



# AGENDA REPORT

**MEETING DATE:** June 2, 2014  
**SUBJECT:** The Jumping Turtle Bar and Grill – CUP Renewal/Modification  
1660 Capalina Road, Suite B  
APN: 219-115-35  
**CASE:** P14-0008 (CUP 14-004)

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## Recommendation

Conditionally approve the continued operation of an entertainment venue without provisions allowing the attendance of minors (persons under age 21) to performances at an existing restaurant and bar through a Conditional Use Permit.

## Introduction

In 2003, the Jumping Turtle Bar and Grill was issued an Entertainment License by the City allowing the establishment to conduct entertainment such as live music, provided the entertainment was ancillary to the operation of the restaurant. The permit was revoked on November 27, 2009 when the City determined that the level of entertainment (i.e. use of a stage, dance floor, admittance fees, etc.) was outside the scope of the Entertainment License. As a result, Breen Enterprises, Inc. filed an application for a Conditional Use Permit (CUP 10-821) which the Planning Commission approved for a three (3) year term on February 7, 2011. This permit also contained provisions to allow performances for both adults and individuals under age 21.

## Discussion

The current zoning and General Plan land use designation of the property is Mixed Use 3 (MU-3). The project site is bounded on the west by N. Rancho Santa Fe Road, to the north by W. Mission Road, to the east by N. Pacific Street and to the south by Capalina Road. To the south of the project site are quick service restaurants, retail and office uses in commercial centers and small business parks all located within the Business Park (B-P) zone. To the north of the project site (across W. Mission Road) is a residential neighborhood with detached single family homes. To the west (across N. Rancho Santa Fe Road) is another residential neighborhood zoned R-2 with multifamily units. Immediately adjacent to the project site (to the east) is a vacant lot also zoned MU-3.



The 3.64 acre property containing the Jumping Turtle Bar and Grill was developed with three (3) other commercial buildings, parking facilities for approximately 215 vehicles, landscaping and associated improvements. Businesses operating at the site include a church, medical offices, retail uses and a liquor store. The Jumping Turtle Bar and Grill currently occupies a 4,240 square foot portion of an existing building located in the southwest corner of the property, near the intersection of N. Rancho Santa Fe and Capalina Roads. According to the floor plans submitted by the applicant, interior improvements at the facility include 922 square feet of kitchen area, 1,513 square feet of dining area, a 301 square foot stage, a 439 square foot dance floor, 887 square feet of bar area and 178 square feet of restroom facilities.

The project site was originally developed under the Commercial (C) zoning designation, which allowed the establishment of restaurants with the service of alcohol by right. Alcohol sales are regulated through the State of California Department of Alcohol Beverage Control (ABC) and require a separate license issued by the ABC. The Mixed Use 3 (MU-3) zone is intended to support a job-based mixed use area combining both commercial and office uses within a single development without a residential component. Although new development in the MU-3 zone requires the adoption of a Specific Plan, since the property was developed and the use was established prior to the December 13, 2012 Zoning Ordinance adoption, the existing structures and uses are considered legal nonconforming. In addition, the continued operation of the restaurant and the entertainment venue are considered consistent with the goal and intent of the MU-3 zone, with approval of a Conditional Use Permit.

As previously indicated, this application is for a renewal and modification of an existing Conditional Use Permit. The modification aspect of the CUP renewal reflects several elements, including a request by the applicant to remove provisions for minors (individuals under the age of 21) to attend performances during the operation of the entertainment venue. In addition, the City made several changes throughout the permit to update and enhance conditions of approval, including those related to security personnel. The CUP has been updated to reflect the Sheriff Department's current standard for the use of two (2) security guards for crowds of up to fifty (50) people and an additional two (2) security guards for every fifty (50) people thereafter. Additionally, conditions have been added to the CUP to establish a process to address potential noise complaints.

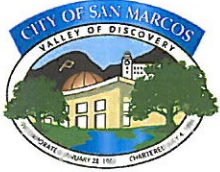
During the processing of this application, staff was contacted by a resident from the El Dorado Mobile Home Park at 1515 Capalina Road (approximately 500 feet east of the project site). As a result, City staff conducted a number of site visits to the mobile home park to observe noises associated the project. These site visits were unannounced to the applicant and conducted during daytime hours (during normal operation of the business, without the operation of the entertainment venue), on weeknights (when the business was operating but without the use of the entertainment venue) and on weekend nights (when the entertainment venue was in use). The result of the site visits was a



determination by staff that although a discernable pulse of music from the project site can be heard at the northwest corner of the mobile home park (the closest point to the project site), there is no measurable change in noise levels between times the entertainment venue is and is not operating. This is primarily due to the urban setting of the project site, in close proximity to several noise generating sources that include but are not limited to: State Route (SR) 78, railroad tracks used by the North County Transit District, and both Mission and Rancho Santa Fe Roads. Notwithstanding this situation, the project has been conditioned so that if a future violation of the City's noise regulations is validated, the applicant would be responsible to mitigate noise impacts. In addition, the Sheriff's Department retains the right to investigate any complaint made by a resident and enforce the noise ordinance as determined necessary by the responding deputy on a case by case basis. A search of calls for service to the Sheriff's Department over the last six (6) years determined that a total of three (3) noise complaints had been received. When these have occurred, the Sheriff's deputies approached the operation and no further complaints were received.

The previous Conditional Use Permit also required the applicant to deposit \$10,000 into an enforcement account to be used for cost recovery purposes should a major public safety incident occur or investigation/enforcement action be necessary at the project site as the result of the operation of the entertainment venue. Staff is recommending this amount be reduced to \$6,000 because during the previous term of the CUP, the City did not have to draw against the deposit. Additionally, the facility has experienced a 36% drop in the call volume of requests for police services during the term of the previous CUP as compared to the previous 3 year term preceding the CUP. The property is already annexed into all four (4) of the Community Facility Districts which mitigate nominal impacts to City Services, including, but not limited to police, fire and paramedic services as well as congestion management and open space/street maintenance. Should the balance of the deposit account ever fall below the required minimum amount of \$6,000, the applicant would be required to provide remittance in the amount necessary to restore the minimum required account balance within thirty (30) days of notification, or the Conditional Use Permit could be suspended.

Lastly, it should be noted that approval of the Conditional Use Permit would allow the continued operation of the entertainment venue at the project site. If approved, the conditions contained in resolution number PC 14-4418 would only apply to the business during the operation of the entertainment venue. The "normal operation" of the restaurant and bar would not be subject to the conditions of approval; nor would any entertainment conducted ancillary to the operation of the restaurant (i.e. the use of electronic gaming devices "buzztime trivia") be subject to the conditions of approval.

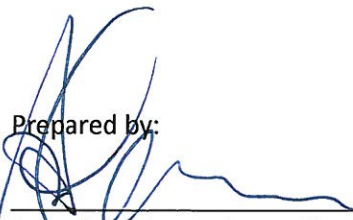


### Attachment(s)


#### Adopting Resolution

- A- Vicinity Map
- B- Aerial Photo
- C- Requested Entitlement
- D- Site & Project Characteristics
- E- Mitigated Negative Declaration (ND 10-805)
- F- Project Plans

Prepared by:

  
Sean del Solar, Assistant Planner

Reviewed by:

  
Karen Brindley, Principal Planner

Approved by:

  
Jerry Backoff, Planning Division Director

RESOLUTION PC 14-4418

A RESOLUTION OF THE SAN MARCOS PLANNING  
COMMISSION APPROVING A CONDITIONAL USE PERMIT  
TO ALLOW THE CONTINUED OPERATION/MODIFICATION  
OF AN ENTERTAINMENT VENUE AT AN EXISTING  
RESTAURANT AND BAR IN THE MIXED USE 3 (MU-3)  
ZONE OF THE BUSINESS & INDUSTRIAL DISTRICT

CUP 14-004  
(Project No. P14-0008)  
Breen Enterprises, Inc.  
d.b.a. The Jumping Turtle Bar and Grill

WHEREAS, on February 5, 2014 an application was received from Breen Enterprises, Inc., requesting a Conditional Use Permit to allow the continued operation of an entertainment venue without the inclusion of provisions to allow performances for audiences with minors at an existing restaurant and bar, located at 1660 Capalina Road, Suite B, in the Mixed Use 3 (MU-3) zone with a General Plan Land Use Designation of Mixed Use 3 (MU3) in the Business and Industrial District, more particularly described as:

Parcel 1 of Parcel Map No. 2003 filed Oct 23, 1973 as file no. 73-296977 in the Office of Recorder of San Diego County, State of California.  
Assessor's Parcel Number: 219-115-35

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

WHEREAS, the Conditional Use Permit (CUP 10-821) approved by the Planning Commission on February 7, 2011 expired on February 7, 2014 and an application to renew was filed on February 5, 2014; and

WHEREAS, at the time CUP 10-821 was approved by the Planning Commission, the zoning of the subject property was Commercial (C) and General Plan Land Use Designation was Commercial; and

WHEREAS, the General Plan Land Use Designation of the subject property was subsequently changed from Commercial (C) to Mixed Use 3 (MU3) with the adoption of the City's updated General Plan on January 17, 2012; and

WHEREAS, the zoning of the subject property was subsequently changed from Commercial (C) to Mixed Use 3 (MU-3) with the adoption of the City's updated Zoning Ordinance on December 13, 2012; and

WHEREAS, the property has already been annexed into Community Facility District (CFD) 98-01, Improvement Area 1: Police, CFD 98-02: Lighting, Landscape and Street Maintenance, CFD 2001-01: Fire and Paramedic and CFD 2011-01 Congestion Management; and

WHEREAS, the Planning Commission did previously adopt a Mitigated Negative Declaration (ND 10-805) on February 7, 2011 for CUP 10-821 pursuant to the California Environmental Quality Act (CEQA) and this request (CUP 14-004) is consistent with the findings, scope and extent of the use previously examined in ND 10-805, and the project (CUP 14-004) has not been expanded beyond that which was evaluated in connection with ND 10-805; and

WHEREAS, the required public hearing held on June 2, 2014 was duly advertised and held in the manner prescribed by law; and

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

1. Approval of the Conditional Use Permit will not result in detrimental impacts to adjacent properties or the character and function of the neighborhood in that the continued operation of the facility will comply with all applicable provisions of the San Marcos Municipal Code (SMMC), General Plan and California Building Code, and sufficient facilities (i.e. parking) exist on site to service the project as conditioned.
2. The design, development and conditions associated with the Conditional Use Permit are consistent with the goals, policies and intent of the Mixed Use 3 (MU-3) Zone because it is a commercial use that implement the General Plan by encouraging businesses and existing employers to remain and expand in San Marcos (LU-6.2).
3. The land use allowed in conjunction with the CUP is compatible with existing and future land uses of the Mixed Use (MU-3) Zone, and the general area in which the proposed use is located.

NOW, THEREFORE, the Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. The Conditional Use Permit is approved per the submitted site and floor plans (1660 Capalina Road, Suite B, a 4,075 square foot tenant space with a 289 square foot stage and 439 square foot dance floor), except as modified herein and shall not be expanded unless a modification to this permit is approved.
- C. Entertainment conducted ancillary to the regular operation of the restaurant and bar, such as, but not limited to: the use of the arcade games, use of multi-player electronic gaming devices (i.e. "buzztime"), sports viewing events, or other types of similar

entertainment/events that do not utilize the stage, dance floor (any combination of the aforementioned), or any entertainment/event that does not have an admittance fee and is not age restricted shall not be considered an operation of the "entertainment venue." The City reserves the right to reclassify any specific or category entertainment/event as an "operation of the entertainment venue" and make it subject to the conditions set forth in Condition "E" of this Conditional Use Permit.

- D. Conditional Use Permit (CUP) 14-004 shall only apply to the operation of the entertainment venue and shall not interfere with the regular operation of the restaurant and bar without entertainment.
- E. Reliance on this Conditional Use Permit for the continued operation of the entertainment venue shall be subject to the following operational standards:
  - 1. The applicant shall maintain a deposit of at least \$6,000 in an enforcement account with the City of San Marcos to cover the costs of any enforcement actions (if required). In the event enforcement action is necessary as a result of the operation of the entertainment venue, funds in the enforcement account shall be drawn down by the City of San Marcos to mitigate financial impacts to City resulting from enforcement actions. The applicant shall ensure that the enforcement account balance is maintained at the required deposit level of \$6,000 during the entire term of CUP 14-004. Should the balance of the enforcement account ever fall below the required deposit level of \$6,000, and the applicant fails to restore the required deposit level within thirty (30) days of notice, all rights afforded to the applicant by CUP 14-004 shall cease until which time the balance of the enforcement account can be restored to the minimum required amount of \$6,000.
  - 2. The applicant shall maintain full compliance with all applicable laws, ordinances and terms and conditions of licenses issued by the State of California Department of Alcoholic Beverage Control (ABC).
  - 3. All employees who sell or serve alcohol or check identification (i.e. security personnel) must attend the ABC Licensee Education on Alcohol and Drugs (L.E.A.D.) training or Responsible Beverage Sales & Service (R.B.S.S.) training every two (2) years per Ord. No. 2009-1318. Confirmation of program participation must be kept on file & made available upon request.
  - 4. Use of the entertainment venue shall not occur prior to 7:00 P.M. during weekdays (Monday – Friday) and 3:00 P.M. on weekends (Saturday and Sunday).
  - 5. Operation of the facility shall be in conformance with the approved Safety and Security Plan. Any changes to the Safety and Security Plan by the applicant shall require resubmittal of the Plan to the City for evaluation and approval. The City and Sheriff's Department reserve the right to review and modify the Safety and

Security Plan at any time. Any changes made to the Plan by the City and/or Sheriff's Department shall be provided to the applicant in writing. Should the applicant fail to implement the policies and/or procedures of the Safety and Security Plan to the satisfaction of the City and/or Sheriff's Department, then after a cure period, a hearing before the Planning Commission shall be scheduled for revocation and/or permit modification pursuant to the provisions of Chapter 20.545 SMMC.

