. Minimum throat stacking distance for all driveways shall be twenty (20) feet (measured from the ultimate right-of-way line). The entire twenty (20) foot throat distance shall be designated by a raised curb. This minimum shall be increased as deemed necessary by the City Engineer. Radius-type driveways are required per City standards.
29. For commercial areas that share access and/or parking, an unsubordinated reciprocal access and maintenance parking agreement, in a form satisfactory to the City Attorney, shall be recorded with the Office of the San Diego County Recorder. A copy of the recorded agreement shall be submitted to the City's Planning Division.
30. Perpendicular parking spaces shall be a minimum of nine (9) feet wide by eighteen (18) feet long. Angled parking spaces shall have a minimum length of twenty (20) feet. When possible, the length may be decreased by two (2) feet when there is equivalent curb overhang onto adjacent landscaped areas. Curb overhang may be allowed adjacent to sidewalks as long as there is a minimum unobstructed sidewalk width of four (4) feet. Otherwise, wheel stops shall be installed to prevent vehicles from hanging over the sidewalk.
31. A parking lot striping plan shall be submitted for review and approval by the City.
32. The applicant/developer shall submit executed versions of separate petitions to annex into and establish, with respect to the property, the special taxes levied by the following Community Facilities Districts (CFDs):
 - a. CFD 98-01, Improvement Area No. 1, Police Only.
 - b. CFD 2001-01, Fire and Paramedic.
 - c. CFD 98-02, Lighting and Landscape.
 - d. CFD 2011-01, Congestion Management.

No final map, development entitlement or grading permit will be issued without receipt of a petition for annexation and consent and waiver executed by the property owners for each of the above-referenced Community Facilities Districts for the establishment of the special taxes. The applicant/developer shall comply with all

rules, regulations, policies and practices established by State Law and/or by the City with respect to the Community Facilities Districts including, without limitation, requirements for notice and disclosure to future owners and/or residents.

33. Unless a standard variance has been issued, no variance from City Standards is authorized by virtue of approval of this site plan.
34. At the discretion of the Fire Marshal, a digital disk shall be submitted containing the following information: street centerline, subdivision boundary, lot lines, street right of way, building footprints and fire hydrants. Said files shall be in an Autocad format acceptable to the City of San Marcos and shall be on the correct coordinate system.
35. Prior to release of any securities, a digital disk of all as-built drawings and maps is required on a CD. Said files shall be in an Autocad format acceptable to the City of San Marcos. Said drawings shall be on the correct coordinate system. PDF versions of all approved drawings and recorded documents shall be provided. In addition, electronic files of the project reports (i.e.: soils report, drainage study, SWPPP, Water Quality Technical Report, structural calculations, title report and guarantee and etc.) shall be submitted on a CD. Copies of the final as-built drawings shall be submitted on a CD in a format acceptable to the City. A mylar of the map after recordation is also required.
36. A detailed grading plan shall be submitted to the City's Engineering Division for review and approval. Grading plans and activities shall be based on a comprehensive investigation of surface and subsurface conditions. Results of this investigation and recommendations arising there from shall be submitted in the form of a report.
37. A geologic and soils study shall be conducted for the proposed project. Said study shall give recommendations for cut and fill slopes, compaction and suitability for step foundations on individual lots. Said study shall be prepared by a registered Civil and/or Geotechnical Engineer and approved by the City's Engineering and Building Divisions. Recommendations of the Civil and/or Geotechnical Engineer, City Engineer and Building Official shall be implemented at the time of development of any lot.
38. The applicant/developer shall secure letters of permission from adjacent property owners for any offsite property construction, including installation and maintenance of landscaping.
39. All permanent manufactured fill slope banks shall be constructed at a gradient no steeper than 2:1 (horizontal to vertical). The Civil and/or Geotechnical Engineer shall verify slope stability for any cut slope greater than 2:1; in no case shall the cut slope exceed 1.5:1. The City Engineer will require support documentation from a licensed Civil and/or Geotechnical Engineer for graded cut slopes greater than 2:1.
40. The applicant/developer shall delineate all streets, drainage channels, drainage

easements, culverts, drainage structures, and retaining/crib walls on an approved grading plan. Street and drainage structure alignments, and retaining/crib walls shall be designed to the satisfaction of the City Engineer.

