



# Report

## MEETING OF THE PLANNING COMMISSION

**MEETING DATE:** September 6, 2011

**SUBJECT:** VenturePoint Development (Old California Restaurant Row)  
Indoor/Outdoor Entertainment & Special Events - CUP 11-857

### **Recommendation**

Conditionally approve indoor/outdoor entertainment activities and special events within an existing commercial center through a Major Conditional Use Permit (CUP).

### **Introduction**

The proposed Conditional Use Permit would attempt to transform Old California Restaurant Row from a static environment of restaurants into a dynamic family oriented destination and community gathering place with dining, outdoor entertainment, and provide a premier venue for community events such as classic car shows, farmers markets, arts and craft shows and seasonal performances. The project site is the entire 13.9-acre Old California Restaurant Row development consisting of 6 parcels on San Marcos Boulevard. In addition to the outdoor event venue, the project proposes to incorporate entertainment activities occurring within various businesses at Old California Restaurant Row and permit the operation of two (2) night clubs.

### **Discussion**

The subject site is zoned Commercial (C) with a General Plan land use designation of Commercial. The 74,633 square-foot commercial center ("Restaurant Row") is almost entirely occupied with restaurant uses. Currently, 1,813 square feet of space is used for retail use, but has the potential to also be used for food services in the future. Under this permit, restaurants would be allowed to conduct entertainment activities either within the enclosed buildings or on the patio areas associated with the restaurant. Four restaurants currently provide entertainment and/or dancing under Licenses issued by the City Clerk's Office to each individual business conducting the activity. This Conditional Use Permit would discontinue the requirement for these individual Licenses at Restaurant Row, and allow for any of the restaurants to offer limited entertainment activities as stipulated in the resolution. In addition, the project would permit limited Night club activities at two (2) designated sites which include the Acapulco Restaurant (suite "A," 11,000 sq. ft. of GFA) and suite "K," (6,006 sq. ft. of GFA). The proposal would also allow for the option of a future banquet hall use of suite "K." While the current tenant of suite "K," Sublime Ale House would operate as a restaurant and bar, all proposed entertainment activities, including night club operations shall be secondary to the primary restaurant use of the facilities.

The proposed CUP would also designate five (5) areas (identified on the site plan) to serve as outdoor entertainment venues. The outdoor entertainment venues would be of various

sizes to accommodate a variety of entertainment activities with attendance from 100 or less people (e.g. an arts and craft show in area "E") to large events with attendance of 1,000 people (e.g. a classic car show in area "A"). While although no more than one outdoor event would be allowed to occur at a time, these events could occur concurrently with entertainment offered inside the business of Restaurant Row under this permit.

The project requires approval of a Major Conditional Use Permit which assures that the project would be a compatible use with the restaurant and retail uses within the commercial center and surrounding area. The resolution sets forth conditions to address operational standards of the use, such as requirements to comply with noise standards, security, hours of operation, and storm water operational standards for outdoor events. In addition, the Resolution includes a detailed land use matrix proposed by the CUP as Exhibit "A."

Utilizing SANDAG's Traffic Generation Rates, the existing commercial center generates approximately 100 trips per 1,000 square feet of restaurant area. Therefore, "Restaurant Row" currently generates approximately 7,463 Average Daily Trips (ADTs). Based on the largest proposed outdoor special event with a potential 1,000 attendees, it is estimated that said special event would potentially generate 500 ADTs to the commercial center. The events 500 ADT would be for a stand-alone event; however it is anticipated that the events held on the site would draw attendance from the restaurant patronage. Approximately one-third of the attendees of the special events would be drawn from the restaurant patronage. The resulting actual increase of ADT would be then be considered less than significant with the inclusion of the special event. Due to the size of the events and occurrence on an occasional basis, the potential increase in ADT for the Business & Industrial District is negligible and no greater than anticipated for the area. It is estimated that the entertainment activities would not generate additional ADTs since said activities are conducted in conjunction with the existing restaurant uses on site. Access to the site will continue via the existing two (2) driveway entries on San Marcos Boulevard, three (3) entries on Via Vera Cruz, and one (1) from Las Posas Road via the movie theater development to the west. The site provides adequate circulation for vehicles and delivery and fire trucks, and this would be maintained when special events occur. The subject property provides 1,160 parking spaces for the existing restaurant and retail uses. 909 parking spaces are required per the City Parking Ordinance; therefore, the site provides an extra 251 spaces above the ordinance requirements. A parking survey was conducted over a two (2) week period to determine the amount of parking being utilized on site for the existing uses. The greatest number of parking spaces are used by patrons on Friday and Saturday evenings with an average of 662 cars parked in the parking lot. Per the site plan, Parking Lot Area A is the largest special event area, and would occupy 150 parking spaces leaving 1,010 spaces available for parking on site. Typically, most of those event attendees (an estimated two-thirds based on similar projects) will also visit the on-site restaurants. During the highest parking demand on Friday and Saturday evenings, with a peak use of 662 parking spaces, there would be an available 348 extra spaces available on site for those estimated one-third of attendees who may just attend the special event. In addition, the proposed special events are intended to be family-oriented activities where vehicles driving to the event would most likely be occupied by multiple persons (families); therefore, reducing the number of trips to the site and the demand for parking.