6. Operation of the entertainment venue shall require that all persons admitted entrance to the facility shall be a minimum 21 years of age or older, this includes all patrons, staff and performers.
7. No person shall be granted entry into the facility during an event/ performance if said person appears to be under the influence of any illegal controlled substance, or are intoxicated.
8. Every person granted entry into the facility during an event/ performance shall be marked with tamperproof identification (i.e. a hand stamp, wrist band, etc.).
9. No patron shall be allowed reentry after leaving the facility. The applicant shall post a sign at the entry door stating this requirement and all patrons shall be advised of this requirement as they enter the facility and have their identification checked.
10. The establishment shall provide a sufficient number of licensed security personnel as indicated in Condition E.12., to ensure the protection of public health, safety and welfare. Security personnel must supervise all patrons inside and outside of the establishment and shall have no other role during their shift other than providing security services (i.e. a bartender cannot also be a "security guard" at the time they are acting as a bartender).
11. At a minimum, all security personnel must have in their possession the following, and records of compliance with all of the following provisions shall be maintained by the owner/operator of the facility and made available to the City and/or Sheriff's Department at any time:
  - a. Valid "guard card" at the time of hire and maintained throughout employment as a security guard).
  - b. Proof of completion within at least two (2) years of either an ABC Licensee Education on Alcohol and Drugs (L.E.A.D.) training or Responsible Beverage Sales & Service (R.B.S.S.) training. Any member of the security staff that does not have proof of completion of either program shall complete a course within six (6) months.



- c. Pass a background check by the City.
12. The following minimum ratios for interior security personnel shall be required: for crowds of up to fifty (50) people, the applicant must provide a minimum of two (2) security guards. For crowds over (50) fifty people, the applicant must provide a minimum of two (2) additional security guard per fifty (50) people thereafter (i.e. an event with 100 people shall have no less than 4 security guards and an event with 150 people shall have no less than 6 security guards). At the City's discretion, additional security personnel may be required to protect the public health, safety and welfare. If additional security personnel are determined necessary by the City, they shall be provided without protest and at the sole expense of the applicant. Should the applicant fail to provide security in the minimum quantities specified in this condition or as additionally required by the City, then after a cure period, a hearing before the Planning Commission shall be scheduled for revocation and/or permit modification pursuant to the provisions of Chapter 20.545 SMMC.
13. To discourage loitering and ensure the orderly vacation of the facility after closing, security personnel must remain on the premises until all patrons have left the general vicinity of the subject property and surrounding neighborhood.
14. Security guards must be readily identifiable as employees/agents of the permitted premises. At a minimum, all security personnel must wear shirts and/or jackets with the word "SECURITY" clearly emblazoned in lettering across the back of the shirts or jackets. The lettering color must contrast the shirt color and the typeface of the word "SECURITY" must be no smaller than 4 inches in height.
15. Security personnel must keep count of all individuals entering and exiting the facility by use of two (2) mechanical counting devices, one for those entering and one for those exiting. Mechanical counting devices shall be made available for inspection by the Sheriff's Department upon demand and at no time shall the maximum occupancy, as determined by the Fire Marshal, be exceeded.
16. On-duty security personnel or any individual providing private security services on the subject property must not be armed or carry a firearm at anytime.
17. The establishment's staff (including security personnel, servers, bartenders, management, etc.) must not consume alcoholic beverages or be under the influence of alcohol or drugs while on duty.
18. The use of open flame, fireworks, any proximate or general pyrotechnic device or any other flammable or hazardous material as specified in the California Fire Code or Title 19 of the California Code of Regulations is prohibited.
19. The use of glass beverage containers (i.e. cups, bottles, etc.) is be prohibited.

20. Approved occupant load signs must be posted and maintained in a publicly visible location near the main entrance to the facility, to the satisfaction of the Building Official and/or Fire Marshal.
21. Use of the billiard table(s) must be suspended and all associated equipment (i.e. pool cues, bridge sticks, etc.) must be removed and securely stored in a location that is inaccessible to the public.
22. All operations of the entertainment venue must occur within the enclosed building. Special events or promotions, etc. are prohibited outdoors, including in the parking lot or patio areas.
23. The outdoor patio area is required to comply with the following:
  - a. Building doors to outdoor patio areas must remain closed and secured in compliance with the California Building and Fire Codes.
  - b. Patio areas must be kept secure and monitored by security personnel to ensure that no patrons are entering or exiting the business without using the main entrance.
  - c. To the extent possible, the applicant shall minimize noise generation on the outdoor patio (i.e. prohibit yelling, discourage rowdy or otherwise boisterous behavior, etc.).
  - d. The use of any sound emitting devices (i.e. auxiliary speakers, televisions, radios, etc.) is prohibited on the patio area during the operation of the entertainment venue.
  - e. Tables, chairs or any other furniture must not block or impede pedestrian access or alter in any manner the required accessibility standards for the disabled.
  - f. A minimum thirty-six (36) inch fence barrier (or higher if required by the ABC) must be maintained to enclose the outdoor dining area adjacent to walkways and parking lots.
  - g. A minimum of two (2) exits with panic hardware in the outdoor patio area must be maintained.
  - h. All outdoor dining areas must remain covered.
  - i. All outdoor dining areas must be kept clear of grease, fats and oils (FOGs) and/or any debris, including cigarette butts.

- j. Outdoor dining and smoking areas must be kept clean using dry methods only. Using water to clean (or “spraying down”) the area is prohibited.
  - k. Ash trays must be provided at tables in outdoor smoking areas, and waste receptacles for cigarette butts must be provided at all entrances/exits to outdoor smoking areas.
- 24. All doors to the building must remain closed and secured in a manner consistent with the California Building and Fire Codes.
  - 25. Operation of the entertainment venue must comply with all applicable provisions of the City’s noise regulations contained in Chapter 10.24 and Section 20.300.070(F) of the San Marcos Municipal Code (SMMC).
  - 26. During the operation of the entertainment venue, exterior noise levels at the property lines of the subject property must be monitored using a calibrated noise meter. Noise levels measured at the property line of the subject property must not exceed 55 dB(A), as specified in Section 20.300.070(F) and Chapter 10.24 SMMC. If the applicant and/or the City determines that noise levels are exceeding 55 dB(A), then the volume level of the sound amplifying equipment shall be modified until attainment of an exterior sound level of 55 dB(A) or less is achieved. Nothing in this provision shall be inferred as a limitation on the authority of the Sheriff’s Department (or other designee appointed by the City Manager) to require that the applicant modify the volume of a performance during the operation of the entertainment venue.
  - 27. If complaints are received by the City regarding noise levels during the operation of the entertainment venue and, in the City’s opinion, there is insufficient evidence to determine if the operation of the entertainment venue is complying with the City’s noise regulations, then a Noise Study by a qualified acoustician (as determined by the City) shall commence to analyze noise emissions from the subject property during the operation of the entertainment venue. The Noise Study shall be prepared at the sole cost of the applicant, plus a 25% administrative fee assessed by the City. Funds from the enforcement account may be used to pay for the study, however the applicant must maintain the enforcement account as specified on Condition of Approval E(1) of this Conditional Use Permit (CUP 14-004). The applicant must agree to install and/or make whatever improvements/modifications are determined necessary by the City based on the recommendations of the Noise Study to attain compliance with the City’s noise regulations. Should the applicant fail to make the required improvements and/or modifications to the facility, or if such improvements do not achieve compliance with the City’s noise regulations, then after a cure period, a hearing before the Planning Commission will be scheduled for Conditional Use Permit revocation and/or permit modification pursuant to the provisions of Chapter 20.545 SMMC.

28. All entertainers, staff members and patrons must be clothed at all times so that no Specified Anatomical Areas are visible. "Specified Anatomical Areas" include, but are not limited to: less than completely covered human genitals, pubic region, buttocks, anus or female breasts exposing any portion of the areola; or human male genitals in a discernibly turgid state, even if completely covered. Nor shall the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola be allowed at any time.
29. All use of the entertainment venue must cease at 1:30 A.M. and interior "house" lighting must be restored to normal levels. "Last call" shall also occur during this time and alcohol service at the project site shall completely cease no later than 1:45 A.M.
30. The project must comply with all applicable provisions of Chapter 14.15 SMMC and other regional standards for the protection of stormwater quality.
31. The trash enclosure area shall be kept clean and clear of all debris and or grease. All trash containers shall be kept in the covered trash enclosure and all lids on said containers shall be kept closed at all times. Trash containers shall be emptied on a regular basis to prevent overfilling. The trash enclosure area shall be cleaned thoroughly using dry methods prior to October 1st (beginning of the rainy season) of every year.
32. All signage requires a permit which must comply with the Comprehensive Sign Program on record for the property. The use of portable signs (i.e. A-frame, T-frame, feather, vehicle, etc.) is prohibited. All temporary signage (i.e. banners) requires a permit.
33. The placement of off-site signs for commercial advertising purposes within the City of San Marcos is strictly prohibited. The applicant must comply with all sign regulations of the City regarding the placement of any signs, posters, bills, pamphlets or similar advertising medium. The applicant will be held responsible for the costs incurred by the City for the removal of any illegal signs advertising events/performances occurring at the project site.
34. Sufficient parking facilities are required for the operation of the entertainment venue. The applicant must provide a minimum of eighty-five (85) parking spaces during the operation of the entertainment venue. The applicant must establish and maintain a parking agreement with the property owner to allow use of the parking facilities in conformance with Section 20.340.040 SMMC. On-site, a minimum of twelve (12) parking spaces in front of the business and along Capalina Road

must be available for customers of the adjacent business. Sufficient parking facilities must be made available to accommodate the operation of the entertainment venue. Should it be determined by the City that insufficient parking facilities exist to accommodate the operation of the entertainment venue, the applicant shall enter into reciprocal parking agreements with adjacent property owners to provide sufficient parking capacity for operation of the entertainment venue. The applicant shall submit the reciprocal parking agreement to the City Attorney for review and approval prior to recordation.

35. The sublease of the site to any other third party is prohibited unless otherwise approved by the City.
  36. The applicant must maintain a City of San Marcos Business License for the duration of the business.
  37. The applicant is responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.
  38. All required fire extinguishers must be certified annually by a licensed contractor.
  39. 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.
  40. 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.
- F. Any modifications, alterations, expansions or other changes shall require the modification to this Conditional Use Permit and may necessitate the issuance of Building Permits and reissuance of a Certificate of Occupancy ("C of O") from the Building Division for improvements required to obtain the appropriate Occupancy associated with the proposed use pursuant to the latest standards adopted by the State of California in the California Building Code.
- G. Prior to the issuance of any Building Permits, the following conditions shall be complied with:
1. Remodeled structures and/or tenant improvements 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. Plans submitted for the issuance of a Building Permit shall also comply with the latest adopted California Fire Code, and/or the City of San Marcos Fire Code Ordinance.
3. 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.
4. 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.
5. The proposed development shall comply with the latest Federal Law, Americans with Disabilities Act ("ADA-2013"), and State Law, California Code of Regulations, Title 24, for accessibility standards for the disabled.
6. Tenants are required to obtain written permission from the building owner, or owner's agent, prior to obtaining a building permit from the city. Per San Marcos Municipal Code Chapter 17.08.030 Section 105.10, the tenant must obtain written permission from the building or property owner that the applicant is authorized to proceed with the proposed construction.

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

1. Dust and dust producing materials shall be controlled within the maximum acceptable concentrations for silica and silicates in accordance with the California Code of Regulations, Title 8, Section 5155. Water and dust palliative shall be used to prevent excessive dust during blasting, construction and grading operations. Projects are required to comply with the Air Pollution Control District's standards for mitigating fugitive dust during all phases of construction.
2. 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.
3. During construction the owner/developer/contractor must implement and maintain the storm water pollution prevention measures as required on the approved plans. Violations of the City's Storm Water Management Ordinance will result in Stop Work Orders, Notices of Violation and citations with fines. Work on the project

may be delayed until the City determines that the project is in compliance with the storm water requirements.

