

PLANNING COMMISSION

Meeting Date: 11/6/2023

ADDITIONAL ITEM ADDED AFTER DISTRIBUTION OF PACKET (3)

AGENDA ITEM # 3

Applicant/Project Name: Restaurant Row Specific Plan
Project Number: SP22-0004

Brief Description: Public Comment Letters

Date: 11/6/2023
Time: 1:15 pm

November 3, 2023

Joe Farace
Planning Director
and Planning Commissioners

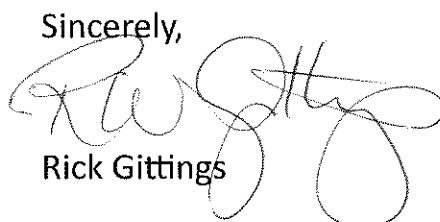
Re: Old California Restaurant Row/SP22-0004 Lennar Homes

Dear Joe and Planning Commissioners;

I would like to recommend that, while it is painful for “old timers” like myself to see the demise of the iconic Old California Restaurant Row (an amazing concept brought to life by the late Jim Eubanks), it is time for a new and vibrant redevelopment of the site and I believe Lennar Homes has produced just such a plan for the property. I am hopeful that the Commission and City Council will support the Specific Plan that has not only staff support but I believe the support of the vast majority of the City’s residents.

While there may be some minor adjustments to the Specific Plan made by the Commission and Council during the public hearing process, I believe the Plan is a solid blueprint for redevelopment of the site and should be approved basically as is and implemented as soon as feasible.

Thank you for considering my input during the public hearing process.

Sincerely,

Rick Gittings

November 6, 2023

619.338.6559 direct
jchavez@sheppardmullin.com

File Number: 40RN-338594

VIA E-MAIL

Sean del Solar
Senior Planner
City of San Marcos
E-Mail: sdelsolar@san-marcos.net

Re: Restaurant Row - Planning Commission November 6, 2023 Agenda Item No. 3, TMP-1992 - Response to Correspondence from Fish House Vera Cruz dated October 27 and November 3, 2023

Dear Mr. del Solar:

This letter is prepared in response to correspondence dated October 27, 2023 from Yin T. Ho of Withers Bergman Re “Additional Responses in Advanced of Planning Commission Meeting to Initial Study/Mitigated Negative Declaration for the Restaurant Row Project, Project No. SP22-0004, Environmental Document No. ND23-011,” dated August 2023 and a supplemental letter submitted by Mr. Ho on November 3, 2023. The October 27, 2023 letter largely repeats content from the Withers Bergman letter dated September 20, 2023 regarding the Initial Study/Mitigated Negative Declaration (Letter O-5), and a supplemental letter submitted by Mr. Ho on November 3, 2023. Dudek and Intersecting Metrics prepared detailed responses to the November 3, 2023 letter, a copy of which is attached hereto (“Technical Response Letter”). Please refer to the Response to Comment for Letter O-5 and Technical Response Letter for detailed responses to the issues and concerns raised in the October 27, 2023 and November 3, 2023 letters from Mr. Ho.

As further described in the Technical Response letter, the Restaurant Row project will be implemented in a manner that is consistent with its obligations under shared parking agreements with Fish House Vera Cruz (“FHVC”) and other adjacent property owners. Further, the proposed project is willing to provide an additional 15 parking spaces between the public park and the FHVC property, but requires cooperation from FHVC to make modest modifications to improvements within the FHVC parking lot to do so, which we understand FHVC is unwilling to accommodate. Even without those additional 15 parking spaces, there will be more than sufficient parking to satisfy the parking demands of the project and other existing land uses and nothing in the record supports the unfounded assertion that secondary impacts will result from a shortage of parking. The environmental analysis demonstrates that the project will not result in any significant adverse environmental impacts.

Please include this letter and the attachments herein to the administrative record for the Restaurant Row project (MITIGATED NEGATIVE DECLARATION (ND) 23-011, SPECIFIC PLAN

SheppardMullin

Sean del Solar
November 6, 2023
Page 2

(SP) 22-0004, GENERAL PLAN AMENDMENT (GPA) 22-0002, REZONE (R) 22-0002, TENTATIVE SUBDIVISION MAP (TSM) 22-0003, SITE DEVELOPMENT PLANS (SDP) 22-0006 (PRIVATE DEVELOPMENT), AND SDP 23-0004 (PUBLIC PARK).)