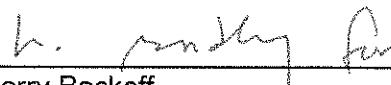
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**Attachment(s)**

Adopting Resolution

- A- Requested Entitlements
- B- Site & Project Characteristics
- C- Aerial Map
- D- Negative Declaration 11-812

Submitted by:

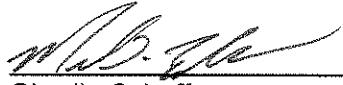
  
\_\_\_\_\_  
Jerry Backoff

Planning Division Director

  
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Michael D. Edwards

City Engineer

Reviewed by:

  
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Charlie Schaffer  
Development Services Director

for

**ATTACHMENT A**  
**Requested Entitlements**

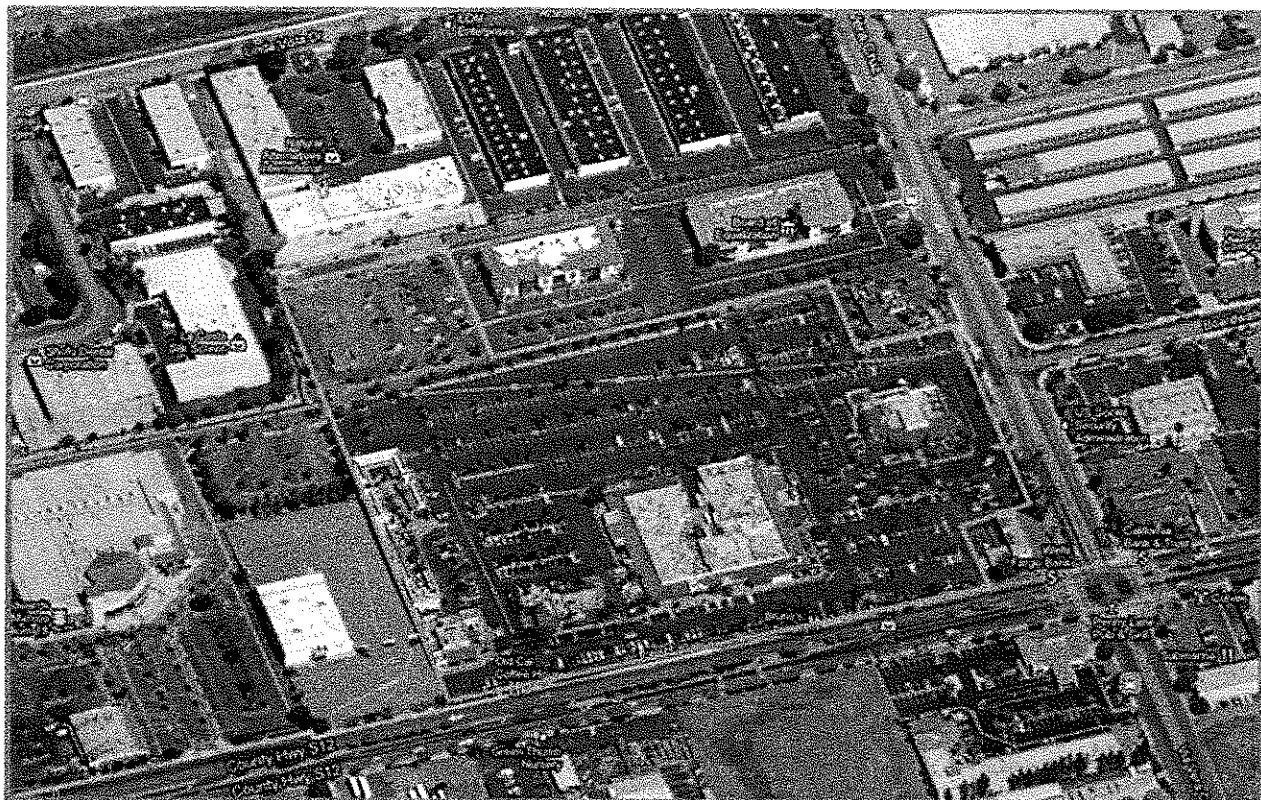
- Conditional Use Permit (CUP 11-857) to allow for indoor/outdoor entertainment and special events within an existing commercial center in Commercial (C) Zone in the Business & Industrial District.

**ATTACHMENT B**  
Site & Project Characteristics

| <u>Property</u>         | <u>Existing Land use</u>  | <u>Zoning</u> | <u>General Plan Designation</u> |
|-------------------------|---------------------------|---------------|---------------------------------|
| Subject                 | Commercial                | C             | Commercial                      |
| North                   | Office/Manufacturing      | L-M           | Light Industrial                |
| South                   | Non-conforming Commercial | SPA           | Specific Plan Area, Mixed-Use   |
| East                    | Commercial                | C             | Commercial                      |
| West                    | Commercial                | C             | Commercial                      |
| Flood Hazard Zone       |                           | <u>yes</u>    | <u>x</u> no                     |
| Resource Conserv. Area  |                           | <u>yes</u>    | <u>x</u> no                     |
| Redevelop. Proj. Area 1 |                           | <u>x</u> yes  | <u> </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 CUP 11-857

**ATTACHMENT C**  
Aerial Map



**ATTACHMENT D**  
Negative Declaration 11-812



RESOLUTION PC 11-4243

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING  
COMMISSION APPROVING A MAJOR CONDITIONAL USE  
PERMIT TO ALLOW INDOOR/OUTDOOR ENTERTAINMENT  
AND SPECIAL EVENTS WITHIN AN EXISTING  
COMMERCIAL CENTER IN THE COMMERCIAL (C) ZONE  
IN THE BUSINESS & INDUSTRIAL DISTRICT

CUP 11-857  
Old California Restaurant Row

WHEREAS, on June 8, 2011 an application was received from Old California Restaurant Row requesting a Major Conditional Use Permit to allow indoor/outdoor entertainment and special events within an existing commercial center ("Restaurant Row"), located at 1020-1080 San Marcos Boulevard, in the Commercial (C) Zone in the Business & Industrial District, more particularly described as:

Parcels 1, 2, 3, & 4 of Parcel Map No. 17325 in the City of San Marcos, County of San Diego, State of California, recorded in the Office of the County Recorder on February 28, 1994 as File No. 1994-0133864 of Official Records.