41. Line of sight easements, if necessary, shall be delineated on all grading plans as approved by the City Engineer. Adequate sight distance for all intersections, driveways and access points shall be provided per latest edition of the California Department of Transportation (CalTrans) Highway Design manual and the American Association of State Highways and Transportation Officials (AASHTO) Geometric Design of Highways and Streets.
42. Erosion control and/or sediment control details shall be submitted with/on the grading plans to the City's Engineering Division for review and approval. The details shall conform to City standards, codes, SDRWQCB Municipal Storm Water Permit requirements, and ordinances. The details shall include landscaping and temporary irrigation systems on exposed slopes to be approved by the City's Engineering and Planning Divisions.
43. A hydrology report (calculations) shall be prepared for the proposed project to determine the existing and future runoff flow after development for the 100-year storm conditions. Storm drains and drainage structures shall be sized for build-out according to the approved hydrology report. All surface runoff originating within the project and all surface waters that may flow onto the project from adjacent properties shall be accommodated by the drainage system. The report shall also determine the build-out runoff into existing off-site natural drainage swales and storm drain systems, and shall address any need for off-site improvement requirements. Blocking, concentrating, lowering or diverting of natural drainage from or onto adjacent property shall not be allowed without written approval of the affected property owner. This report shall be subject to approval of the City Engineer.
44. The applicant/developer shall be responsible for mitigating impacts created by changes in drainage runoff course, concentration, or quantity to the satisfaction of the City Engineer for both on-site and off-site drainage. This may require the applicant/developer to provide all necessary easements and improvements to accommodate drainage and flood control structures extending beyond the boundaries of the project.
45. The owner of the subject property shall execute a "Hold Harmless" Agreement with the City of San Marcos regarding drainage across the adjacent property prior to approval of any grading or building permit.
46. The developer shall revise the Water Quality Improvement Plan (WQIP) and Operation and Maintenance (O&M) Plan to reflect the latest City of San Marcos Storm Water Standards Manual guidelines and California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-0001 or latest adopted NPDES permit. Low Impact Development standards and Hydro-modification requirements shall be satisfied. Said WQIP shall be prepared by a registered civil

engineer and shall be to the satisfaction of the City Engineer.

47. The Water Quality Improvement Plan (WQIP) shall identify affected receiving water bodies, applicable water-quality objectives of the Regional Water Quality Control Board (RWQCB) and of the San Diego Association of Governments, pollutants of concern, estimate the post-construction discharge rates (will all BMPs in place) and explain why the projected pollutant loads will not cause a violation of the water quality objectives. The structural treatment controls shall remove project pollutants anticipated to be generated by the project and downstream impaired water bodies listed by the SWRCB 303(d) listing to the efficiency listed in the approved City of San Marcos Storm Water Standards Manual.
48. The Water Quality Improvement Plan (WQIP) shall be included with the grading plan set. Developer shall provide geotechnical confirmation for all infiltration Best Management Practices (BMPs) or provide an explanation for not using infiltration BMPs.
49. The Water Quality Improvement Plan (WQIP) and Operation and Maintenance (O&M) Plan and the Best Management Practices (BMPs) sheet from the grading plans, when approved, shall be recorded with the County Recorder and proof of the recordation shall be provided to the City.
50. Sediment, silt and grease traps shall be included in drainage improvements.
51. The applicant/developer shall submit for City review for the implementation of a Storm Water Pollution Prevention Plan (SWPPP), per the latest CASQA SWPPP Preparation Manual, to manage storm water and non-storm water discharges from the site at all times. The SWPPP shall satisfy the requirements of the latest State Water Resources Control Board General Construction Permit. The SWPPP shall describe all Best Management Practices (BMPs) to be implemented year round. Specific BMP implementation may be dependent upon wet or dry season operations. The SWPPP shall also emphasize that erosion prevention is the most important measure for keeping sediment on site during construction. The SWPPP shall be prepared by a registered civil engineer.
52. The applicant/developer shall submit proof of coverage under the State Water Resources Control Board General Construction Permit. The Waste Discharge ID number (WDID #) shall be identified on the Title sheet to the Project plans, the grading plans, and the erosion control plans. Coverage under the SWRCB General Construction Permit shall be maintained until the developer has submitted the Notice of Termination (NOT) to the San Diego Regional Water Quality Control Board and received approval of the NOT from the SDRWQCB. The developer shall notify the City Storm Water Program Manager 45 days in advance of submitting the NOT to the SDRWQCB. All required structural treatment controls identified in the approved WQTR shall be installed prior to the submittal of the NOT to the SDRWQCB. A copy of the NOT shall be submitted to the City.