Very truly yours,



Jennifer L. Chavez
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:4894-4100-6478.1
Encl.

cc: David Shepherd
Stephen Cook
Vanessa Scheidel

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Sean del Solar
City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

November 6, 2023

Dear Mr. Sean del Solar,

The following information is provided in response to a comment letter submitted by Withers Bergman dated November 3, 2023 titled "Reply to Responses to Comments to Initial Study/Mitigated Negative Declaration for the Restaurant Row Project, Project No. SP22-0004, Environmental Document No. ND23-011, dated August 2023. Note that these responses were prepared in consultation with and reflects the expertise of traffic and parking consultant Stephen Cook, TE, from Intersecting Metrics. Mr. Cook is the consultant that prepared the parking and transportation analysis for the IS/MND.

Introductory Comments

Withers Bergman submitted a letter dated November 3, 2023 titled "Reply to Responses to Comments to Initial Study/Mitigated Negative Declaration for the Restaurant Row Project, Project No. SP22-0004, Environmental Document No. ND23-011, dated August 2023. The introductory comments state the City's responses to FHVC's September 20, 2023 letter commenting on the IS/MND do not adequately address parking and VMT concerns. These issues are further described herein.

The introductory comments also state that the private easements affecting the Proposed Project site are a CEQA issue because negative impacts to parking could result in secondary environmental impacts. The commenter does not provide any further description as to the secondary environmental impacts that might result. Finally, the letter states that the City bears potential liability for inverse condemnation for interfering with parking rights. As discussed herein, the Proposed Project is being designed in a manner that complies with private parking agreements and therefore will not result in any interference with parking rights.

Reply to Comments 05-8 and 05-7

The comment reiterates the initial claim that the Proposed Project will not provide sufficient parking to honor its existing agreements with adjacent property owners. Specifically, the commenter states the Proposed Project is required to provide 93 parking spaces to adjacent owners (36 to FHVC and 57 to the theater), but only has 24 parking spaces available for use by adjacent owners and therefore has a deficit of 69 parking spaces. This is an incorrect assessment of the shared parking obligations applicable to the Property.

First, the commentor fails to note that the Easement Agreement recorded on January 30, 1990 as Document Number 90-050972 only provides the non-exclusive right to use 36 parking spaces within the Proposed Project site. The exact language from the easement grants FHVC "the non-exclusive right to use in common with [Grantor]" 36 parking spaces on the Proposed Project property. (See Document Number 90-050972, Section 2.) Thus, the Proposed Project is only required to allow Fish House Vera Cruz (FHVC) access to 36 parking spaces on

the OCRR site, it does not require the Proposed Project to provide an “extra” 36 parking spaces for FHVC.¹ The Proposed Project will provide 100 non-reserved parking spaces within the Project site, which FHVC will have the non-exclusive right to access. Allowing this access fulfills the Proposed Project’s commitments outlined in Document Number 90-050972.

The comment also claims that the Proposed Project is responsible for providing 57 parking spaces to the Edwards Site (APN: 210-200-52-00) to fulfill the parking conditions, put onto the Edwards site, of providing access to 782 parking spaces, as outlined in CUP-94-255. However, nothing in CUP-94-255 or any other document requires the Project site to bear the sole responsibility for providing 57 parking spaces to the Edwards theater site. Edwards and a number of other owners in the larger shopping center entered into a Declaration of Reciprocal Easement Agreements recorded on November 7, 1996 as Document No. 1996-0564623, as modified by First Amendment to Declaration of Reciprocal Easement Agreement recorded on April 19, 1999 as Doc. No. 1999-0258087, that provides shared parking to, among other things, ensure the theater had access to 782 parking spaces (725 onsite plus 57 shared offsite parking spaces). After implementation of the Proposed Project, the Edwards Site will have access to 1,129 parking spaces, thus meeting the parking requirements of CUP-94-255. This includes over 100 parking spaces at the 338 Via Vera Cruz office building, which can be expected to have a complimentary parking demand as the office parking lot will likely be largely empty on nights and weekends when restaurants and the theater may be busier. The table below shows the parking spaces that will be accessible to Edwards site, via Document No. 1996-0564623, with the implementation of the Proposed project:

Parcel (APN)	Use(s)	Parking Spaces
2192003000	OCRR Site	100
2192003100		
2192004500		
2192004600	Cocina Del Charro	98
	Buffalo Wild Wings	49 ¹
2192002000	Wells Fargo	25
2192004200	338 Via Vera Cruz Office Building	132
2192004400	Regal Edwards San Marcos	725
2192005200		
2192005100	Theater Restaurants	
Total		1,129

¹ It should be noted that FHVC has sufficient onsite parking to satisfy its parking requirements and does not rely on the shared parking agreements to maintain compliance with City parking regulations. FHVC’s building is 9,100 square feet and requires only 77 parking spaces to comply with San Marcos Municipal Code (SMMC) requirements ($9,100 \div 1,000 \times 8.5$) (SMMC, Table 20.340-2.) FHVC has 83 parking spaces on its property.

Note:

¹Note there are currently 56 parking spaces within the Buffalo Wild Wings site. The number included within the table accounts for the seven parking spaces that will be removed to accommodate the implementation of the Multi-Way.

The commenter's suggestion that the Project alone is required to set aside dedicated parking spaces for FHVC or Edwards is unsupported and incorrect. The Proposed Project need only provide FHVC with non-exclusive access to 36 parking spaces, and the Proposed Project site in conjunction with several other parcels, needs to provide the theater site with access to 57 parking spaces. Please refer to the Old California Restaurant Row Parking Analysis, October 10, 2023, which was included as an attachment to the proposed project's Specific Plan (Appendix M to the MND), for further information about how the Proposed Project provides sufficient parking to comply with existing parking agreements. For the foregoing reasons, there is no doubt that the Proposed Project will meet its commitments outlined in Document Number 90-050972 and Document No. 1996-0564623.

Reply to Comments 05-9, 05-10, 05-11, and 05-12

This comment states that the review of parking conditions performed at Innovation Park is not comparable to the Proposed Project because that park does not have dedicated bleachers for players in waiting and has a 2-hour parking limit. The comment also notes that the date of the Innovation Park review is not disclosed. The parking counts at the Innovation Park pickleball courts were performed on Saturday September 16, 2023, and Sunday September 24, 2023. (See Attachment No. 1, Intersecting Metrics Memorandum dated October 3, 2023, re Innovation Park Pickleball Court Player Counts.) The absence of bleachers at Innovation Park is not expected to have a material impact on parking as players waiting for a court would simply wait elsewhere within the park, such as on the grass, at a bench or around the pickleball courts if bleachers are not available. The City does not believe a 2-hour parking limit is necessary for the park at the Proposed Project either. The Proposed Project has a large parking field which it can utilize, including more than 130 parking spaces at the 338 Via Vera Cruz office building located a short walk away.

It also bears noting that the proposed project is willing to provide an additional 15 parking spaces between the public park and the FHVC property but requires cooperation from FHVC to make modest modifications to improvements within the FHVC parking lot to do so. If FHVC provides the necessary approvals, the proposed project will provide 15 additional parking spaces next to the public park.

The commenter also states that Innovation Park has drawn criticism from the public based upon noise, crowding and failure to follow hours of operation. Those living near parks sometimes complain about periodic noise, light and other nuisances. Due to the location, siting and other design considerations for the pickleball courts and other components of the Proposed Project, and as the environmental analysis for the Proposed Project demonstrates, the pickleball courts are not expected to cause noise or other environmental impacts. The City also expects that park users will abide by posted hours of operation and other park rules and can enforce such rules as needed. The environmental analysis demonstrates that the pickleball courts will result in significant environmental impacts.

Reply to Comment 05-13

The comment requests that the gross square footage be used to calculate the parking requirements for commercial uses on-site. Using gross square footage is a common standard for single uses within the City, as specifically outlined for some uses in Table 20.340-1 of the SMMC. However, as outlined in Table 20.340-2 of the SMMC, projects within mixed use zones are not prescribed to use gross square footage as mixed use developments share unoccupied space (trash enclosures, utilities, access ways, public plazas, etc.), thus using gross square footage is not appropriate. Gross square footage was utilized in the Proposed Project trip generation calculations because it is the metrics in which the SANDAG Trip Generation Rates were developed.² As such, the Proposed Project correctly applied both the parking rates based on what is prescribed by each data source.