Assessor's Parcel Number: 219-200-30, 219-200-31, 219-200-45, & 219-200-46

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

WHEREAS, the required public hearing held on September 6, 2011 was duly advertised and held in the manner prescribed by law; and

WHEREAS, the Planning Commission did consider a Negative Declaration (ND 11-812) 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 for the Business & Industrial District in that the proposed entertainment and special events is compatible with the surrounding General Plan land use designation, "Commercial", and the restaurant uses within the existing commercial center; and helps to promote a variety of commercial activities within the community.
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 within the area in that the operation of the entertainment activities and special events will occur

within the enclosed buildings, restaurant patio areas, and designated areas in the parking lot; regulated by operational standards for the proposed activities; and adequate parking is provided during special events as demonstrated by the parking study. Large events will require a traffic management plan and onsite security to assist with way-finding/ directions to parking.

NOW, THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. A Mitigated Negative Declaration (ND 11-812) is hereby approved pursuant to the California Environmental Quality Act (CEQA).
- C. The Conditional Use Permit is approved per the submitted Events and Entertainment CUP Matrix (dated 8/31/2011 and provided as Attachment "A") as modified herein and the site plan (provided as Attachment "B") and shall not be expanded unless a modification to this permit is approved.
- D. The Conditional Use Permit is approved subject to compliance with the following conditions:
  1. The applicant/developer/Property Owner shall enter into an agreement with the City regarding financial participation in the Congestion Management Community Facility District ("CFD") 2011-01.
  2. All restaurants/food services with entertainment activities shall comply with the following operational standards:
    - a. Entertainment activities shall be ancillary to the primary use of the restaurant or food service. Food/drink sales shall be the primary sales of the restaurant or food service. A stand-alone night club shall be prohibited.
    - b. Area of entertainment shall be limited to the following percentages of dining floor space based on restaurant size:
      - (1) 0 to 4,000 sq-ft (gross) restaurant = 10% of dining floor space.
      - (2) 4,000 sq-ft (gross) or greater restaurant = 20% of dining floor space.
      - (3) Restaurant with night club = 30% of dining floor space.
    - c. Entertainment activities shall be limited to live music, disc jockey, karaoke, and dancing. Any other form of entertainment is unauthorized and shall be prohibited. Examples of unauthorized entertainment include, but are not limited to: wet t-shirt contests, bikini contests, lingerie shows, casino night themes, burlesque dancers, lap dancers, strippers or any form of adult entertainment per SMMC 20.88.100.

- d. Per this Conditional Use Permit, the definition of a nightclub shall be a commercial establishment which provides dancing and other entertainment (music, comedy, etc); may sell food and alcoholic beverages for consumption on the premises; and may charge customers a fee or require a minimum purchase to support the provision of entertainment and/or dancing. Music may be live, recorded, or presented by a disc jockey. Entertainment/dancing is the main draw. Dancing shall be limited to night clubs only in Suites A and K.
- e. Operators shall not charge a fee to enter the premises which includes, but is not limited to, advance ticket sales for any entertainment event or a coverage charge, except for fundraisers for nonprofit organizations and night club as defined per this Conditional Use Permit.
- f. Outdoor entertainment shall be limited to Suites A, B, C, E, F, H, K, N, O, P, Q, R, S, T, U, and V within its outdoor patio lease area.
- g. All entertainment activities shall cease operation by 12 midnight, except night club activities, which shall be limited to hours of operation between 5 p.m. and 1:30 a.m.
- h. All establishments providing entertainment shall, at times of entertainment activities provide sufficient quantities of licensed security personnel to ensure the protection of the public health, safety and welfare. Security personnel shall supervise patrons inside the establishment and shall be provided in a minimum ratio of one (1) security guard for fifty (50) patrons (1:50). Attendance of fifty (50) or more patrons shall require at least one (1) security guard. Business operators shall provide a minimum of one (1) additional security guard per fifty (50) patrons thereafter. Security guards must be readily identifiable as employees/agents of the permitted premises. Should the City receive complaints and/or experience an increase in calls for service for police/fire/medical assistance, additional security personnel shall be required and provided for by the applicant and/or business operator as determined necessary by the Sheriff's Department.
- i. All private security guards and security staff (bouncers) shall wear shirts and/or jackets with the word "SECURITY." The lettering shall be in a clearly discernible color.
- j. At night clubs, "In and Out" privileges of patrons are prohibited. No patron shall be allowed reentry into the facility after leaving during operation as a night club. This shall not include going into the outdoor dining area of the business or a designated smoking area.