53. The applicant/developer shall submit, for City review and approval, a mechanism which will ensure on-going long-term maintenance of all construction Best Management Practices (BMPs). Said mechanism shall address maintenance of the BMP's if project delays or abandonment occurs.
54. All construction and grading related Best Management Practices (BMPs) shall be shown in detail on the construction plans submitted to the City for review and approval.
55. The applicant/developer shall submit a schedule to the City for review and approval, with proposed dates, demonstrating the minimization of grading during the wet season and coinciding the grading with dry weather periods, permanent re-vegetation and landscaping as early as feasible, temporary stabilization and reseeding of disturbed soil areas as early as feasible.
56. The project landscape architect shall sign the Water Quality Improvement Plans (WQIP) certifying the Best Management Practices (BMPs) have been incorporated into the landscape plans. Said plan shall be a separate sheet incorporated into the grading plan set.
57. Each structural treatment control Best Management Practices (BMPs) shall have the following information listed on the BMP sheet:
 - a. Latitude and Longitude.
 - b. Maintenance Requirements.
 - c. Assessor Parcel Number location for each BMP.
 - d. Type of BMP per CASQA classification.
 - e. Pollutants removed by each BMP and Efficiency.
 - f. Anticipated Project Generated Pollutants.
 - g. Downstream Impaired Water Body Pollutants.
 - h. Model number, manufacturer, manufacturer phone number, treatment flow, retention times for each BMP.
 - i. Area of project treatment for each BMP.
 - j. A unique BMP ID number shall be assigned by the City and shall be shown on the BMP sheet.
58. All permanent Best Management Practices (BMPs) per the approved grading plan shall be shown on the landscape plans. Landscape plans shall be reviewed and signed by the engineer-of-work stating the proposed landscape design complies with the requirements of the Water Quality Improvement Plans (WQIP) and/or Storm Water Standards Manual.
59. The applicant shall submit a letter indicating that the fountain will operate when the restaurant is open for business hours when not being maintained.
60. 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 plans shall incorporate the landscape modifications as required herein.
- b. Final landscape and irrigation plans shall be prepared by a licensed landscape architect. Landscape plans shall incorporate all modifications as conditioned.
- c. 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 plans. All submitted estimates shall be stamped and signed by the Landscape Architect, and estimate the cost of plant and irrigation materials only.
- d. Landscape plans shall contain a mixture of trees, shrubs, and ground cover, and be provided with an irrigation system. The irrigation system shall include an automatic rain sensor switch, master valve, stainless steel enclosure for the backflow device, and stainless steel controller cabinet. The landscape plan shall list the quantities of each plant type, including a legend indicating what each symbol represents; height and spread of trees (in accordance with City Minimum Tree Standards, City Council Resolution 2001-5747); and method of installation and irrigation.
- e. Plant material and irrigation design, as well as reporting requirements, shall comply with the City's landscape Water Efficiency Ordinance, Section 20.82 of the San Marcos Municipal Code.
- f. The applicant/developer applicant shall submit landscape plans with characteristics that maximize infiltration, provide retention, reduce irrigation and storm water runoff, use efficient irrigation, and minimize the use of fertilizers, herbicides and pesticides.
- g. All permanent Best Management Practices (BMPs) per the approved grading plan shall be shown on the landscape plans. Landscape plans shall be reviewed and signed by the engineer-of-work that the proposed landscape design complies with the requirements of the Water Quality Improvement Plans (WQIP).
- h. Prior to installation, the proposed plants shall be inspected and approved by the Planning Division and/or Landscape District Supervisor for plant quality and compliance with minimum size requirements. The placement of plants shall be installed in accordance with the approved landscape plans. Upon completion of installation, all landscaping/irrigation shall be inspected and approved by the Planning Division and/or Landscape District Supervisor. The applicant/developer shall be responsible to contact the Planning Division for landscaping inspections.