Reply to Comment 05-14

As discussed in the Responses to Comment to FHVC's letter, the Specific Plan establishes a custom parking standard for the Proposed Project that contemplates all features of the Proposed Project, including that outdoor dining with an area of up to 35% of interior floor area is permitted. The Proposed Project's parking standard was informed by restaurant parking demands for Cocina del Charro and other restaurants on adjacent parcels which have sizeable outdoor dining areas. With the anticipated mix of land uses for the proposed project, a 35% outdoor dining area is comparable to the City-wide standard that permits outdoor dining of up to 25% for non-mixed use projects without requiring additional parking. (San Marcos Municipal Code, Table 20.340-1.)³ In any event, an abundance of offsite parking through shared parking agreements ensures that project patrons will have sufficient parking available when visiting restaurants on the Proposed Project site. Moreover, parking is a social issue, not an environmental issue under CEQA.

Reply to Comment 05-15

Refer to previous response.

Reply to Comment 05-19

The commentor claims that the public park acreage should be included in the density calculation. This is incorrect, however, because while the applicant will construct the public park, the park and the land it is built on

² Using gross square footage also provides for a more conservative trip generation analysis for VMT purposes.

³ The generally applicable Municipal Code provision would require 1 space per 150 SF of outdoor dining area that exceeds 25% of the indoor floor area. Using the commenter's example, no parking would be required for the first 25% of outdoor area (7,295 SF x 0.25 = 1,823.75 SF). The remaining 729.25 SF of outdoor floor area (2,553-1823.75) would require 5 parking spaces (729.25/150 = 4.86), not 17 as the commenter notes. This would only be the case if Municipal Code Table 20.340-1 applied to the Proposed Project, but it does not because the Proposed Project is subject to the parking requirement for the Specific Plan which does not require additional parking for outdoor dining areas.

will be conveyed to the City in fee upon its completion. Therefore, the 1.1 acres of land in which the park will be constructed should not be included within the residential area of the Proposed Project as the comment suggests. This methodology of excluding public park areas is consistent with the SANDAG Trip Generation Guidelines which direct trip generations be calculated based on net residential acreage.

The comment suggests that the specialty retail / strip commercial trip generation rate of 40 trips per 1,000 SF was incorrectly applied and that a restaurant rate should be used instead. As noted in the initial response to comments, the restaurant rates included in SANDAG's (not so) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region (April 2002) are intended for standalone restaurants and are not intended for general commercial spaces, as what is being proposed by the project. Therefore, it is not appropriate to apply standalone restaurant rates to the commercial uses proposed within the project. This is further confirmed by the Shopping Center trip generation rate included within the ITE Trip Generation Manual. As shown in the excerpts below, this rate includes a variety of commercial uses including restaurants and has a similar trip generation rate (37 daily trips / 1000 SF) as SANDAG's strip commercial rate. It should also be noted that the ITE Trip Generation Manual was published in September 2021, and has is based on far more current data than the SANDAG's (not so) Brief Guide of Vehicular Traffic Generation Rates. As such, the trip generation rate of 40 trips per 1,000 SF of commercial space was correctly applied.

Land Use: 820 Shopping Center

Description

A shopping center is an integrated group of commercial establishments that is planned, developed, owned, and managed as a unit. A shopping center's composition is related to its market area in terms of size, location, and type of store. A shopping center also provides on-site parking facilities sufficient to serve its own parking demands. Factory outlet center (Land Use 823) is a related use.

Additional Data

Shopping centers, including neighborhood centers, community centers, regional centers, and super regional centers, were surveyed for this land use. Some of these centers contained non-merchandising facilities, such as office buildings, movie theaters, restaurants, post offices, banks, health clubs, and recreational facilities (for example, ice skating rinks or indoor miniature golf courses).