- k. No person shall be granted entry into the facility providing entertainment if said person appears to be under the influence of any illegal controlled substance or are intoxicated.
- l. An owner or manager shall be on site during all entertainment activities.
- m. Managers and owners of night clubs (suites A and K) are subject to a background check and approval by the City. The City shall be notified of any change in address of ownership or change of ownership of the business conducting entertainment activities.
- n. All entertainers, staff members, and patrons shall be clothed at all times so that no anatomical areas, as specified per the City Municipal Code, are visible.
- o. All personnel, including management, are prohibited from consuming alcoholic beverages while on duty.
- p. If alcohol is being served, no one under the age of 21 shall be allowed within the entertainment area after 10 p.m., or earlier if the kitchen is not in operation, unless accompanied by a parent or guardian. For night club activities, no one under the age of 21 shall be allowed in the entertainment area while entertainment is taking place. This includes any entertainers.
- q. No one under the age of 21, including entertainers, shall be served alcoholic beverages.
- r. All employees who serve alcohol or check identification shall attend the Alcohol Beverage Control (ABC) LEAD Training or Responsible Beverage Sales & Service (RBSS) Training every two (2) years as required by City Ordinance No. 2009-1318. Confirmation of program participation shall be kept on file and made available upon request.
- s. The maximum occupancy for each restaurant or food service, including outdoor patio lease areas where applicable, shall not be exceeded at any time. The Occupancy Load sign shall be posted at all times.
- t. Exit doors shall not be blocked at any time.
- u. All activities shall occur within the enclosed building and/or outdoor patio lease area where applicable.
- v. The operator shall not maintain or construct any type of enclosed room intended for use by entertainers or customers for any purpose, except for restroom facilities.

- w. The individual business operators and/or the applicant shall not utilize the services of a paid promoter to market and/or advertise an individual event and/or entertainment activity. The use of collective marketing campaigns for center activities is permitted.
- x. Operations of the entertainment activities at all restaurants (including those occurring on outdoor patios) shall be conducted whereas not to become a noise nuisance to neighboring uses. Maximum sound levels shall not exceed 65 decibels at the perimeter of lease areas. It shall be the responsibility of the property management to monitor onsite noise levels during entertainment activities and resolve complaints between tenants regarding noise nuisances. If complaints are received by the City, the applicant shall be required to take immediate corrective action to respond to such complaints as deemed necessary by the Planning Division Director.

3. A banquet hall shall comply with the following operational standards:

- a. If not used as a restaurant or night club, Suite K may be used as a banquet hall.
- b. A banquet hall shall have a maximum size of 6,006 square feet.
- c. A banquet hall shall comply with all conditions for entertainment activities listed in Section D(2) of this resolution.

4. All outdoor special events shall comply with the following operational standards:

- a. Special events shall be limited to activities such as a farmers market, car shows, food fairs, art/crafts shows, performance shows, holiday and cultural events and other compatible events approved by the Planning Division Director. Swap meets, flea markets and concert venues are prohibited under this Conditional Use Permit.
- b. Outdoor parking lot special events shall be limited to Parking Lot Areas A through E as designated on the approved site plan and shall not be expanded beyond those boundaries.
- c. Admission to any special event allowed under this Conditional Use Permit shall be open and free to the general public. Special events that are fundraisers for nonprofits may establish and collect an admission fee.
- d. The maximum number of attendees anticipated for a special event shall not exceed the following levels per area: (A) 1,000 persons; (B) 500 persons; (C) 300 persons; (D) 250 persons; and (E) 100 persons.

- e. No more than one special event shall occur at any one time.
- f. For events with anticipated attendance greater than 350 persons, a traffic management plan shall be submitted to the Engineering Division for approval. The traffic management plan shall, at a minimum, include internal circulation patterns, temporary signage, flagger locations, event parking locations, queuing, routing and stacking locations of vehicles. Additionally the traffic management plan shall include routing and methods for handling on-site vehicular traffic and parking that exceeds the sites ability to accommodate. Review of the traffic management plan shall be subject to additional information requests by the Engineering Division as needed for a complete review of the traffic handling plan. Applicant shall pay a plan review fee of \$100.00 associated with the review of each traffic management plan. The City Engineer may waive the fee.
- g. Driveway circulation outside of the Parking Lot Areas shall remain free and unobstructed for two-way traffic.
- h. No event shall be allowed, through the use of this permit, to prohibit or reduce access to any adjacent property.
- i. Upon redevelopment of 1100 W. San Marcos Boulevard (Assessor Parcel Number 219-200-47), the property owner shall enter into an agreement for shared access and/or parking, an unsubordinated reciprocal access and 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.
- j. Special events in Parking Lot Area E shall not interfere with vehicle egress/ingress via the driveway entry off of San Marcos Boulevard or future access to adjacent parcels on west side of project site.
- k. All events shall have adequate restroom facilities available for attendees. Portable restrooms shall be required for large events and shall include ADA equipped temporary facilities as necessary.
- l. Enclosed tents and open canopies above 200 and 400 square feet in size, respectively, shall require issuance of a tent permit by the Fire Marshal.
- m. During special events, handicap access shall be maintained from parking lot to all buildings at all times.
- n. Operations of the Special Events shall be conducted whereas not to become a noise nuisance to neighboring uses. Maximum sound level shall be a

maintained at a maximum of 65 decibels as measured from the property boundary. It shall be the responsibility of the property management to monitor noise levels during special events and adjust operations to comply with this condition. If complaints are received, the applicant shall be required to take immediate corrective action to respond to such complaints as deemed necessary by the Planning Division Director.