K. Prior to issuance of any building permits, the following conditions shall be complied with:

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 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.
4. 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.
5. An automatic fire extinguishing system is required in accordance with the latest adopted California Building Code and/or San Marcos Fire Code Ordinance. Fire suppression systems shall conform to the standards adopted by the National Fire Protection Association and the San Marcos Fire Marshal.
6. 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.
7. 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.
8. 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.
9. The proposed new 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.
10. 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.
11. All rooftop mechanical units, vents, ducts, etc. shall be screened from street grade and State Route 78 view and surrounding properties by parapet walls and/or architectural enhanced enclosures as approved by the Planning Director. A roof plan

and cross sections showing lines of sight shall be submitted with construction drawings illustrating that roof equipment will be screened. Cut sheets of actual units shall be included with plans. Screening plan shall be approved by the Planning Division prior to issuance of a building permit.

12. All exterior lighting shall comply with City standards for energy efficient lighting as approved by the City.
13. Architectural lighting plan shall be included with the building plans that show the type, style, and location of all exterior building and parking lot lights. Plans shall include photo of fixture and manufacturer specifications indicating dimensions, materials, colors, bulb type, etc. Exterior lighting for the outdoor dining area and parking lot shall be shielded to direct light downward.
14. The trash enclosure (minimum dimensions of fourteen (14) feet wide by ten (10) feet deep by six (6) feet high) for trash and recycling containers shall be constructed to match the building in color and texture. In addition, the enclosure shall have solid view-obscuring, double swinging gates; must have a flat impervious, concrete slab designed to prevent run-off from adjoining areas; contain attached lids on all trash and recycling containers; and a roof to minimize direct precipitation. Trash container lids shall be kept closed at all times.
15. The operator of the food service shall comply with all County of San Diego Health Department rules, regulations, and requirements and obtain all necessary permits.
16. Style of chairs, tables, umbrellas, trash receptacles, and space heaters shall compliment the architectural style of the building and shall be reviewed and approved by the Planning Division Director. Applicant shall submit specification sheets and photos for review and approval.
17. Building address shall be clearly labeled for day and night-time emergency responses. In addition, adequate lighting shall be provided to deter potential criminal activities (i.e.: vehicle burglaries, prowlers, loitering, etc.).
18. The applicant/developer shall submit a Comprehensive Sign Program to the Planning Division for review and approval. Wall signs shall be limited to individual channel letters and logos. No cabinet signs shall be permitted. Monument and directional signs shall be architecturally compatible with the building. Portable signs (i.e.: A-frame, T-frame, etc.), on or off site, are prohibited. Following review and approval of the comprehensive sign program, all proposed signage requires approval of a separate building permit.
19. All parking and driveway areas shall be surfaced with Asphaltic Concrete (AC) or Portland Cement Concrete (PCC) over a prepared base.
20. Six (6) inch high Portland Cement Concrete (PCC) curbing shall be installed separating all paved areas from all landscaped areas. Where curbing may conflict

with vehicle turning movements, corner cutoffs or radii shall be provided as required by the Fire Department.

21. The Engineer-of-Work shall certify that all grading and construction of grading related improvements (erosion control, storm drains, etc.) have been in substantial conformance with the approved plans, reports, and standards.
22. All grading shall be supervised by a Civil and/or Geotechnical Engineer, who shall prepare a written report to the satisfaction of the City Engineer certifying that the work has been performed in compliance with the recommendations contained within the geotechnical report and approved plans. If not so done, the report shall describe the actual work performed and any deficiencies observed. The final report shall specifically detail conditions and remedial work performed that was not specifically mentioned in the initial report of subsurface conditions.
23. The developer shall provide the City Engineer a copy of the State Water Resources Control Board permit issued for the project under the NPDES General Permit.

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

1. A test sample of the proposed exterior colors and stucco finish shall be applied to a mock-up with an area 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 buildings. 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.
2. Dust and dust producing materials shall be controlled within the maximum acceptable concentrations for silica and silicates in accordance with the California Code of Regulation, Title 8, Section 5155. Water and dust palliative shall be used to prevent excessive dust during blasting and grading operations.
3. 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.
4. Paving of roads/parking lots shall be completed as early as possible to mitigate short-term dust problems associated with construction.
5. The project shall comply with Regional Air Quality Standards.
6. Grading, excavation or other related earth moving operations, including warm-up and maintenance activities, shall be limited to the hours of 7:00 a.m. to 4:30 p.m., Monday through Friday. No work shall be allowed on Saturdays, Sundays and holidays.