- I. Prior to a final inspection or issuance of a Certificate of Occupancy ("C of O"), the following conditions shall be complied with:
  - 1. The proposed development must satisfy the conditions of approval prior to the occupancy. The owner/developer/contractor must obtain approval from all City departments and other agencies before requesting a Certificate of Occupancy ("C of O") from the Development Services Department.
- J. This Conditional Use Permit will become null and void if not acted upon within twelve (12) months of the adoption of this resolution, or the approved use ceases to operate at the subject property for a period more than twelve (12) months.
- K. The Planning Division may inspect the premises annually to ensure compliance with all conditions of the use permit approval. If the Planning Division determines that compliance is not being achieved after a cure period, then a public hearing shall be scheduled for possible use permit modification and/or revocation.
- L. This Conditional Use Permit shall expire on June 2, 2019. Any request for permit extension shall be applied for by the permittee no later than thirty (30) days prior to the expiration date.
- M. 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 2nd day of June 2014, by the following electronic vote:

AYES:

Page 12  
Resolution PC 14-4418  
June 2, 2014

NOES:

ABSENT:

APPROVED:

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Eric Flodine, Chairman  
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

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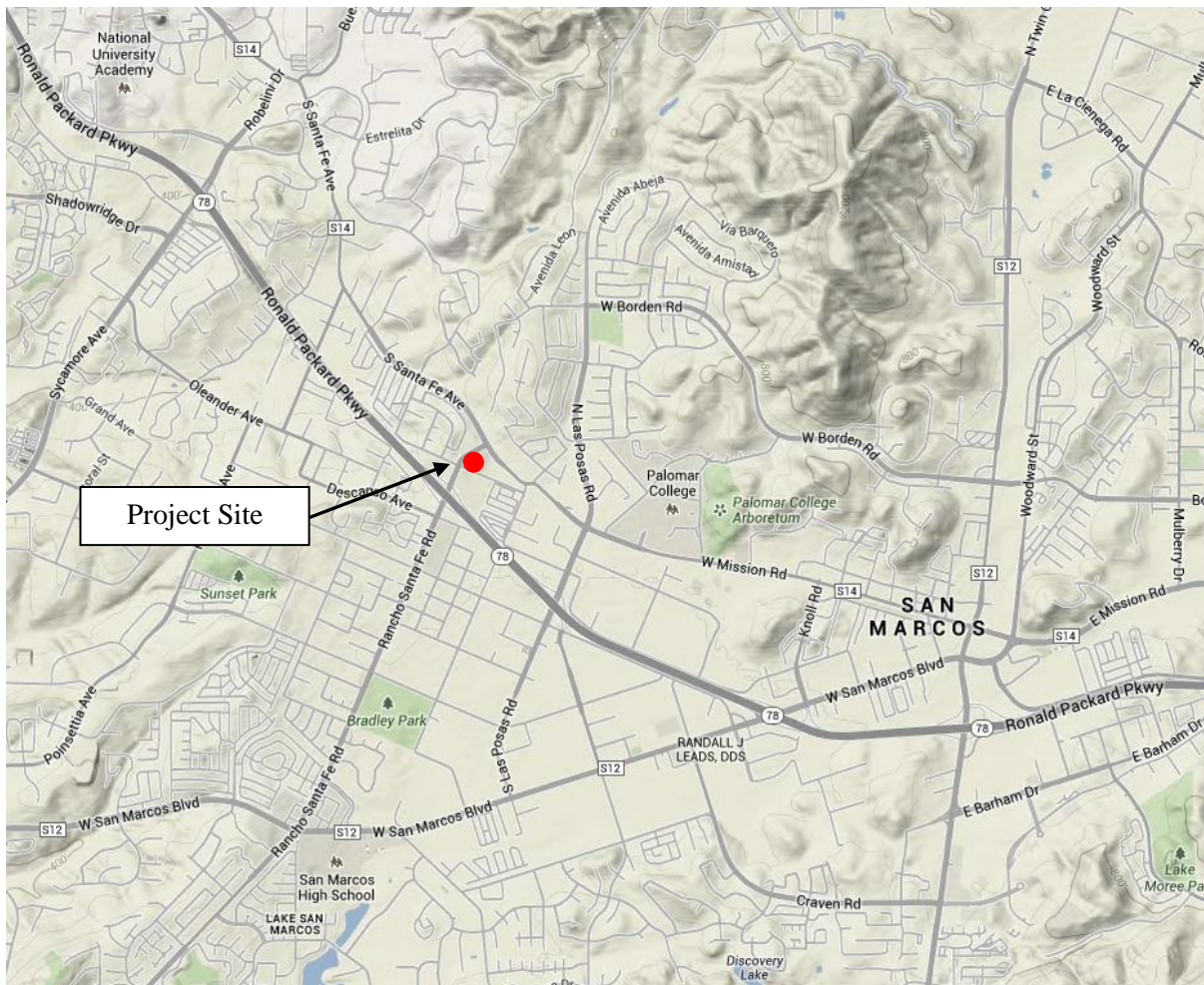
Lisa Kiss, Office Specialist III  
SAN MARCOS CITY PLANNING COMMISSION





## ATTACHMENT A

### Vicinity Map





ATTACHMENT B  
Aerial Photo







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## ATTACHMENT C

### Requested Entitlements

- Conditional Use Permit to allow the continued operation of an entertainment venue without provisions to allow minors (persons under age 21) to attend performances at an existing restaurant and bar in the Mixed Use 3 (MU-3) zone in the Business and Industrial District.



## ATTACHMENT D

### Site & Project Characteristics

<u>Property</u>	<u>Existing Land use</u>	<u>Zoning</u>	<u>General Plan Designation</u>
Subject	Commercial	MU-3	MU3
North	Vacant	MU-1	MU1
South	Commercial/Office	B-P	BP
East	Vacant	MU-3	MU3
West	Residential (duplexes)	R-2	LMDR (8-12 du/ac)

Flood Hazard Zone	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no
Resource Conserv. Area	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no
Sewers	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Septic	<input type="checkbox"/> yes	<input checked="" type="checkbox"/> no
Water	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Gen. Plan Conformance	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Land Use Compatibility	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no



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**ATTACHMENT E**  
**Mitigated Negative Declaration ND 10-805**



**CITY OF SAN MARCOS**  
**Mitigated Negative Declaration**  
**ND# 10-805**

**DATE:** January 14, 2011  
**APPLICANT:** Breen Enterprises, Inc., d.b.a. The Jumping Turtle Bar and Grill

**1. PROJECT CASE NUMBER(S) / TITLE:**

CUP 10-821 / Jumping Turtle

**2. LEAD AGENCY NAME AND ADDRESS:**

City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069

**3. CONTACT PERSON AND PHONE NUMBER:**

Sean del Solar, Assistant Planner, 760-744-1050, extension 3223, sdelsolar@san-marcos.net

**4. PROJECT LOCATION:**

1660 Capalina Road, San Marcos CA, 92069

APN: 219-115-35

**5. PROJECT SPONSOR'S NAME AND ADDRESS:**

Breen Entertainment, Inc.

1660 Capalina Road

San Marcos, CA 92069

**6. GENERAL PLAN DESIGNATION:**

Commercial, Business and Industrial District

**7. ZONING:**

"C" Commercial

**8. DESCRIPTION OF PROJECT:**

The project is a request by Breen Enterprises, Inc. for a Conditional Use Permit to allow an existing 4,240 square foot restaurant and bar to operate an entertainment venue/nightclub. The project does not propose significant construction or modification to the existing structures at the project site. If approved, the project would allow entertainment and dancing to occur at the project site. The proposed entertainment will include concerts, karaoke, spoken word and other forms of performance art. Entertainment would occur on a stage located within the existing building and include the use of amplified sound, lights and other similar apparatus. In conjunction with entertainment, dancing for minors and adults is also proposed.

**9. SURROUNDING LAND USES AND SETTING:**

The project site is located in the northwest portion of the City, in an urbanized area as defined in § 21071(a)(2) of the Public Resources Code. The project site can be seen in Image 1, and is bounded on the west by N. Rancho Santa Fe Road, to the north by W. Mission Road, to the east by N. Pacific Street and to the south by Capalina Road. The project would occupy a suite in an existing building in the Mission Plaza Shopping

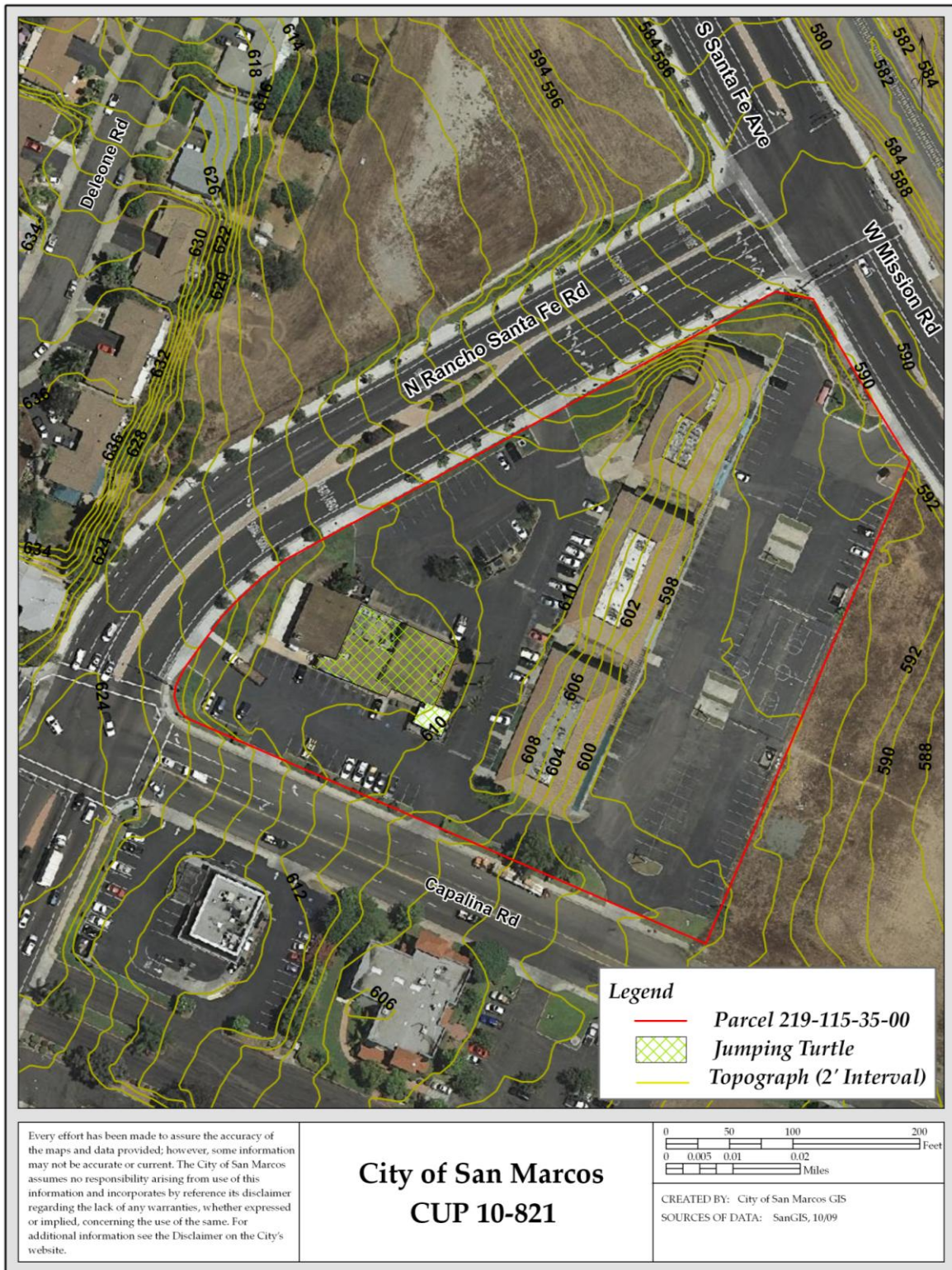
Center, originally built in 1974. To the south and southwest of the project site are quick service restaurants, retail and office uses in commercial centers and small business parks. To the north (across W. Mission Road) of the project site is a residential neighborhood with detached single family homes. To the west (across N. Rancho Santa Fe Road) is another residential neighborhood zoned R-2 with multifamily units. Immediately adjacent to the project site to the east is a vacant lot zoned "C" commercial.

**10.OTHER PUBLIC AGENCIES WHOSE APPROVAL IS REQUIRED (e.g. PERMITS, FINANCING APPROVAL OR PARTICIPATION AGREEMENT):**

None.