Many shopping centers, in addition to the integrated unit of shops in one building or enclosed around a mall, include outparcels (peripheral buildings or pads located on the perimeter of the center adjacent to the streets and major access points). These buildings are typically drive-in banks, retail stores, restaurants, or small offices. Although the data herein do not indicate which of the centers studied included peripheral buildings, it can be assumed that some of the data show their effect.

The vehicle trips generated at a shopping center are based upon the total GLA of the center. In cases of smaller centers without an enclosed mall or peripheral buildings, the GLA could be the same as the gross floor area of the building.

Shopping Center (820)

Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 147
1000 Sq. Ft. GLA: 453
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
37.75	7.42 - 207.98	16.41

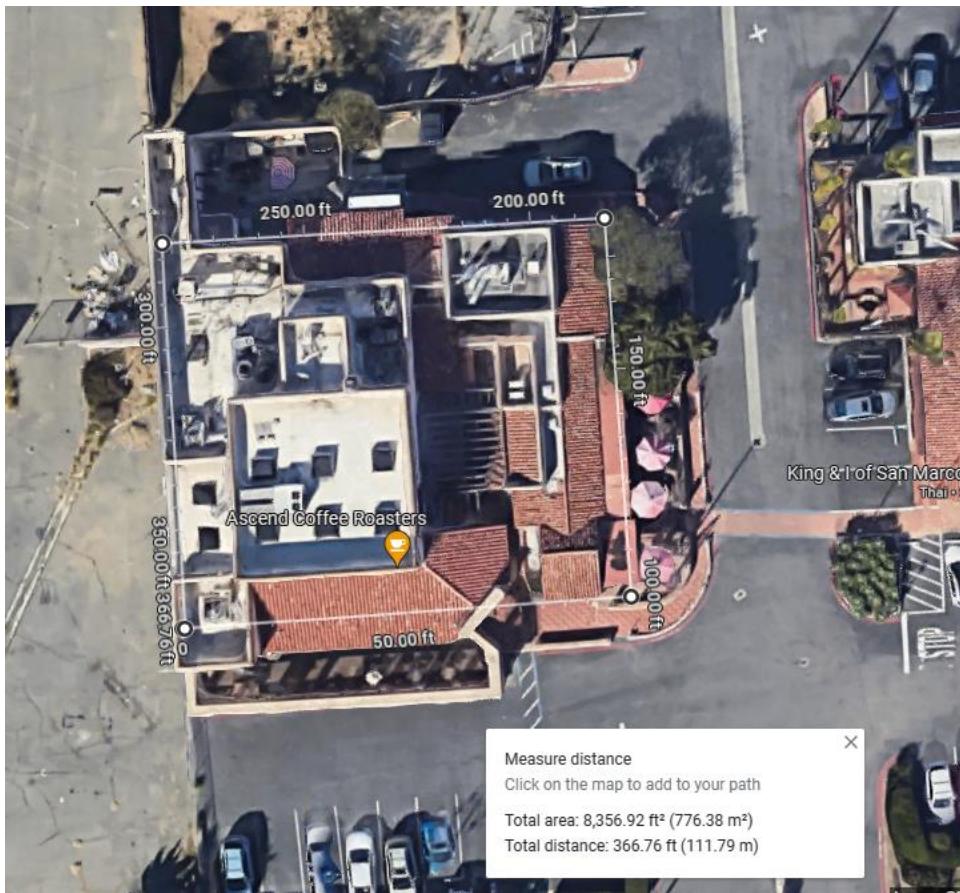
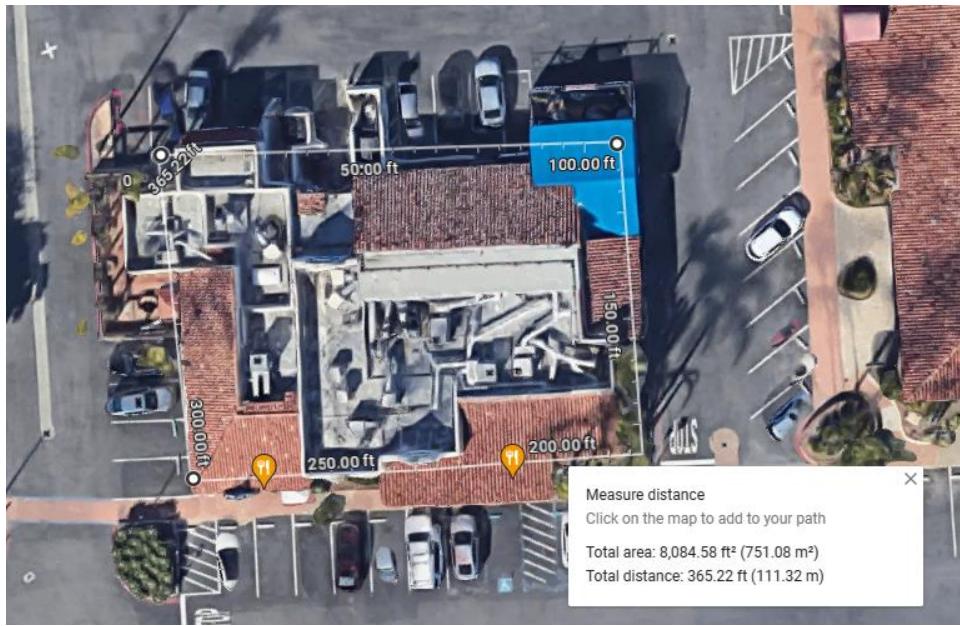
Finally, the commentator asserts that SANDAG's trip generation rate for tennis and racquetball courts should be applied to the pickleball courts on a per court basis because it is more accurate. However, as discussed in the original response to comment, the trip generation rate for a City Park (developed w/meeting rooms and sports facilities) was utilized when calculating the trip generation for the Proposed City Park. As such, this rate is far more representative of a park use with sports facilities (such as pickleball) than applying an arbitrary rate for uses (tennis and racquetball courts) which are not even included within the proposed park.