5. If any Alcoholic Beverage Control (“ABC”) regulations/terms/conditions for any individual tenant are more restrictive than those contained within this Conditional Use Permit, then those more restrictive ABC regulations/terms/conditions shall take precedence. All ABC license conditions are incorporated herein.
6. All outdoor special events shall be conducted in compliance with the Storm Water Management requirements adopted by the City of San Marcos, including the following requirements:
  - a. A Storm Water Management plan shall be developed that shows storm drain inlets requiring protection within the event area. The management plan shall be provided to the City’s Stormwater Program Manager a minimum of one (1) week prior to the event and include a name and phone contact number of the person responsible for implementing the plan. The contact information for the person responsible shall reflect 24 hour / 7 day a week availability.
  - b. Event organizers must protect all storm drains identified within the event area in all weather conditions, and provide drain signage at each inlet that discourages storm drain pollution. Place signage over (i.e. via a traffic barricade), or adjacent to the storm drain(s) with the following wording: “Do not pour liquids or place trash into the storm drain. Violators will be subject to fines” and “No tire líquidos ni basura en los desagües. Violadores serán multados”.
  - c. If no rain is projected, event organizers shall place fabric filters or City-approved inlet protection device over the drain opening. The use of fabrics and other types of inlet protection devices shall require gravel bags or other form of hold down to keep them in place during the event. The gravel must be clean and free of sediment.
  - d. If a forty (40) percent chance or greater of rain is forecasted twenty-four (24) hours in advance of the event, event organizers shall place gravel bags protecting the storm drain perimeter or use other City-approved inlet protection devices. Fabric filters shall not be used in the event of rain.
  - e. All impacted catch basins identified on the special events storm water pollution prevention plan shall be visually inspected and cleaned (if necessary) following the special event and prior to an anticipated rain event

(40 percent chance or greater of rain in the forecast).

- f. Prior to the event, event organizers shall hold a pre-event meeting and train event staff and vendors in storm water pollution prevention activities at the event venue, and inform all vendors their storm water pollution prevention responsibilities. Proof of training shall be made available to City inspectors upon request. The following MUST be in a written form on site with each vendor along with a copy of storm water management plan:
  - (1) Food and beverage, and all chemical and liquid activities or products: Event organizers and vendors shall have spill kits in or adjacent to their work area. Spill kits include: paper towels, cloth towels, kitty litter and/or sand. All spill materials shall be picked up out of the public right of way once the spilled material is absorbed off the ground. Spills leaving the event venue area into the surrounding streets shall be captured and prevented from entering the surrounding non-event area(s) and storm drains.
  - (2) Craft/art creative areas and post event public art removal: All craft/art creative areas shall have spill kits on hand. Post event clean-up of these areas includes removal of temporary public art (chalk, paint, charcoal, clay, etc). Event/vendor staff shall use wet-mops. Any water in a bucket must be either poured into the sanitary sewer (i.e. via a sink), or released over a landscaped area that has adequate capacity to contain the liquids and the pollutant without allowing discharge onto sidewalks, curbs, gutters streets and drains.
  - (3) Adequate trash containers must be provided throughout the event venue, including at the exit and entry points. Regular collection of loose trash and debris shall occur during events. All trash and /or recycling collection areas shall have spill kits and wet mop(s) and brooms available and staff trained in spill clean-up methods.
  - (4) Post event sweeping of the entire venue area and related staging areas is required.
  - (5) All temporary portable restrooms shall be placed away from all storm drain inlets, drainage swales, water bodies, and any other locations that have the potential to impact the storm drain system. All temporary portable restrooms are required to have a secondary containment pan or additional BMPs in place around the stations for possible overflows. The contact information for the company responsible for the stations shall be clearly marked on or around the stations.

- (6) In accordance with Chapter 14.15 San Marcos Municipal Code and Order R9 2007-0001, non-storm water discharges to the City MS4 (street, sidewalk, curb, gutter, storm drains) are strictly prohibited during the operation and maintenance of the facility or event.
7. The operator for each restaurant or food service shall be responsible for compliance with all applicable State of California Department of Alcoholic Beverage Control (ABC) rules and regulations which are incorporated herein. In addition, any special event that includes the selling and/or serving of alcohol shall comply with the aforementioned regulations.
8. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons on or about the parking lot.
9. The use of mobile light towers, flood lights, lasers, klieg lighting (e.g. "searchlights") or other similar temporary outdoor lighting devices shall be prohibited under this Conditional Use Permit.
10. During entertainment activities and special events, the operator(s) shall provide sufficient, licensed security personnel to ensure the protection of the public health, safety, and welfare. Security personnel shall supervise patrons for indoor/outdoor entertainment activities, including dedicated security in the parking lot, and during special events. Security guards shall be easily identifiable.
11. For events in excess of 1,000 people, the applicant shall contract with the San Diego County Sheriff's Department for traffic control and security services.
12. Applicant shall provide a list of outdoor events/activities to the Planning Division a minimum of 2 weeks prior to any events/activities. If any proposed event has the potential to adversely impact traffic and circulation, the City will work with the applicant to reschedule the event or modify operations to mitigate such impacts.
13. If ABC requirements for security for an individual tenant are more restrictive, then those restrictions shall take precedence and are incorporated herein.
14. Any incident requiring security measures (reactive intervention or mediation) by on-site staff shall be immediately reported to the Sheriff's Department. All onsite staff shall cooperate, aide and assist the Sheriff's Department in the collection of information regarding any incident requiring a response.
15. Excessive or severe incidents, as determined by the City of San Marcos, Sheriff's Department, or ABC, may result in mandatory training classes, imposition of additional restrictive conditions, or modification or revocation of this Conditional Use Permit.