# Image 1

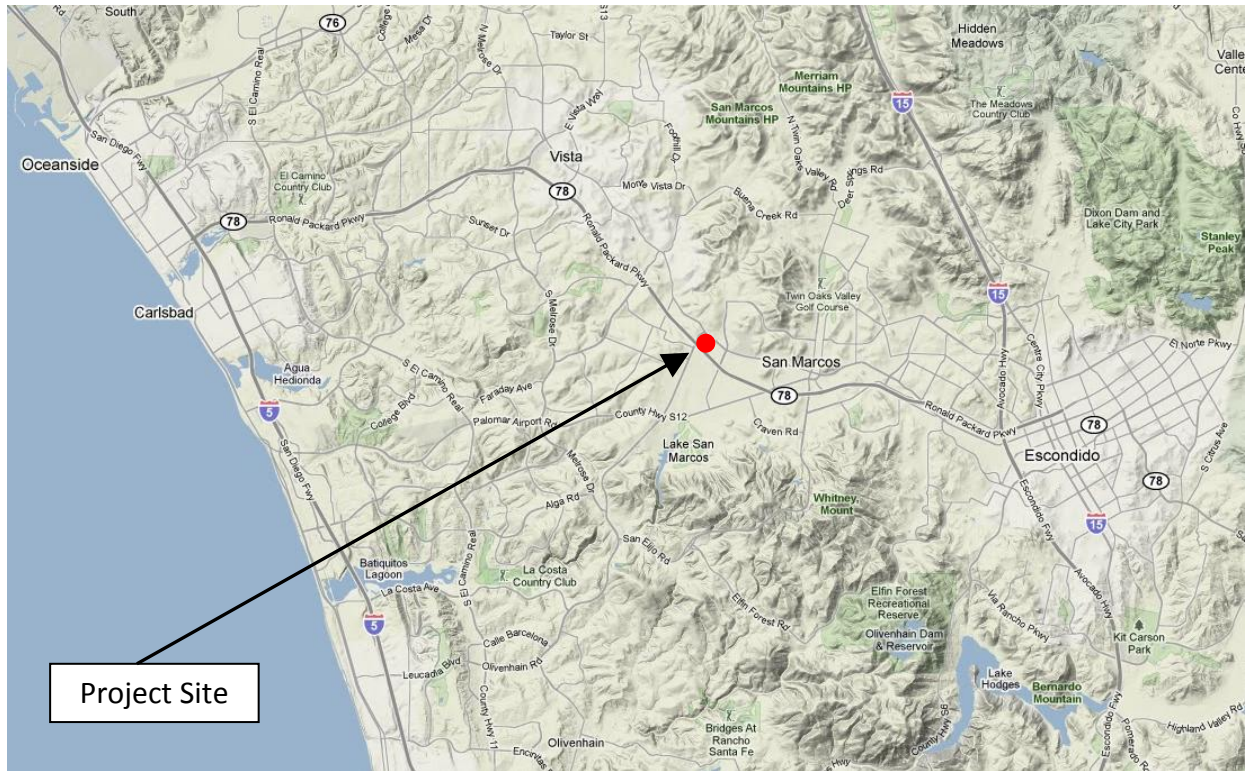
## Vicinity Map





## Image 2

### Regional Map



## Site Photos



**Image 3**

Exterior view of the project site.



**Image 4**

Interior view of project site. In this image the stage can be seen, with the dance floor in front and the bar to the right.

Site Photos (continued)



**Image 5**

Interior view of the project site. In this image the main dining area can be seen to the left. The door in the rear leads to the patio area and billiard tables are just barely visible to the right.

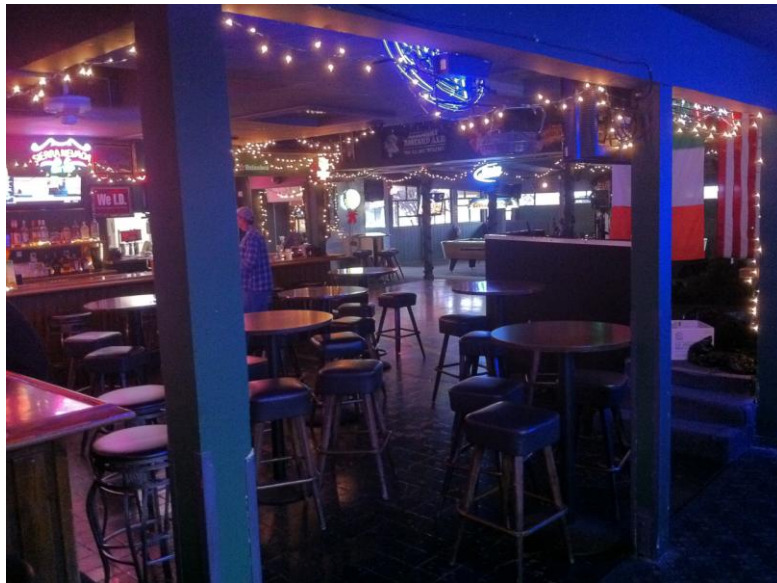


**Image 6**

Exterior view of the project site. In this image the patio dining and smoking area can be seen.



Site Photos (continued)



**Image 7**

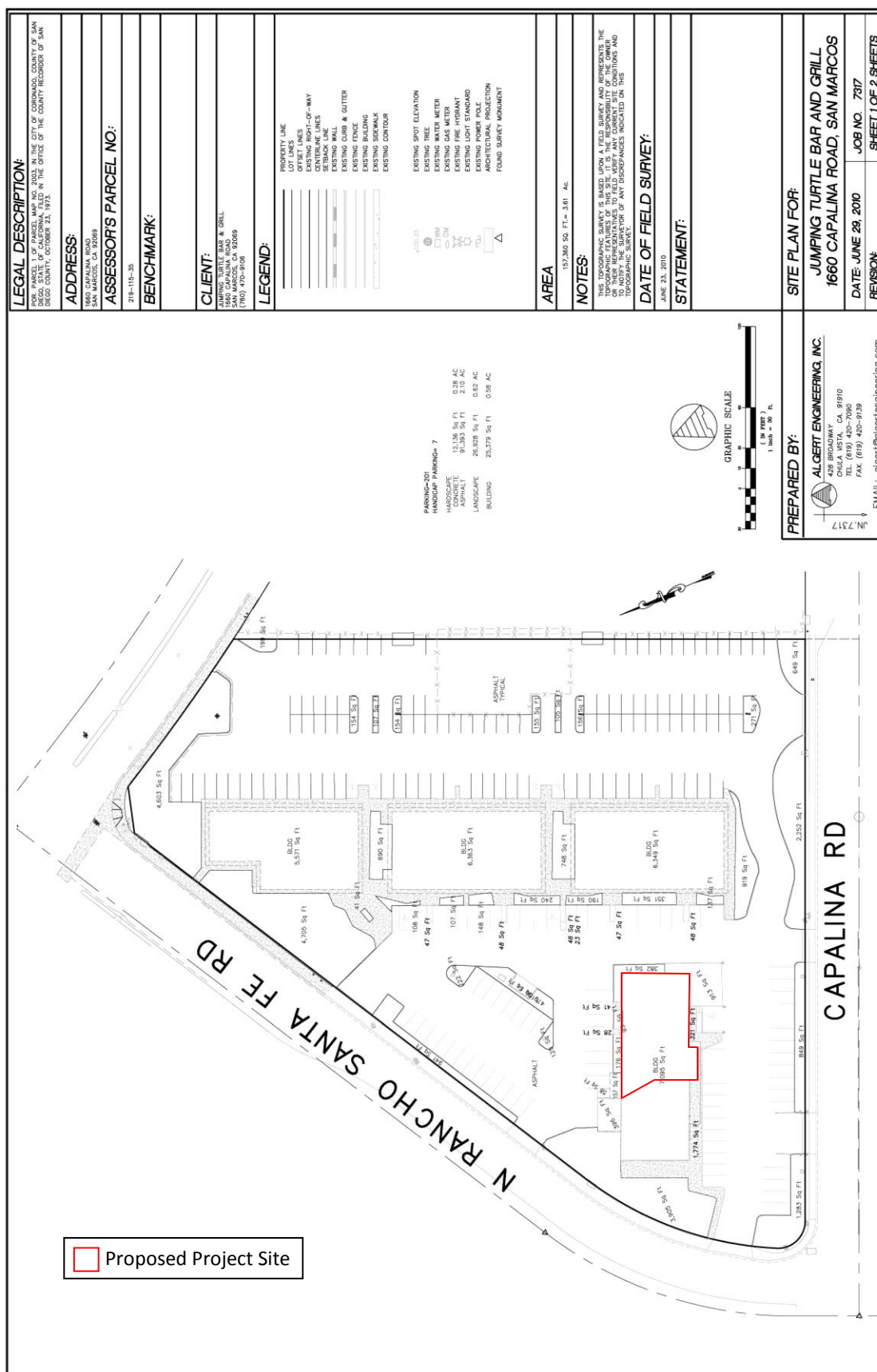
Interior view of the project site. In this image the bar area can be seen with the stage just visible to the right, behind the Irish and American flags.

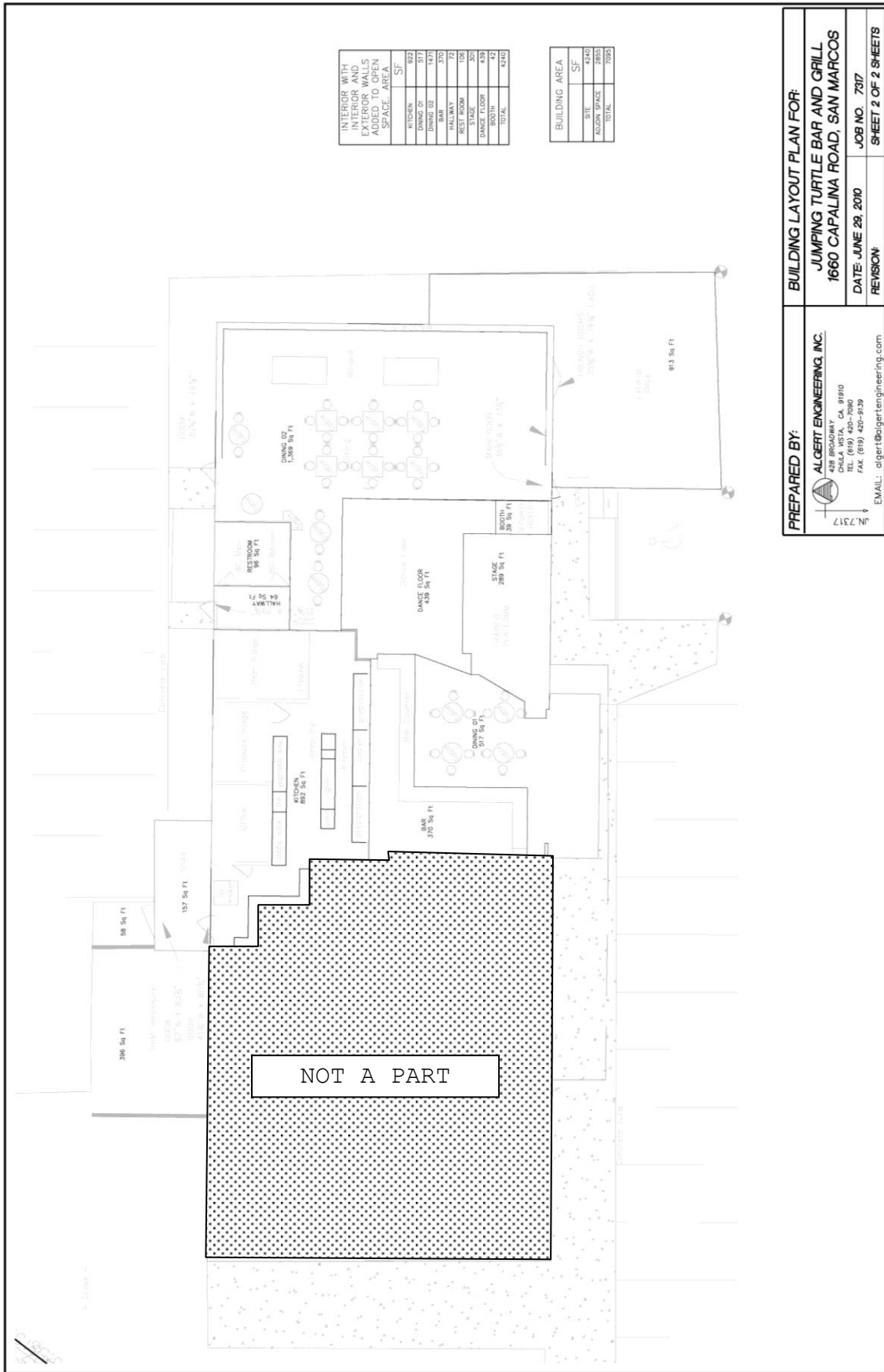



**Image 8**

Interior view of project site. In this image the kitchen food preparation area can be seen.