As such, the Proposed Project's trip generation was calculated correctly in the San Marcos Restaurant Row – VMT Impact Analysis Memo.

Reply to Comments 05-20 and 05-21

The comment notes that the eastern portion of the project site was demolished 7 years ago and should not be included in the 63,484 SF of existing restaurant uses on the project site. As shown in the figures below, the 63,484 SF of existing restaurant space only includes the three existing buildings within the OCRR site and do not include the former building to the east.





For the reasons stated in Response to Comments 05-20 and 05-21, substantial evidence demonstrates the Project will result in a reduction in VMT and therefore will not have a significant impact on transportation.

Attachment No. 1
Innovation Park Pickleball Court Parking Counts





MEMORANDUM

To: David Shepherd, Lennar
From: Stephen Cook, TE, Intersecting Metrics
Date: October 3, 2023
Regarding: Innovation Park Pickleball Court Player Counts

The purpose of this technical memorandum is to document the typical number of pickleball players that utilize a courts during peak times within the City of San Marcos.

To gain an understanding of the typical use a public pickleball court, within the City of San Marcos, player counts were conducted at the pickleball courts within Innovation Park. Innovation Park is a public park with four pickleball courts located at 1151 Armorlite Drive in San Marcos, CA. There are no specific parking spaces allotted for the park, but pickleball players and other park goers can utilize the public parking along Armorlite Drive. Since the parking along Amorlite Drive is open to all users and is shared with the residential uses and retail establishments in the area, parking demand counts for the Park could not be conducted.

Player counts were conducted at the park on both a Saturday (September 16, 2023) and Sunday (September 24, 2023) between 9:00 AM and 7:00 PM which was identified as the peak times by City of San Marcos Parks and Recreation staff. **Table 1** displays the maximum number of pickleball players that were observed to be in the park (either on the court or waiting to play) during each hour of the observation period.

Table 1: Innovation Park Pickleball Observations – Number of Players by Hour

Time	Max Players Observed	
	Saturday (9/16/2023)	Sunday (9/24/2023)
9:00 AM	27	16
10:00 AM	30	17
11:00 AM	19	13
12:00 PM	10	8
1:00 PM	14	6
2:00 PM	6	6
3:00 PM	8	4
4:00 PM	17	9
5:00 PM	22	10
6:00 PM	10	10

As shown in the table, the maximum number of pickleball players observed within Innovation Park was 30 total players, which occurred on Saturday morning at 10:00 AM.