16. All operators shall obtain and maintain a City Business License.
17. A separate permit shall be required for any new monument or wall signage. Wall signage shall be individual channel or cut-out letters. Temporary signs, such as banners, require issuance of a Temporary Sign Permit by the City.
18. Building address and suite number shall be clearly labeled for day and night-time emergency responses. In addition, adequate lighting shall be provided to deter potential criminal activities (i.e. vehicle burglaries, prowlers, loitering, etc.).
19. Prior to the first outdoor event, the applicant shall prepare and implement an accessibility transition plan prepared by a Certified Access Specialist. Said program shall identify all barriers located on the site and address how to mitigate these barriers within a reasonable amount of time. A final copy of the program shall be given to the City for its files.
20. Any new construction, alteration, improvement, or modification to an existing building requires the issuance of a building permit and compliance with the minimum code requirements of the latest adopted California Building Code.
21. Prior to issuance of any building permit, the following conditions shall be complied with:
  - a. 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.
  - b. 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.
  - c. 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.
  - d. 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.
  - e. An automatic fire extinguishing system may be required in accordance with the latest adopted California Building Code, California Residential 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. System may be required based on occupant loads and occupancy classifications.

- f. 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.
- g. The applicant/developer for new development, building expansion, redevelopment or discretionary use is required to pay Public Facilities Fees as established by the latest adopted Public Facilities Fee. The fee is based on the proposed land use and shall be paid prior to the issuance of the first permit for the development.
- h. 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.
- i. 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.
- j. 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.

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

F. The City shall approve changes in the use or occupancy of an existing building. The City shall inspect and approval all new uses prior to the issuance of a Certificate of Occupancy ("C of O"). Buildings or structures shall not be occupied until the appropriate City departments and agencies have approved the buildings for occupancy.

G. This Use Permit shall be reviewed every six months by the City to determine if its use is having a detrimental impact on the surrounding uses or if the conditions of approval are not being met. If based upon this review, it is determined that the conditions of approval are not being complied with or the use is having a detrimental impact then the Conditional Use

Permit shall be referred to the Planning Commission for possible modification/revocation.

- H. 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.
- I. 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.
- J. This Conditional Use Permit shall expire on September 6, 2014 and may be renewed administratively. Any request for permit extension shall be applied for by the permittee no later than thirty (30) days prior to the expiration date. It is the permittee's responsibility to track the expiration date of this CUP.
- K. 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 6<sup>th</sup> day of September, 2011, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

---

Steve Kildoo, Chairman  
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

---

Lisa Kiss, Planning Secretary  
SAN MARCOS CITY PLANNING COMMISSION

Attachment: A&B



## Old California Restaurant Row

1020 West San Marcos Blvd ♦ Suite 200  
San Marcos ♦ CA 92078

## CONDITIONAL USE PERMIT

三

EVENTS & ENTERTAINMENT

## PERMITTING & FEES

## 1 Conforming use approval process and time requirement

|        | Process Time   | Permit Fee | Annual Review |
|--------|----------------|------------|---------------|
| Events | Exterior Site  | na         | na            |
| Events | Banquet        | na         | na            |
| Tenant | Interior       | na         | na            |
| Tenant | Exterior Patio | na         | na            |

## OWNER ENFORCEMENT

## 2 Owner Enforcement, Conditions of Approval

|        | Rules & Regulation | CC&R | Event Security | Crowd Control | Delineation |
|--------|--------------------|------|----------------|---------------|-------------|
| Events | X                  |      | X              | X             | X           |
| Events | X                  |      | X              | X             | X           |
| Tenant | X                  |      |                |               |             |
| Tenant | X                  |      |                |               |             |

## AGENDA ITEM

# Old California Restaurant Row

1020 West San Marcos Blvd ♦ Suite 200  
San Marcos ♦ CA 92078

## CONDITIONAL USE PERMIT

final

August 31, 2011

## EVENTS & ENTERTAINMENT

### PROPERTY: EXTERIOR SITE

| <u>AREA</u>          | <u>TOTAL SITE PARKING</u> | <u>SITE RATIO PARKING</u> | <u>EVENT LOST</u>       | <u>REMAINING PARKING</u> | <u>REMAING RATIO</u>  | <u>REA GAIN THEATER</u> | <u>W/REA RATIO</u> |
|----------------------|---------------------------|---------------------------|-------------------------|--------------------------|-----------------------|-------------------------|--------------------|
| A                    | 1160                      | 14.1                      | 150                     | 1010                     | 12.3                  | 0                       | 12.3               |
| B                    | 1160                      | 14.1                      | 69                      | 1091                     | 13.3                  | 0                       | 13.3               |
| C                    | 1160                      | 14.1                      | 35                      | 1125                     | 13.7                  | 0                       | 13.7               |
| D                    | 1160                      | 14.1                      | 22                      | 1138                     | 13.9                  | 0                       | 13.9               |
| E                    | 1160                      | 14.1                      | 9                       | 1151                     | 14.0                  | 0                       | 14.0               |
| <u>BUILDING AREA</u> |                           |                           |                         |                          |                       |                         |                    |
| Fish House           | 5,000                     | sf                        |                         |                          |                       |                         |                    |
| Bank                 | 2,500                     | sf                        |                         |                          |                       |                         |                    |
| OCRR                 | <u>74,633</u>             | <u>sf</u>                 |                         |                          |                       |                         |                    |
| total                | 82,133                    | sf                        |                         |                          |                       |                         |                    |
|                      |                           |                           | <u>REQUIRED PARKING</u> | <u>REQUIRED RATIO</u>    | <u>EXCESS PARKING</u> |                         |                    |
|                      |                           |                           | 909                     | 11.1                     | 251                   |                         |                    |