- 8 -





S.N. 7317 ↓		ALBERT ENGINEERING, INC. 248 BROADWAY, CA 91910 ORLANDO, FL 32801 TEL: (407) 420-7090 FAX: (407) 420-9139	BUILDING LAYOUT PLAN FOR:	
			JUMPING TURTLE BAR AND GRILL 1660 CAPALINA ROAD, SAN MARCOS	
DATE: JUNE 28, 2010			JOB NO. 7317	SHEET 2 OF 2 SHEETS
EMAIL: albert@albertengineering.com			REVISION:	

## ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

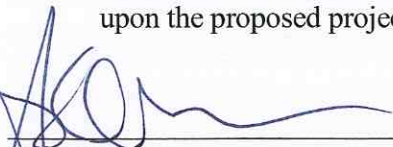
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or "Less Than Significant Impact with Mitigation Incorporated" as indicated by the checklist on the following pages:

- |   |  |
|---|--|
| <input type="checkbox"/> Aesthetics                           | <input checked="" type="checkbox"/> Land Use / Planning                |
| <input type="checkbox"/> Agriculture and Forestry Resources   | <input type="checkbox"/> Mineral Resources                             |
| <input type="checkbox"/> Air Quality                          | <input checked="" type="checkbox"/> Noise                              |
| <input type="checkbox"/> Biological Resources                 | <input type="checkbox"/> Population / Housing                          |
| <input type="checkbox"/> Cultural Resources                   | <input checked="" type="checkbox"/> Public Services                    |
| <input type="checkbox"/> Geology / Soils                      | <input type="checkbox"/> Recreation                                    |
| <input type="checkbox"/> Greenhouse Gas Emissions             | <input checked="" type="checkbox"/> Transportation / Traffic           |
| <input type="checkbox"/> Hazards & Hazardous Materials        | <input type="checkbox"/> Utilities / Service Systems                   |
| <input checked="" type="checkbox"/> Hydrology / Water Quality | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

### DETERMINATION:

On the basis of this initial evaluation:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because of the incorporation of mitigation measures and/or revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

  
\_\_\_\_\_  
Signature

Sean del Solar  
\_\_\_\_\_  
Printed Name

1/14/2011  
\_\_\_\_\_  
Date

## INITIAL STUDY ENVIRONMENTAL CHECKLIST

	Potentially Significant Impact	Less Than Significant w/ Mitigation Incorporated	Less Than Significant Impact	No Impact
--	--------------------------------------	---	---------------------------------------	--------------

### I. AESTHETICS -- *Would the project:*

- |   |                          |                          |                                     |                                     |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Have a substantial adverse effect on a scenic vista?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway ? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

### DISCUSSION:

#### a) Have a substantial adverse effect on a scenic vista?

##### No Impact

The project site is situated at an elevation of approximately 612 feet above mean sea level (AMSL) and in an area surrounded by gently rolling terrain. Nearby residences west of the project site on De Lone Road are slightly higher than the project site and at an approximate elevation of 636 feet AMSL. Other residences northwest of the project site on Palomarcos Avenue are at an elevation of approximately 610 feet AMSL. The nearest vista to the project is Owen's Peak, known locally as "P" Mountain. Owen's Peak has an approximate elevation of 1,300 feet AMSL and is located approximately 1.9 miles northwest of the project site. The proposed project is limited to a Conditional Use Permit to allow the operation of an entertainment venue at an existing restaurant and bar. No expansions or modifications to the existing structure are proposed by this project and all existing views of scenic vistas will remain unchanged by the project. As a result, the project is not expected to have an impact to scenic vistas and no mitigation measures are required.

#### b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

##### No Impact



As stated previously, the project is a proposal to allow the operation of an entertainment venue at an existing restaurant and bar, and proposes no modifications to the existing building or site conditions. The nearest state highway is State Route 78 (approximately 600 feet south of the project site), which is currently not designated as a state scenic highway. As a result, the project is not expected to have an impact to scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway and no mitigation measures are required.

**c) Substantially degrade the existing visual character or quality of the site and its surroundings?**

No Impact

Given the fact the project does not propose any changes to the existing site conditions, the project is not expected to substantially degrade the existing visual character or quality of the site and its surroundings and no mitigation measures are required.

**d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?**

Less Than Significant Impact

The project proposes to operate an entertainment venue from an existing restaurant and bar in an existing building. While no additional exterior lighting is proposed by the project, if approved, the project would allow a more intensive use of the existing facilities, especially during nighttime hours. Additional lights from vehicles and nighttime activity generated by the proposed project would contribute incrementally to ambient light and glare levels of the area. In the event that additional lighting is added to the site at a later time, section 20.56.040 of the S.M.M.C. requires that all outdoor lighting be shielded and directed onto the site. In addition, City policy requires low pressure sodium lighting for all new parking lot lighting fixtures in order to preserve important dark sky resources such as Palomar Mountain and Mount Laguna. As a result, the project is not expected to create a new source of substantial light or glare which would adversely affect day or nighttime views in the area and no mitigation measures are required.

**MITIGATION MEASURES:**

None.

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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## II. AGRICULTURE AND FOREST RESOURCES -- In

*determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and Forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. - Would the project:*

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Result in the loss of forest land or conversion of forest land to non-forest use?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

## DISCUSSION:

- a) **Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

### No Impact

The project site is located in an existing commercial center in an already developed area of the city. According to the 2006 San Diego County Important Farmland Map prepared by the California Farmland Mapping and Monitoring Program, the site is not classified as Prime Farmland, Unique Farmland or Farmland of Statewide Importance by the Farmland Mapping and Monitoring Program of the California Resources Agency. As a result, no impacts are anticipated and no mitigation measures are required.

- b) **Conflict with existing zoning for agricultural use, or a Williamson Act contract?**

### No Impact

The proposed project will not conflict with existing zoning for an agricultural use, or a Williamson Act contract. Since there are no existing agricultural zoning or agricultural land uses on the subject property and no agricultural uses are envisioned in the future at the project site, no impacts are anticipated and no mitigation measures are required.

- c) **Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?**

### No Impact

The project site is located in an existing commercial center in an already developed area of the city. The project has no zoning for forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g)). As a result, no impacts are anticipated and no mitigation measures are required.

- d) **Result in the loss of forest land or conversion of forest land to non-forest use?**

### No Impact

The project site is located in an existing commercial center in a developed area of the city. Since the project site is developed and contains no forest land as defined in Public Resources Code section 12220(g), no loss or conversion of forest land will occur if the project is approved. As a result, no impacts are anticipated and no mitigation measures are required.

- e) **Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?**

### No Impact

The project site is located in an existing commercial center in a developed area of the city. As stated previously, the project site is not classified as Prime Farmland, nor do any agricultural uses occur at the site and there are no forestlands as defined in Public Resources Code section 12220(g) at the site. As a result, no impacts are anticipated that would involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use and no mitigation measures are required.

### **MITIGATION MEASURES:**

None.

	Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
--	--------------------------------------	---	---------------------------------------	--------------

**III . AIR QUALITY** -- *Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:*

a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## DISCUSSION:

### a) Conflict with or obstruct implementation of the applicable air quality plan?

#### No Impact

The project site is located in the San Diego Air Basin (SDAB) which is a federal and state non-attainment area for ozone (O3). The SDAB was designated in attainment for all other criteria pollutants, with the exception of particulate matter less than or equal to 10 microns in diameter (PM10) which was determined to be unclassifiable under federal standards and a non-attainment pollutant for state standards. The periodic violations of National Ambient Air Quality Standards (NAAQS) in the San Diego Air Basin, particularly for ozone in inland foothill areas, requires that a plan be developed outlining the pollution controls that will be undertaken to improve air quality. In San Diego County, this attainment planning process is embodied in the San Diego Regional Air Quality Strategies (RAQS) developed jointly by the San Diego Air Pollution Control District (SDAPCD) and the San Diego Association of Governments (SANDAG).

The RAQS was initially adopted in 1991, and is updated on a triennial basis; most recently in 2009. The RAQS outlines SDAPCD's plans and control measures designed to attain the state air quality standards for O3. The SDAPCD has also developed the air basin's input to the State Implementation Plan (SIP), which is required under the Federal Clean Air Act for areas that are in nonattainment of air quality standards. The SIP includes the APCD's plans and control measures for attaining the O3 NAAQS and is also updated on a triennial basis.

The proposed project relates to the SIP and/or RAQS through the land use and growth assumptions that are incorporated into the air quality planning document. These growth assumptions are based on each City's and the County's General Plans. Since the proposed project is consistent with the City of San Marcos' General Plan, the project has been anticipated with the regional air quality planning process; and therefore the project would be consistent with the applicable air quality plan (RAQS). As a result, the project is not expected to conflict with or obstruct implementation of the San Diego Regional Air Quality Strategies (RAQS).

**b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?**

Less Than Significant Impact

If approved, the ongoing operation of the project would produce VOC, NOx, CO, SOx, PM10 and PM2.5 emissions from sources such as vehicular traffic, space heating and cooling, and water heating. According to vehicular traffic generation rates for the San Diego Region created by SANDAG, total project-generated daily traffic is estimated to be 373 average daily trips (provided in Appendix A). The URBEMIS 2007 model was utilized to estimate daily emissions from proposed vehicular sources as estimated by the project's traffic generation rates. In addition to estimating mobile source emissions, the URBEMIS 2007 model was also used to estimate emissions from the project area sources, such as natural gas appliances and gas-powered landscape maintenance equipment. In table 3.1 below, the projected maximum daily emissions associated with the seasonal operation of the proposed project are shown. The values are the maximum summer and winter daily emissions results from the URBEMIS 2007 model. Details of the emission calculations are provided in Appendix B.

<p>Table 3.1  <b>Estimated Daily Maximum Operation Emissions</b>            (pounds/day unmitigated)</p>						
	<b>ROG</b>	<b>NOx</b>	<b>CO</b>	<b>SO2</b>	<b>PM10</b>	<b>PM 2.5</b>
Proposed Project (Summer)	2.21	3.43	29.6	0.02	4.77	0.93
Proposed Project (Winter)	2.76	4.97	32.76	0.02	4.77	0.93
Pollutant Threshold	75	250	550	250	100	55
Exceed Threshold?	No	No	No	No	No	No
<i>Source: URBEMIS 2007 Version 9.2.4. See Appendix B for complete results</i>						

As illustrated in Table 3.1, the operation of the proposed project (in both summer and winter) would not result in emissions that would exceed thresholds of significance. As such, estimated operational emissions generated by the proposed project would result in less than significant impacts to air quality.

- c) **Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?**

Less Than Significant Impact

The proposed project has the potential to contribute toward a cumulative net increase of criteria pollutants for which the San Diego Air Basin (SDAB) is a non-attainment area under an applicable air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors). However, all of Southern California is within a non-attainment region for these criteria pollutants (ozone and particulate matter). Consequently, the project will probably result in an insignificant incremental increase that is not expected to significantly contribute to the nonattainment status of the region. As a result, and pursuant to CEQA Guidelines Section 15064(h), these impacts are considered less than significant and no mitigation measures are required.

- d) **Expose sensitive receptors to substantial pollutant concentrations?**

Less Than Significant Impact

Sensitive receptors to substantial pollutant concentrations are population groups which are more susceptible to air pollution and include young children, the elderly, and the acutely and chronically ill (especially those with cardio-respiratory disease). The nearest schools to the project site are: Alvin Dunn Elementary School, which is approximately 0.67 miles south of the project site; and Paloma Elementary School, which is located approximately 0.75 miles northeast of the project site. In addition to the elementary schools, various residential areas adjacent to, or nearby the project site have the potential to include populations of sensitive receptors. Nonetheless, the project is anticipated to operate below emission thresholds considered significant and given the limited scope of the project, impacts to sensitive receptors are anticipated to be minimal. As a result, the project is not expected to significantly expose sensitive receptors to substantial pollutant concentrations and no mitigation measures are required.

- e) **Create objectionable odors affecting a substantial number of people?**

Less Than Significant Impact

As stated previously, the project is a proposal to allow the operation of an entertainment venue at an existing restaurant and bar, and proposes no modifications to the existing building or site conditions. Given the scope of the project, it is not anticipated that objectionable odors will be generated. As a result, the project is not expected to create objectionable odors that will affect a substantial number of people and no mitigation measures are required.

**MITIGATION MEASURES:**

None.

	Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
--	--------------------------------------	---	---------------------------------------	--------------

#### IV. BIOLOGICAL RESOURCES -- Would the project:

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### DISCUSSION:

- a) **Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?**



No Impact

The project site is completely disturbed and occupied by buildings, paved parking surfaces and ornamental landscaping which contains no natural biological habitat. In addition, the project does not propose any modifications to existing site conditions. As a result, no impacts are anticipated that would have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service and no mitigation measures are required.

- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?**

No Impact

There are no naturally occurring springs, permanent aquatic habitats or natural drainages on the project site. The project site is completely built out with urban development and the surrounding area is either built out or highly disturbed. As a result, no impacts are anticipated that would have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service and no mitigation measures are required.

- c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

No Impact

As discussed in preceding responses, the project area is developed and does not contain any riparian habitat or other sensitive natural communities such as wetlands, marshes, or vernal pools, therefore, no impacts would occur to such habitats and no mitigation measures are required.

- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

No Impact

The project site is surrounded by urban development and is not considered a part of an identified wildlife corridor. Therefore, development of the proposed project would not interfere with the movement of any native resident wildlife species, or migratory wildlife corridors and no mitigation measures are required.

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

No Impact

As stated previously, the project proposes no new construction and the site is developed and surrounded by urban development. The site contains no sensitive biological resources and there are no such local policies or ordinances related to biological resources affecting the site. As a result, the project would not conflict with any local policies or ordinances and no mitigation measures are required.

**f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

No Impact

The project site is not located within an adopted conservation or preservation plan areas identified in the City's Draft Subarea Plan of the San Diego County Multiple Habitat Conservation Plan. Additionally, the project would not conflict with the provisions of any other adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. As a result, no impacts are anticipated from the project that would conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan and no mitigation measures are required.