7. 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.
8. The developer shall retain a professional registered Civil and/or Geotechnical Engineer (Engineer-of-Work) to oversee the grading and construction activities as specified in Section 6703.1 of the Professional Engineer Act.
9. The applicant/developer shall submit a traffic control plan for all phases of construction for approval by the Director of Public Works. Said plan shall include all traffic control devices including traffic signals as required.
10. During grading and construction operations, the applicant/developer shall maintain public and private driveway access to neighboring businesses/properties at all times unless previous arrangements have been made with the private parties affected. Copies of said agreements shall be provided to the City Engineer.
11. The applicant shall notify the property owner of the adjacent property (APN 219-152-57) a minimum of seventy-two (72) hours prior to any construction activity which may have a direct impact to their business operations.
12. The applicant shall be responsible to coordinate and mitigate any construction activities (i.e.: repaving of the parking lot, tree removal, driveway construction, etc.) which may impact the business operations of the adjacent property (APN 219-152-57).
13. Hauling of earth over residential streets of developed areas shall be avoided. Where not possible to avoid, a truck hauling route shall be submitted to the City for approval prior to commencement of any grading operation. Such approved haul routes may require a greater structural section, to the satisfaction of the City Engineer and/or the Director of Public Works.
14. The applicant/developer shall construct desiltation/detention basins and erosion control devices of a type and size and at locations as approved by the City Engineer. Devices shall be installed and maintained in working condition during the rainy season (October 1 through May 1). Each such basin shall be provided with an all-weather access/maintenance road.
15. Dewatering activities during construction shall not be conducted without appropriate permits and approvals from all regulatory agencies involved (SDRWQCB, SWRCB, ACOE, and other Resource agencies). The City Storm Water Program Manager shall be notified one week in advance of any dewatering activities and a copy of all

permits shall be submitted to the City. Dewatering activities will be conducted and planned for in compliance with the SDRWQCB, SWRCB, and project specific dewatering permit requirements obtained. Should the quality of the ground water be such that it does not meet the permitting requirements, then the water will need to be treated prior to discharge.

16. The applicant/developer shall ensure that the grading and other construction activities meet the provisions specified in the California Regional Water Quality Control Board, San Diego Region, Order No. R9-2007-0001 – Section D.2, or latest adopted NPDES permit.
17. 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.
18. The applicant/developer shall clear and grade only the areas on the project site that are necessary for construction. These areas shall be clearly denoted on the plans and in the SWPPP.
19. The applicant/developer shall minimize exposure time of disturbed soil areas.
20. The applicant/developer shall provide evidence of existing coverage under the State of California's statewide General NPDES Permit for Storm Water Discharges Associated With Construction Activities at all times.

M. Prior to occupancy of any structure, the following conditions shall be complied with:

1. All rooftop mechanical units, vents, ducts, etc. shall be screened from view from street grade & adjacent properties. Said screening mechanism shall be inspected by the Planning Division, and if determined necessary, additional screening may be required, as determined acceptable by the Planning Director.
2. 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.
3. The applicant shall submit a letter(s) by the landscape architect and engineer-of-work to the Planning Division certifying that the plant materials and irrigation system have been installed in accordance with the approved landscape plans and the Water Quality Improvement Plan, respectively. Any proposed modifications to the planting plan shall be approved by the City.
4. The Transportation Demand Management (TDM) Plan shall be approved by the City prior to building occupancy.
5. All improvements shown on the improvement plans, as approved by the City Engineer for each phase of development, shall be constructed prior to release of any

improvement securities and as specified in the Development Improvement Agreement for this project.