## Old California Restaurant Row

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San Marcos • CA 92078

### CONDITIONAL USE PERMIT

final

August 31, 2011

### PROPERTY: EXTERIOR SITE

### EVENTS & ENTERTAINMENT

| USE                       | AREA<br>A | AREA<br>B | AREA<br>C | AREA<br>D | AREA<br>E |
|---------------------------|-----------|-----------|-----------|-----------|-----------|
| Holiday & Cultural Events | X         | X         | X         | X         | X         |
| Cultural Arts             |           |           |           |           |           |
| Performance               | X         | X         | X         | X         | X         |
| Art/Craft Shows           | X         | X         | X         | X         | X         |
| Community Venue           |           |           |           |           |           |
| School                    | X         | X         | X         | X         | X         |
| K8, High School, College  |           |           |           |           |           |
| Non-Profit Organizations  |           |           |           |           |           |
| YMCA, Boy Scouts          | X         | X         | X         | X         | X         |
| Community Groups          | X         | X         | X         | X         | X         |
| Community Events          |           |           |           |           |           |
| Farmers Market            | X         | X         | X         | X         | X         |
| Car Shows                 | X         | X         | X         | X         | X         |
| Food Fairs                | X         | X         | X         | X         | X         |

## Old California Restaurant Row

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### CONDITIONAL USE PERMIT

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August 31, 2011

### PROPERTY: EXTERIOR SITE

### EVENTS & ENTERTAINMENT

| CONDITIONS                              | AREA<br>A | AREA<br>B | AREA<br>C | AREA<br>D | AREA<br>E |
|---|-----------|-----------|-----------|-----------|-----------|
| Area                                    | 22,500 sf | 13,250 sf | 11,500 sf | 9,550 sf  | 3,400 sf  |
| Attendance                              | 1,000 ea  | 500 ea    | 300 ea    | 250 ea    | 100 ea    |
| Parking Generated (3.5 Attendees/car)   | 286       | 143       | 86        | 71        | 29        |
| Parking Count Increase (33% event only) | 94        | 47        | 28        | 24        | 9         |
| Stage Area                              | 400 sf    | 300 sf    | 300 sf    | 300 sf    | 200 sf    |
| Event Frequency                         |           |           |           |           |           |
| Weekly                                  | X         | X         | X         | X         | X         |
| Days                                    |           |           |           |           |           |
| Mon - Sun                               | X         | X         | X         | X         | X         |
| Hours                                   |           |           |           |           |           |
| 6 am - 12 midnight                      | X         | X         | X         | X         | X         |
| Lighting                                | X         | X         | X         | X         | X         |
| Tenting                                 | X         | X         | X         | X         | X         |
| Delination                              | X         | X         | X         | X         | X         |
| Circulation                             | X         | X         | X         | X         | X         |
| Decibel Reading @ Tenant Area           | 65        | 65        | 65        | 65        | 65        |
| Security                                | X         | X         | X         | X         | X         |

## Old California Restaurant Row

1020 West San Marcos Blvd ♦ Suite 200  
San Marcos ♦ CA 92078

### CONDITIONAL USE PERMIT

final

### PROPERTY: TENANTS

### EVENTS & ENTERTAINMENT

Interior Entertainment Area  
60%

| TENANT USE           | TENANT SUITES    |                   |                  |                | TENANT SUITES  |          |              |                | TENANT SUITES |    |    |    |
|----------------------|------------------|-------------------|------------------|----------------|----------------|----------|--------------|----------------|---------------|----|----|----|
|                      | A                | B                 | C                | D              | E              | F        | G            | H              | E             | F  | G  | H  |
| Size                 | 11,000 sf        | 5,690 sf          | 6224 sf          | 2200 sf        | 6000 sf        | 2593 sf  | 2760 sf      | 3,465 sf       |               |    |    |    |
| Current Type Allowed | Acapulco Mexican | Tony Roma's Steak | Mining Co Family | 55 Yard Sports | Cocina Italian | Vacant   | India Indian | Katsu Japanese |               |    |    |    |
| Retail               |                  |                   |                  |                |                |          |              |                |               |    |    |    |
| Restaurant           | X                | X                 | X                | X              | X              | X        | X            | X              | X             | X  | X  | X  |
| Patio Dining         | X                | X                 | X                | X              | X              | X        | X            | X              | X             | X  | X  | X  |
| Liquor               |                  |                   |                  |                |                |          |              |                |               |    |    |    |
| Entertainment        |                  |                   |                  |                |                |          |              |                |               |    |    |    |
| Interior             | 6,600 sf         | 3,414 sf          | 3,734 sf         | 1,320 sf       | 3,600 sf       | 1,556 sf | 1,656 sf     | 2,079 sf       |               |    |    |    |
| Exterior             | X                | X                 | X                | X              | X              | X        | X            | X              | X             | X  | X  | X  |
| Music                | X                | X                 | X                | X              | X              | X        | X            | X              | X             | X  | X  | X  |
| Dancing              | X                | X                 | X                | X              | X              | X        | X            | X              | X             | X  | X  | X  |
| Decibel (1)          | 65               | 65                | 65               | 65             | 65             | 65       | 65           | 65             | 65            | 65 | 65 | 65 |
| Mon-Sun Hours        | X                | X                 | X                | X              | X              | X        | X            | X              | X             | X  | X  | X  |
| 6 am - 12 mid        | 1:30 AM          | X                 | X                | X              | 1:00 AM        | X        | X            | X              | X             | X  | X  | X  |
| Bar/Nightclub        | X                |                   |                  |                |                |          |              |                |               |    |    |    |
| Thurs-Sat            | X                |                   |                  |                |                |          |              |                |               |    |    |    |
| Banquet Hall         | X                |                   |                  |                |                |          |              |                |               |    |    |    |