**MITIGATION MEASURES:**

None.

	Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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**V. CULTURAL RESOURCES -- Would the project:**

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic features?      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Disturb any human remains, including those interred outside of formal cemeteries?                          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**DISCUSSION:**

- a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?**

No Impact

A review of the National Register of Historic Places (<http://www.nationalregisterofhistoricplaces.com>), California Historic Landmarks ([www.ohp.parks.ca.gov](http://www.ohp.parks.ca.gov)), and CERES State Historic Landmarks of San Diego County ([www.ceres.ca.gov](http://www.ceres.ca.gov)) indicate there are no historic resources within or adjacent to the project site. As a result, no impacts are anticipated that would cause a substantial adverse change in the significance of a historical resource as defined in §15064.5 and no mitigation measures are required.

- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?**

No Impact

Archaeological resources are not known to be present at the project site. As mentioned in previous responses, the site is completely developed and the project itself proposes no further grading or development of the site. Therefore, the likelihood of encountering archaeological resources at the project site as a result of the project is low. As a result, no impacts are anticipated that would cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 and no mitigation measures are required.

**c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic features?**

No Impact

Paleontological resources are not known to be present at the project site. As previously stated, the project site is already developed and the project proposes no further grading or subsurface disturbances. Therefore, the likelihood of encountering paleontological resources at the project site as a result of the project is low. As a result, no impacts are anticipated that would destroy a unique paleontological resource or unique geologic features and no mitigation measures are required.

**d) Disturb any human remains, including those interred outside of formal cemeteries?**

No Impact

There are no known human remains within the project site or vicinity. As previously stated, the project proposes no grading or subsurface disturbances so the likelihood of the project encountering human remains is low. Notwithstanding this fact, and as a standard construction practice, if any human remains are encountered during project related activities, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur in the immediate area until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. As a result of the project's adherence with the State Health and Safety and Public Resources Codes, there are no impacts anticipated from the project that would disturb any human remains and no mitigation measures are required.

**MITIGATION MEASURES:**

None.

	Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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## VI. GEOLOGY AND SOILS -- Would *the project*:

- |  |                          |                          |                                     |                                     |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:   |                          |                          |                                     |                                     |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ii) Strong seismic ground shaking?   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| iii) Seismic-related ground failure, including liquefaction?   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| iv) Landslides?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b) Result in substantial soil erosion or the loss of topsoil?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

## DISCUSSION:

- a) **Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:**

**i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?**

No Impact

According to Figure 4F of the State Geologist's Fault-Rupture Hazard Zone map ([http://www.consrv.ca.gov/cgs/rghm/ap/Map\\_index/Pages/F4F.aspx](http://www.consrv.ca.gov/cgs/rghm/ap/Map_index/Pages/F4F.aspx)), the project site is not located within an Alquist-Priolo Earthquake Fault Zone delineated by the State of California for the hazard of fault surface rupture. As a result, no impacts are anticipated and no mitigation measures are required.

**ii. Strong seismic ground shaking?**

Less Than Significant Impact

The project site is located in a seismically active area, as is the majority of southern California. The most significant seismic hazard at the site is considered to be shaking caused by an earthquake occurring on a nearby or distant active fault. The nearest active fault is the Rose Canyon Fault located approximately 10 miles southwest of the site. If approved, the project would occupy an existing building constructed in 1974 to the standards the Uniform Building and Safety Code (UBSC) at that time. Compliance with those standards ensures that, to the extent possible under those standards, potential impacts related to strong seismic ground shaking would be less than significant. While the project does not propose the construction or modification to existing structures, any future additions or modifications to the structure will be required to comply with the latest adopted California Building Code. As a result, less than significant impacts from strong seismic ground shaking are anticipated and no mitigation measures are required.

**iii. Seismic-related ground failure, including liquefaction?**

Less Than Significant Impact

Liquefaction of soils can be caused by ground shaking during earthquakes when sandy soils are saturated with water causing the soil to take on the consistency of a thick liquid. According to Figure E-1 of the San Marcos General Plan (Geotechnical Conditions), the project site is located in an area delineated as "prone to instability." As stated previously, the project does not propose the construction or modification of existing structures and was at the time of construction built to the standards of the UBSC. Since the site is already developed, and the project proposes no further development, a geotechnical investigation has not been prepared. Should any future expansion or modification of the existing structures occur, a geotechnical investigation may be required to identify the possibility of liquefaction and potential impacts from other seismic-related ground failure on the project site. In addition, compliance with the requirements contained in the latest adopted California Building Code, and any recommendations found in the geotechnical investigation will ensure that ground failure hazards will be less than significant for any future development on the project site. As a result, less than significant impacts are anticipated from seismic-related ground failure and no mitigation measures are required.

#### **iv. Landslides?**

##### No Impact

Landslide hazard areas are generally considered to exist when substantial slopes are located on or immediately adjacent to the subject property. The project site is bordered by gentle ascending slopes west and southwest of the site; and descending slopes to the south, north and east sides of the site. Existing landscaping on slopes, garden walls and building setbacks from slopes result in a very low potential for landslide occurrence at the project site. As a result, no impacts are anticipated that would cause landslides associated with the project and no mitigation measures are required.

#### **b) Result in substantial soil erosion or the loss of topsoil?**

##### No Impact

Soil erosion generally occurs during construction, as grading (or other similar activities/disturbances) can loosen surface soils and make them more susceptible to the effects of wind and water movement across the surface. As stated previously, the project is a proposal to allow the operation of an entertainment venue at an existing restaurant and bar, and proposes no modifications to the existing building or site conditions. Since no new construction or similar activities are a part of the project, the erosion of top soil as a result of the project is not expected and no mitigation measures are required.

#### **c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**

##### No Impact

According to Figure E-1 of the San Marcos General Plan (Geotechnical Conditions), the project site is located in an area noted as “prone to instability.” As stated previously, the project is a proposal to allow the operation of an entertainment venue at an existing restaurant and bar, and proposes no modifications to the existing building or site conditions. Since the site is already developed, and the project proposes no further development of the site, a geotechnical investigation has not been prepared. Should any future expansion or modification of the existing structures occur, a geotechnical investigation may be required to identify the stability of a geologic unit or soils. As a result, no impacts from the project are anticipated from a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse and no mitigation measures are required.

#### **d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?**

##### No Impact

As stated previously, the project is a proposal to allow the operation of an entertainment venue at an existing restaurant and bar, and proposes no modifications to the existing building or site conditions. Because the site is developed and the project proposes no further development of the site, a geotechnical

investigation has not been prepared. The existing buildings at the site have been permitted and standard practices involved with the issuance of Building Permits require that a soils analysis be conducted and that the buildings be constructed in accordance with the findings of the analysis or in accordance with minimum design standards as required by the California Building Code. As a result, no impacts are anticipated from the project related to expansive soil, as defined in Table 18-1-B of the Uniform Building Code and no mitigation measures are required.

- e) **Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?**

No Impact

The project is located within, and served by the Vallejos Water District (VWD) and the project will continue to be connected to the municipal sewer system. As a result, septic tanks or alternative waste water disposal systems are not required.

**MITIGATION MEASURES:**

None.



Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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## VII. GREENHOUSE GAS EMISSIONS -- Would *the project*:

- |  |                          |                          |                                     |                                     |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?      | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

### DISCUSSION:

- a) **Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?**

#### Less Than Significant Impact

Operation of the proposed project would create greenhouse gas emissions. The URBEMIS 2007 model was utilized to estimate greenhouse gas (GHG) emissions from proposed project. Table 7.1 below summarizes CO<sub>2</sub> emissions that would occur during the operation of a project from sources such as vehicle trips, space heating and cooling, use of gas appliances and landscape maintenance equipment (because the project does not propose any new facilities, construction related activities were excluded from the analysis contained in Table 7.1).

Table 7.1 Carbon Dioxide Air Pollution Emissions (unmitigated)	
Daily CO <sub>2</sub> Emissions From Project	
Period	Operation
Summer	2,791 (lb/day)
Winter	2,430 (lb/day)
Annual CO <sub>2</sub> Emissions From Project	
Annual Operation Emissions from the Project:	487 (tons/year)
Threshold of Significance:	900 (tons/year)
Exceed Threshold:	NO
<i>Source: URBEMIS 2007 Version 9.2.4. See Appendix A for complete results</i>	

While State law defines greenhouse gases as Carbon Dioxide (CO<sub>2</sub>), Methane (CH<sub>4</sub>), Nitrogen (N<sub>2</sub>), Hydrofluorocarbons (HFC's), Perfluorocarbons (PFC's) and Sulfur Hexafluoride (SF<sub>4</sub>), the most common greenhouse gases associated with human activity are CO<sub>2</sub>, CH<sub>4</sub> and N<sub>2</sub>. The results of the URBEMIS model recorded in Table 7.1 show CO<sub>2</sub> emissions from the project and include methane (CH<sub>4</sub>) emissions from vehicles as CO<sub>2</sub> volumes. The GHG contributions from the proposed project are

below the 900 tons/year threshold established for commercial projects by the California Air Pollution Control Officers Association (CAPCOA) and therefore a less than significant amount of greenhouse gases are anticipated to be generated by the proposed project. As a result, the project is not expected to generate greenhouse gas emissions that may have a significant impact on the environment and no mitigation measures are required.

**b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?**

No Impact

As discussed above, the operation of the proposed project will not violate air quality standards, exceed significance thresholds or conflict with an applicable plan, policy or regulation adopted for the purpose of reducing greenhouse gas emissions. As a result, the project is not expected to have an impact and no mitigation measures are required.

**MITIGATION MEASURES:**

None.

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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**VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would *the project*:**

- |   |                          |                          |                                     |                                     |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b) Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?                                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

- a) **Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?**

No Impact

The proposed use of the facility by the project would not involve the routine transport, use, or disposal of hazardous materials. As a result, no impacts are anticipated from the project that would create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials and no mitigation measures are required.

- b) **Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

No Impact

The project will be required to comply with all federal, state, and local laws regulating the management and use of common hazardous materials. As a result of the project's required compliance with these standard regulations, no impacts are anticipated that would create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment and no mitigation measures are required.

- c) **Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

No Impact

There are no schools within a one-quarter mile of the proposed project. The nearest school to the project site is Alvin Dunn Elementary School, which is approximately 0.67 miles south of the project site. The project also does not propose to emit hazardous emissions, or handle hazardous or acutely hazardous materials/substances/waste. As a result, no impacts are anticipated from the proposed project and no mitigation measures are required.

- d) **Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

No Impact

The proposed project is not located on a hazardous materials site as designated by Government Code Section 65962.5. A review of the information on the Department of Toxic Substances Control website ([www.envirostor.dtsc.ca.gov](http://www.envirostor.dtsc.ca.gov)) did not identify any sites on the project site but identified two Leaking Underground Fuel Tank (LUST) cleanup sites near the project site at 112 N. Rancho Santa Fe Road (.05 miles southwest the project site) and 125 N. Rancho Santa Fe Road (.08 miles south of the project site).

As previously stated, the project proposes no construction, grading or other subsurface disturbances so the likelihood of the project creating a significant hazard to the public or the environment from hazardous

material sites is low. As a result, the project is not anticipated to have an impact and no mitigation measures are required.

- e) **For a project located within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?**

Less Than Significant Impact

The closest airport is the McClellan-Palomar Airport, which is located about 4.4 miles southwest of the project site. According to the McClellan-Palomar Airport Land Use Compatibility Plan, the project site is located within Airport Influence Area (AIA) Review Area 2. AIA Review Area 2 consists of limitations on the height of structures, particularly in areas of high terrain. Given the fact the project site is located approximately 2.5 miles out of AIA Review area 1 (which encompasses areas with higher safety concerns) and that the project does not propose any changes to existing facilities, no impacts from the project are anticipated and no mitigation measures are required.

- f) **For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?**

No Impact

The project site is not within the vicinity of a private airstrip. As a result, no impacts are anticipated that would result in a safety hazard for people residing or working in the project area and no mitigation measures are required.

- g) **Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

No Impact

The City's design and environmental review procedures ensure compliance with emergency response and evacuation plans. In addition, the Building Division and Fire Department conduct annual safety inspections of all restaurants and assembly uses in the City to ensure that businesses continue to operate safely. As a result, no impacts are anticipated that would impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan and no mitigation measures are required.

- h) **Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?**

No Impact

The lands surrounding the project site are developed with urban uses. There are no wildland areas within the project vicinity which would create a significant fire hazard at the subject property. As a result, no impacts are anticipated and no mitigation measures are required.

**MITIGATION MEASURES:**

None.