6. Via Vera Cruz and Grand Avenue improvements shall be constructed as shown on the approved improvement plans to the satisfaction of the City Engineer/Public Works Director.
7. The parking lot improvements on the adjacent property (APN 219-152-57) shall be completed to the satisfaction of the property owner and as agreed upon by the two parties. Completion date of improvements may be changed with the written approval of the property owner and Planning Division Director.
8. The applicant/developer shall install a traffic signal fiber optic cable bundle within the existing Grand Avenue copper wire conduit between Las Posas and Via Vera Cruz and install a traffic signal conduit along the project's Grand Avenue frontage. Pull boxes shall be designed and spaced per the City standards. Shall installation shall be to the satisfaction of the City Engineer/Public Works Director.
9. All utilities fronting, abutting or within the project shall be undergrounded with the exception of sixty-nine (69) KVA or greater power lines. Undergrounding shall take place prior to surfacing of streets.
10. All existing and proposed above ground utility facilities shall be relocated, or undergrounded, or shall be placed in locations to be screened from view to the satisfaction of the Planning Division Director and Public Works Director.
11. "As-Built" reproducible grading and improvement plans shall be submitted and approved by the Public Works Director and the City Engineer. "As-Built" plans shall reflect minor field changes and approved construction changes in accordance with the City's "As-Built" policy. The plan set shall also include the as-built layout for all utilities (gas, telephone, electric, television, and street lighting) as depicted on the individual utilities plan sheets.
12. The applicant/developer shall post a security with the City in an amount approved by the City Engineer for the warranty of all dedicated public improvements for a one (1) year period from the time of acceptance by the Director of Public Works.
13. The applicant/developer shall submit for City review and approval, plans showing source control Best Management Practices (BMPs) in place and a certified letter noting the implementation plans for said BMPs.
14. All water quality Best Management Practices (BMPs) shall be inspected and approved by the Public Works Director, City Engineer, and Planning Director.
15. The City assigned Best Management Practices ID number of all water quality BMP's shall be shown on the installed BMP. Said ID number may be delineated with a stencil or sign to the satisfaction of the City Engineer/Public Works Director.

16. The applicant/developer shall provide a buffer zone for natural water bodies (as shown on approved plans). The buffer zone (as approved) shall be inspected and approved for compliance by the City.
17. The applicant/developer shall stabilize all slopes per a City approved method.
18. The alignment and terminal point of storm drains shown on the developer shall not be considered final. These drains shall be subject to precise design considerations and approval by the City Engineer.
19. The proposed development shall satisfy the conditions of approval prior to the first occupancy. The applicant/developer shall obtain approval from all City departments and other agencies before requesting a Certificate of Occupancy ("C of O") from the Building Division.

N. The proposed use shall comply with the following operational standards:

1. The outdoor dining shall be limited to the 899 square-feet covered area and the three (3) tables located at the northwest corner of the site as shown on the approved site plan.
2. The outdoor dining area shall be for customers of the restaurant only.
3. Live entertainment is prohibited.
4. Outdoor cooking or food preparation is prohibited.
5. Trash receptacles 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.
6. The applicant shall obtain a City of San Marcos Business License.
7. The approved architecture, paint colors and materials shall not be modified by the owner(s) or subsequent owner(s) in the future without City approval.
8. All trees and landscaping shall be maintained in a healthy, thriving manner. If any trees/landscaping shall die or become diseased, the trees/landscaping shall be replaced in numbers and quantity to provide the same landscaping and screening value.
9. All activities of the food service shall be conducted in compliance with the Storm Water Management requirements adopted by the City of San Marcos, including the following requirements:
 - a. All discharges to the storm drain system, street, curb and gutter, and City's

MS4 system are prohibited, including wash down water.

- b. All new employees shall receive Best Management Practices (BMPs) Training for restaurant services. Employees shall be trained annually on BMPs, and training records shall be kept on site and available for review by City inspectors or Code Enforcement Officers.
- c. All grease control devices on site shall be emptied and cleaned by permitted companies only.
- d. Maintenance records for grease traps and interceptors shall be maintained by the property management, and provided to City inspectors upon request at all times.
- e. Lids on the dumpster shall remain closed.
- f. The dumpster shall not be hosed out. The area around the dumpster shall remain clean and free of trash.
- g. Floor mats shall be cleaned off in a mop sink, at a floor drain, or in an outdoor area that can contain the water. Floor mats shall not be hosed off in an area where the wastewater can flow to the street, gutter or storm drain.
- h. Wash water shall be disposed of in a mop sink or an area with a floor drain.

O. The applicant/developer 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 now incorporated herein by reference and fully set forth at this point.

P. 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.

Q. 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.

R. This Conditional Use Permit shall expire on January 7, 2014 unless a building permit is obtained by this date and construction has begun in accordance with the submitted plans.

S. 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 January, 2013, 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