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August 31, 2011

## Old California Restaurant Row

### CONDITIONAL USE PERMIT

#### PROPERTY: TENANTS

final

#### EVENTS & ENTERTAINMENT

Interior Entertainment Area  
final  
60%

| TENANT USE           | I                 | J               | K (2)             | L           | M             | N             | O              | P               |
|----------------------|-------------------|-----------------|-------------------|-------------|---------------|---------------|----------------|-----------------|
| Size                 | 4,410 sf          | 4,488 sf        | 6006 sf           | 4345 sf     | 1880 sf       | 1360 sf       | 5273 sf        | 1850            |
| Current Type Allowed | China Wok Chinese | Bruno's Italian | Sublime Ale House | IHOP Family | King & I Thai | Coffee Coffee | SM Brew Sports | Rhythm Southern |
| Retail               |                   |                 |                   |             |               |               |                |                 |
| Restaurant           | X                 | X               | X                 | X           | X             | X             | X              | X               |
| Patio Dining         | X                 | X               | X                 | X           | X             | X             | X              | X               |
| Liquor               |                   |                 |                   |             |               |               |                |                 |
| Entertainment        |                   |                 |                   |             |               |               |                |                 |
| Interior             | 2,646 sf          | 2,693 sf        | 3,604 sf          | 2,607 sf    | 1,128 sf      | 816 sf        | 3,164 sf       | 1,110           |
| Exterior             |                   |                 | X                 | X           | X             | X             | X              | X               |
| Music                | X                 | X               | X                 | X           | X             | X             | X              | X               |
| Dancing              |                   |                 |                   |             |               |               |                |                 |
| Decibel              | 65                | 65              | 65                | 65          | 65            | 65            | 65             | 65              |
| Mon-Sun Hours        | X                 | X               | X                 | X           | X             | X             | X              | X               |
| 6 am - 12 mid        | X                 | X               | X                 | X           | X             | X             | X              | X               |
| Bar/Nightclub        | X                 |                 |                   |             |               |               |                |                 |
| Thurs-Sat            |                   | X               | X                 |             |               |               |                |                 |
| Banquet Hall         |                   |                 | X                 |             |               |               |                |                 |

(1) Landlord reserves the right to evaluate and modify the decibel regulation as required  
 (2) Suite K is designated as future banquet use

## Old California Restaurant Row

### CONDITIONAL USE PERMIT

#### PROPERTY: TENANTS

final

#### EVENTS & ENTERTAINMENT

Interior Entertainment Area  
60%

| TENANT USE           | Q               |    |              | R  |               |    | S             |    |     | T  |     |    | U       |        |       | V      |  |  |
|----------------------|-----------------|----|--------------|----|---------------|----|---------------|----|-----|----|-----|----|---------|--------|-------|--------|--|--|
|                      | 1,934           | sf | 1,342        | sf | 713           | sf | 290           | sf | 230 | sf | 380 | sf | Couture | Retail | Decor | Retail |  |  |
| Current Type Allowed | Rhythm Southern |    | Canapés Wine |    | Vacant Retail |    | Unique Retail |    |     |    |     |    |         |        |       |        |  |  |
| Retail               |                 |    |              |    | X             |    | X             |    | X   |    | X   |    | X       |        | X     |        |  |  |
| Restaurant           | X               |    | X            |    | X             |    | X             |    | X   |    | X   |    | X       |        | X     |        |  |  |
| Patio Dining         | X               |    | X            |    | X             |    | X             |    | X   |    | X   |    | X       |        | X     |        |  |  |
| Liquor               | X               |    | X            |    | X             |    | X             |    | X   |    | X   |    | X       |        | X     |        |  |  |
| Entertainment        |                 |    |              |    |               |    |               |    |     |    |     |    |         |        |       |        |  |  |
| Interior             | 1,160           | sf | 805          | sf | 428           | sf | 174           | sf | 138 | sf | 348 | sf |         |        |       |        |  |  |
| Exterior             | X               |    | X            |    | X             |    | X             |    | X   |    | X   |    | X       |        | X     |        |  |  |
| Music                | X               |    | X            |    | X             |    | X             |    | X   |    | X   |    | X       |        | X     |        |  |  |
| Dancing              |                 |    |              |    |               |    |               |    |     |    |     |    |         |        |       |        |  |  |
| Decibel              | 65              |    | 65           |    | 65            |    | 65            |    | 65  |    | 65  |    | 65      |        | 65    |        |  |  |
| Mon-Sun Hours        | X               |    | X            |    | X             |    | X             |    | X   |    | X   |    | X       |        | X     |        |  |  |
| 6 am - 12 mid        |                 |    | X            |    | X             |    | X             |    | X   |    | X   |    | X       |        | X     |        |  |  |
| Bar/Nightclub        |                 |    |              |    |               |    |               |    |     |    |     |    |         |        |       |        |  |  |
| Thurs-Sat            |                 |    |              |    |               |    |               |    |     |    |     |    |         |        |       |        |  |  |
| Banquet Hall         |                 |    |              |    |               |    |               |    |     |    |     |    |         |        |       |        |  |  |

## Old California Restaurant Row

## CONDITIONAL USE PERMIT

EVENTS & ENTERTAINMENT

**1020 West San Marcos Blvd • Suite 200**  
**San Marcos • CA 92078**

August 31, 2011

WEST SAN MARCOS BLVD.

## Site Plan