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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## IX. HYDROLOGY AND WATER QUALITY -- *Would the project:*

- |   |                          |                                     |                                     |                                     |
|---|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?   | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| f) Otherwise substantially degrade water quality?   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?   | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow?   | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |



## DISCUSSION:

### a) **Violate any water quality standards or waste discharge requirements?**

#### Potentially Significant Unless Mitigated

The proposed project consists of a Conditional Use Permit to allow the operation of an entertainment venue at an existing restaurant and bar in an existing building in a developed commercial center. The project is located in the Carlsbad Hydrologic Unit, in the San Marcos Hydrologic Area within the Richland Hydrologic SubArea (HSA 904.52). Receiving waters for the project site are the San Marcos Creek and Pacific Ocean. The San Marcos Creek is a 303(d) listed impaired water body for nutrients and bacteria. The area also falls under the jurisdiction of the San Diego Regional Water Quality Control Board (SDRWQCB). In addition, the project is already connected to the Vallecitos Water District sanitary sewer system and all wastewater discharges from the project are treated at the Encina Water Pollution Control Facility and the Meadowlark Water Reclamation Facility. Although connected to the sanitary sewer system, an obstruction in the flow of wastewater in that connection may cause the wastewater to back up and overflow through a manhole, cleanout, or drain in what's known as a Sanitary Sewer Overflow (SSO).

When an SSO occurs, the untreated wastewater normally conveyed in the sanitary sewer system is released into the environment and discharged through the City's Municipal Separate Storm Sewer System (MS4). The build-up of solids in sanitary sewers from fats, oils and greases (FOG) in wastewater is a leading cause of SSOs in the city of San Marcos. Chapter 14.15 of the San Marcos Municipal Code (S.M.M.C.) prohibits any discharges into the City's MS4 and requires that all commercial activities implement Best Management Practices (BMP's) that will reduce the potential for pollutants to pollute, contaminate or otherwise pose a nuisance to any runoff from the site. To prevent SSOs and pursuant to the requirements of Chapter 10, Section 1009.1 of the California Plumbing Code, the project will be required to ensure that a functional grease interceptor shall be maintained at the site. With a functional grease interceptor that is properly maintained, the project is expected to have a less than significant impact on water quality standards and not violate waste discharge requirements.

MM 9.1 - Applicant shall install and/or maintain a grease interceptor to capture and contain FOGs (Fats, Oils or Greases) or other materials that may impair water quality, in compliance with the California Plumbing Code.

### b) **Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?**

#### No Impact

As stated previously, the proposed project consists of a Conditional Use Permit to allow the operation of an entertainment venue at an existing restaurant and bar in an existing building in an already developed commercial center. The project site is located within the Vallecitos Water District (VWD) service area and water is supplied to the site by the VWD. As the site is already developed, and the proposed project does not propose any modifications to existing site conditions, it is not anticipated that the project will substantially deplete groundwater supplies or interfere substantially with groundwater recharge, such that there could be a net deficit in aquifer volume or a lowering of the local groundwater table level. As a result, no impacts are anticipated and no mitigation measures are required.

- c) **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?**

No Impact

As stated previously, the project does not propose the construction of any new structures or expansion/modification of existing structures or site conditions and existing drainage patterns of the site and surrounding area are not expected to alter as a result of the project. There being no impact, no mitigation measures are recommended for inclusion.

- d) **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?**

No Impact

As stated previously, the project does not propose the construction of any new structures or expansion/modification of existing structures or site conditions. Since the site is already developed and the project does not propose to alter the existing conditions, no impacts are anticipated from the project and no mitigation measures are required.

- e) **Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?**

Potentially Significant Unless Mitigated

The project does not propose to construct any new structures or expand/modify existing structures or site conditions. Currently the northern portion of the site drains into a stormsewer inlet on the south side of Mission Road just east of Rancho Santa Fe Road. The runoff is conveyed westerly under Mission Road in an 18" reinforced concrete pipe to an outfall near the 2900 block of South Santa Fe Road. A smaller southern portion of the site drains onto Capalina Road and continues flowing eastward. The existing stormwater drainage system has sufficient capacity to accommodate drainage from the existing project site. As discussed previously in this section, Chapter 14.15 of the San Marcos Municipal Code (S.M.M.C.) prohibits any discharges into the City's MS4 and requires that all commercial activities implement Best Management Practices (BMP's) that will reduce the potential for pollutants to pollute, contaminate or otherwise pose a nuisance to any runoff from the site. Contaminants from outdoor dining areas have the potential to pollute runoff from the site and as a result need to be prevented as required by Chapter 14.15 S.M.M.C.. As a result of the implementation of operational Best Management Practices to mitigate impacts from outdoor dining to project site runoff, the project is expected to have a less than significant impact on water quality.

MM 9.2 - Applicant shall use dry methods (sweeping) to maintain all patio outdoor dining/seating areas.

MM 9.3 - Patios and outdoor dining/seating areas shall be covered and kept clear of all trash, debris, or other materials that may impair water quality.

MM 9.4 - Any FOGs (Fats, Oils or Greases) present on patios and outdoor dining/seating shall be cleaned using methods described in the CASQA Handbook.

**f) Otherwise substantially degrade water quality?**

Less Than Significant Impact

As discussed previously, the project does not propose to construct any new structures or expand/modify existing structures or site conditions. As with the use of any site, trash, debris, petroleum hydrocarbons (e.g. oil and grease), and other pollutants may impact and/or degrade water quality. As a standard practice, Chapter 14.15 of the San Marcos Municipal Code (S.M.M.C.) requires that all commercial activities implement Best Management Practices (BMP's) that will reduce the potential for pollutants to contaminate any stormwater runoff from the project site. As a result, the project is expected to have a less than significant impact on water quality and no additional mitigation measures are required.

**g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?**

No Impact

The project does not involve the construction of housing and is not within a 100 year flood hazard area as mapped on the Federal Hazard Boundary or Flood Insurance Rate Map (FEMA Flood Insurance Rate Map (FIRM) Map Number 06073C0789G (revised June 16, 1999)). As a result, no impacts are anticipated from the proposed project and no mitigation measures are required.

**h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?**

No Impact

As stated previously, the project does not propose to construct any new structures or expand/modify existing structures or site conditions. In addition, the project site as shown on the FEMA Flood Insurance Rate Map (FIRM) is located outside of the 100-year flood hazard area. As a result, no impacts are anticipated from the proposed project and no mitigation measures are required.

**i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?**

No Impact

There are no levees or dams within the vicinity of the project site. As a result, no impacts are anticipated from the project that would expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam and no mitigation measures are required.

**j) Inundation by seiche, tsunami, or mudflow?**

No Impact

The proposed project is located approximately 8.9 miles east of the Pacific Ocean and according to the June, 2009 Encinitas Quadrangle of the Tsunami Inundation Map for Emergency Planning prepared by the University of Southern California for the California Geographic Survey, the project is not in a Tsunami Inundation Area. In addition, there are no bodies of water near the project site which make the proposed project susceptible to seiche. Finally, drainage and soil conditions in the surrounding area do not pose a risk of inundation due to mudflow. As a result, the project is not expected to be inundated by seiche, tsunami or mudflow and no mitigation is required.

#### **MITIGATION MEASURES:**

- MM 9.1 - Applicant shall install and/or maintain a grease interceptor to capture and contain FOGs (Fats, Oils or Greases) or other materials that may impair water quality, in compliance with the California Plumbing Code.
- MM 9.2 - Applicant shall use dry methods (sweeping) to maintain all patio outdoor dining/seating areas.
- MM 9.3 - Patios and outdoor dining/seating areas shall be covered and kept clear of all trash, debris, or other materials that may impair water quality.
- MM 9.4 - Any FOGs (Fats, Oils or Greases) present on patios and outdoor dining/seating shall be cleaned using methods described in the CASQA Handbook.

	Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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**X. LAND USE AND PLANNING -- *Would the project:***

- |   |                          |                                     |                          |                                     |
|---|--------------------------|-------------------------------------|--------------------------|-------------------------------------|
| a) Physically divide an established community?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan?   | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**DISCUSSION:**

**a) Physically divide an established community?**

No Impact

The proposed project consists of a Conditional Use Permit to allow the operation of an entertainment venue at an existing restaurant and bar in an existing building in a commercial center in a developed area of the city. The project does not propose the construction of any new structures or expansion/modification of existing structures or site conditions. As a result, no impacts are anticipated from the project that would physically divide an established community and no mitigation measures are required.

**b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?**

Potentially Significant Unless Mitigated

The project proposes the operation of an entertainment venue at an existing restaurant and bar in the Commercial "C" zone in the Business and Industrial District of the city. While no provisions for entertainment venues are contained in the land use table of the Commercial zone (Section 20.56.020 San Marcos Municipal Code), the code does permit the City Manager or his designee to allow uses not listed, provided the proposed use is similar in character and conforms to the purpose and intent of the zone. While not permitted by right in the Commercial zone, an entertainment venue at an existing restaurant and bar would cause larger assemblages of people than would normally be associated with the operation of the restaurant and bar. Similarly, other uses in the Commercial zone with large assemblages of people can be considered, provided that impacts from the uses are mitigated through the Conditional Use Permit process.

According to the City of San Marcos General Plan Land Use Designation map, the project site is designated as “Commercial” and located in the Business and Industrial District of the city. The goal of the Business and Industrial District is to establish a locale for industrial, retail, service commercial and office-professional uses in the city while preserving and enhancing the area’s natural and open space resources. To accomplish this goal, and ensure that Commercial areas in the District are conveniently located to be efficient, attractive and safe for vehicular and pedestrian circulation, the plan establishes several objectives and policies. Among these, is the policy to discourage the intrusion of incompatible uses in the commercial and industrial areas B(12). The proposed project could have potentially significant impacts, however the incorporation of conditions of approval through the Conditional Use Permit process should mitigate any incompatibility of the existing uses and the proposed project. As a result, the project is expected to have a less than significant impact with the implementation of the mitigation measure.

MM 10.1 - The proposed project requires the approval of a Conditional Use Permit (CUP) to operate an entertainment venue at an existing restaurant and bar in the Commercial “C” zone.

**c) Conflict with any applicable habitat conservation plan or natural community conservation plan?**

No Impact

The project site is not located within a proposed conservation or preservation area identified in the City’s Draft Subarea Plan of the San Diego County Multiple Habitat Conservation Plan (certified by SANDAG March 28, 2003). The proposed project would also not conflict with the provisions of the draft MHCP Subarea Plan once it is formally adopted. Furthermore, the project would not conflict with any provisions of other adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. As a result, no impacts are anticipated from the project and no mitigation measures are required.

**MITIGATION MEASURES:**

MM 10.1 - The proposed project requires the approval of a Conditional Use Permit (CUP) to operate an entertainment venue at an existing restaurant and bar in the Commercial “C” zone.

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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**XI. MINERAL RESOURCES -- Would *the project*:**

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**DISCUSSION:**

- a) **Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?**

No Impact

The project site has previously been developed and there are no known mineral resources at the site. As a result, the project is not anticipated to result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state and no mitigation measures are required.

- b) **Result in the loss of availability of a locally- important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?**

No Impact

According to the City of San Marcos General Plan, there are no known mineral resources on the proposed project site that would result in the loss of availability of a locally-important mineral resource recovery site. In addition, the project site is developed and the project proposes no further development of the site. As a result, no impacts are anticipated from the project and no mitigation measures are required.

**MITIGATION MEASURES:**

None.



	Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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**XII. NOISE --** *Would the project result in:*

- |   |                          |                                     |                                     |                                     |
|---|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?   | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

**DISCUSSION:**

- a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

Potentially Significant Unless Mitigated

The City of San Marcos noise standards are primarily contained within the City's General Plan Noise Element and in the Noise Ordinance, codified in Chapter 10.24 of the City of San Marcos Municipal Code (S.M.M.C.). In general, the City's noise ordinance takes a qualitative approach to noise regulation and prohibits loud, annoying or unnecessary noises from fixed sources. The City's noise ordinance does not have specific quantitative noise level standards. It should be noted however that Section 2.0 of the City's Noise Element states that pursuant to General Plan policies, the City has used specific noise standards adopted by San Diego County. To that extent, the City's Noise Element notes that the County's noise

ordinance limits noise in the Commercial zone to 60 dB(a) during the “daytime” (7 a.m. to 7:00 p.m.) and to 55 dB(a) during “nighttime” (7 p.m. to 7 a.m.).

Approval of the project would allow the operation of an entertainment venue at the project site. Entertainment at the site, such as Disc Jockeys (D.J.s), bands, and other performances, would utilize sound amplifying equipment to produce audible entertainment for patrons of the project. Any amplified sound produced by the project would come from an emitting device contained within the existing building. Amplified sound generated from the project would be of significant volume and expose people inside the facility to levels of noise in excess of standards established in the General Plan for the Commercial zone. Noise levels outside the facility however shall be compliant with the Standards established in the General Plan for noise in the Commercial zone, which is limited to 55 dB(a) during the nighttime, or during the time of most events (7 p.m. to 7 a.m.). Additionally, Section 10.24.020(b)(3) S.M.M.C. prohibits the use of any amplified sound emitting device from being operated in such manner as to disturb at any time, the peace, quiet and comfort of the neighboring inhabitants. Furthermore, Section 10.24.020(b)(3) S.M.M.C. prohibits amplified sound from being plainly audible by inhabitants or occupants of any adjacent or neighboring residential properties or units, or plainly audible at a distance of fifty (50) feet between the hours of 10:00 p.m. and 7:00 a.m.. Incorporation of the mitigation measures identified below should reduce the project is anticipated impacts to a level of less than significant.

MM 12.1 - All north facing (rear) doors of the facility shall be kept closed at all times during the operation of the entertainment venue.

MM 12.2 - The applicant shall monitor noise levels outside the facility during the operation of the entertainment venue and adjust audible sound levels to comply with the City of San Marcos’ noise ordinance.

MM 12.3 - Amplified sound equipment shall be prohibited outside the facility (including on patios) during the operation of the entertainment venue.

**b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?**

No Impact

Groundborne vibration is typically attenuated over short distances and is usually associated with construction activities. The closest home to the project site would be located at the northwest corner of the S. Rancho Santa Fe Road and Capalina Road, approximately 250 feet west of the project site. Given the distance and the fact the project proposes no construction activities, it is unlikely the project will expose persons to the generation of excessive groundborne vibration or groundborne noise levels and no mitigation measures are required.

**c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?**

Less Than Significant Impact

As with any project, there will be an incremental increase in the ambient noise levels in the project vicinity as a result of the project. This increase in ambient noise levels can be primarily attributed to traffic and

other secondary impacts associated with a more intense use of the site. As the project site is already developed and the project would not modify any existing facilities, it is not anticipated that a substantial increase in ambient noise levels in the project vicinity will occur as a result of the project and no mitigation measures are required.

**d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?**

Less Than Significant Impact

As stated previously, the project would permit live entertainment to occur at the project site. Live entertainment at the site, such as Disc Jockeys (D.J.s), bands, and other performances, would utilize sound amplifying equipment to produce audible entertainment for patrons of the project. Any amplified sound produced by the project would come from emitting devices contained within the existing building. Amplified sound generated from the project would be of significant volume and expose people inside the facility to high levels of noise. The immediate vicinity of the project will also most likely experience a temporary or periodic increase in ambient noise levels during the operation of the entertainment venue. Due to the City's Noise Ordinance (codified as Chapter 10.24 S.M.M.C.), any noise generated from the project site cannot disturb, at any time, the peace, quiet and comfort of the neighboring inhabitants. The nearest residences to the project site are to the west, approximately 250 feet away from the project across S. Rancho Santa Fe Road, a four lane Secondary Arterial. The orientation of the building's doors and windows are to the north and south, with none on the west side of the building facing the nearby residences. This existing orientation should minimize noise level impacts to nearby residences to the west of the project site. In addition, mitigation measures previously discussed in this Section require that doors located on the north side of the building be closed during the use of the entertainment venue to prevent excessive noise emissions. Furthermore, Section 10.24.020(b)(3) S.M.M.C. prohibits amplified sound from being plainly audible by inhabitants or occupants of any adjacent or neighboring residential properties or units, or plainly audible at a distance of fifty (50) feet between the hours of 10:00 p.m. and 7:00 a.m..

As a result of the building's existing orientation, conditions of approval establishing limitations on the operation of the entertainment venue and the City's Noise Ordinance, the project is anticipated to have a less than significant impact and no additional mitigation measures are required.

**e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?**

No Impact

The closest airport is the McClellan-Palomar Airport, which is located about 4.4 miles southwest of the project site. According to the McClellan-Palomar Airport Land Use Compatibility Plan, the project site is located within Review Area 2 of the Airport Influence Area. Given the fact the project site is located outside of Review Area 1, which encompasses locations exposed to aircraft noise levels in excess of 60 dB CNEL or greater, the project is not anticipated to expose people residing or working in the project area to excessive noise levels and no mitigation measures are required.

- f) **For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?**

No Impact

The project site is not located within the vicinity of a private airstrip. As a result, no impacts are anticipated that would expose people residing or working in the project area to excessive noise levels and no mitigation measures are required.

**MITIGATION MEASURES:**

- MM 12.1 - All north facing (rear) doors of the facility shall be kept closed at all times during the operation of the entertainment venue.
- MM 12.2 - The applicant shall monitor noise levels outside the facility during the operation of the entertainment venue and adjust audible sound levels to comply with the City of San Marcos' noise ordinance.
- MM 12.3 - Amplified sound equipment shall be prohibited outside the facility (including on patios) during the operation of the entertainment venue.

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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### XIII. POPULATION AND HOUSING -- *Would the project:*

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### DISCUSSION:

- a) **Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?**

##### No Impact

The project would not directly induce substantial population growth in the area, as no homes are proposed with this project. The project would similarly not indirectly induce substantial population growth in the area, as the facility is existing and all infrastructure is already constructed in the area and would not be improved by the project. As a result, no impacts are anticipated from the project that would induce substantial population growth in an area, either directly or indirectly and no mitigation measures are required.

- b) **Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?**

##### No Impact

As stated previously, the project does not propose to construct any new structures or expand/modify existing structures or site conditions. Additionally, the site is zoned Commercial "C" and no housing or residential units are present at the project site. As a result, no impacts are anticipated from the project that would displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere and no mitigation measures are required.

- c) **Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

### No Impact

As stated previously, the project does not propose to construct any new structures or expand/modify existing structures or site conditions. Additionally, the site is zoned Commercial “C” and no persons reside at the project site. As a result, no impacts are anticipated from the project that would displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere and no mitigation measures are required.

### **MITIGATION MEASURES:**

None.

	Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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#### XIV. PUBLIC SERVICES --

- a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objective for any of the public services:

Fire Protection?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Police Protection?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other Public Facilities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

#### DISCUSSION:

- a) **Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objective for any of the public services:**

**Fire Protection:** Potentially Significant Unless Mitigated

Fire suppression, prevention and emergency medical response services are provided to the project site by the City of San Marcos Fire Department. These services are funded, in part, through the use of special taxes known as Community Facility Districts (CFD) that are collected annually with property taxes. In 1998, Community Facilities District No. 98-01 was formed to provide funding for police, fire and paramedic facilities and services within the City of San Marcos. The proposed project consists of a request to add an entertainment venue to an existing restaurant and bar in the Commercial "C" zone of the City. As required by City policy, it is mandatory for all projects that require an entitlement to annex into special tax districts to mitigate impacts from the project to public facilities. Currently the parcel containing the project has already been annexed into the CFD, however an adjustment of the assessed tax may be required to reflect the proposed project. In addition, to prevent the project from significantly impacting fire and paramedic protection services, conditions and limitations (e.g. operational limitations, security services to ensure peaceful assemblage and prevent injurious behavior, etc.) have been incorporated into the

Conditional Use Permit to limit activities or operations of the project that have the potential to impact fire protection services. Operation of the project in conformance with these conditions and limitations should prevent the project from having a potentially significant impact on fire protection services.

If the project fails to operate in conformance with the conditions and limitations incorporated into the Conditional Use Permit, there is the potential for the project to significantly impact the City's fire protection services. Section 20.96.050 of the San Marcos Municipal Code (S.M.M.C.) allows the City to require a security in the form of money or a surety bond in a fixed amount to ensure compliance with the conditions and limitations upon which the Conditional Use Permit is granted. Should the operation of the project breach any of the conditions or limitations upon which the Conditional Use Permit is granted, the money or the bond furnished as security will be forfeited to the City of San Marcos and used to mitigate impacts on City services from the project. As a result of the annexation to CFD 98-01, adherence to conditions and limitations on the Conditional Use Permit and the posting of a security, impacts on fire protection services are anticipated to be less than significant from the project.

MM 14.1 - Special taxes levied by the Community Facilities Districts (CFD): CFD 98-01 shall be adjusted to reflect the conditional use proposed by the project at the site if necessary. The applicant shall comply with all rules, regulations, policies and practices established by the City with respect to the CFDs including, without limitation, requirements for notice and disclosure to future owners or residents.

MM 14.2 - Prior to the reliance on the Conditional Use Permit and prior to the operation of the entertainment venue, the applicant shall post the required security per Sec. 20.96.050 S.M.M.C.

**Police Protection:**            Potentially Significant Unless Mitigated

Police protection services are provided by the City of San Marcos under a contract with the San Diego County Sheriff's Department. These services are funded, in part, through the use of special taxes known as Community Facility Districts (CFD) that are collected annually with property taxes. In 1998, Community Facilities District No. 98-01 was formed to provide funding for police, fire and paramedic facilities and services within the City of San Marcos. The proposed project consists of a request to add an entertainment venue to an existing restaurant and bar in the Commercial "C" zone of the City. Currently the parcel containing the project has already been annexed into the CFD, however an adjustment of the assessed tax may be required to reflect the proposed project. To prevent the project from significantly impacting police protection services, conditions and limitations (e.g. use of private security personnel, operational limitations, etc.) have been incorporated into the Conditional Use Permit to limit activities or operations of the project that have the potential to impact police protection services. In addition, the applicant shall submit a Safety and Security Plan for review by the Sheriff's Department. The plan will outline all safety and security procedures implemented by the applicant to ensure the peaceful operation of the entertainment venue. Operation of the project in conformance with the Safety and Security Plan and the conditions and limitations of the Conditional Use Permit should prevent the project from having a potentially significant impact on police protection services.

If the project fails to operate in conformance with the aforementioned plan or the conditions and limitations incorporated into the Conditional Use Permit, there is the potential for the project to significantly impact the City's police protection services. Section 20.96.050 of the San Marcos Municipal Code (S.M.M.C.) allows the City to require a security in the form of money or a surety bond in a fixed amount to ensure



compliance with the conditions and limitations upon which the Conditional Use Permit is granted. Should the operation of the project breach any of the conditions or limitations upon which the Conditional Use Permit is granted, the money or the bond furnished as security will be forfeited to the City of San Marcos and used to mitigate impacts on City services from the project. As a result of the annexation to CFD 98-01 (and the adjustment described in MM 14.1), adherence to conditions and limitations on the Conditional Use Permit, the procedures outlined in the Security and Safety Plan and the posting of a security (as required in MM 14.2), impacts on police protection services are anticipated to be less than significant from the project.

MM 14.3 - Prior to the reliance on the Conditional Use Permit and operation of the entertainment venue, the applicant shall submit a Safety and Security Plan for review and approval by the City.

**Schools:** No Impact

The creation of housing units is not proposed by the project. Also, commercial development is required to pay development impact fees to the San Marcos Unified School District, however these fees are based on square footage and only levied when commercial square footage is created. As stated previously, the project does not propose to construct any new structures or expand/modify existing structures and thus is not required to pay any addition development impact fees to the San Marcos Unified School District. As a result, no impacts are anticipated from the project and no mitigation measures are required.

**Parks:** No Impact

As stated previously, the project proposes to operate a live entertainment venue from an existing restaurant and bar in the city. The project does not propose the creation of residential units or to construct any new structures or expand any existing structures at the project site. As a result, no impacts to parks are anticipated from the project and no additional mitigation measures are required.

**Other Public Facilities:** Potentially Significant Unless Mitigated

The project site is located within the city San Marcos and the development and maintenance of public facilities is conducted by the City of San Marcos. These services are funded, in part, through the use of special taxes known as Community Facility Districts (CFD) that are collected annually with property taxes.

In 1998, Community Facilities District No. 98-02 was formed to provide funding for facilities and services that provide street lighting, landscape/ open space/ preserve maintenance within the City of San Marcos. In conformance with City policy, it is mandatory for all projects that require an entitlement to annex into special tax districts to mitigate impacts from the project to public facilities. Currently the parcel containing the project has already been annexed into the CFD, however an adjustment of the assessed tax may be required to reflect the proposed project.

MM 14.5 - Special taxes levied by the Community Facilities Districts (CFD): CFD 98-02 shall be adjusted to reflect the conditional use proposed by the project at the site if necessary. The applicant shall comply with all rules, regulations, policies and practices established by the City with respect to the CFDs including, without limitation, requirements for notice and disclosure to future owners or residents.

## **MITIGATION MEASURES:**

- MM 14.1 - Special taxes levied by the Community Facilities Districts (CFD): CFD 98-01 shall be adjusted to reflect the conditional use proposed by the project at the site if necessary. The applicant shall comply with all rules, regulations, policies and practices established by the City with respect to the CFDs including, without limitation, requirements for notice and disclosure to future owners or residents.
- MM 14.2 - Prior to the reliance on the Conditional Use Permit and operation of the entertainment venue, the applicant shall post the required security per Sec. 20.96.050 S.M.M.C.
- MM 14.3 - Prior to the reliance on the Conditional Use Permit and operation of the entertainment venue, the applicant shall submit a Safety and Security Plan for review and approval by the City.
- MM 14.4 - Special taxes levied by the Community Facilities Districts (CFD): CFD 98-02 shall be adjusted to reflect the conditional use proposed by the project at the site if necessary. The applicant shall comply with all rules, regulations, policies and practices established by the City with respect to the CFDs including, without limitation, requirements for notice and disclosure to future owners or residents.

	Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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## XV. RECREATION --

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

### DISCUSSION:

- a) **Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?**

#### No Impact

The proposed project would not involve a housing component nor would it substantially increase employment opportunities within the city; therefore, the project would not substantially increase the use of existing neighborhood and regional parks or other recreational facilities. As a result, no mitigation measures are required.

- b) **Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?**

#### No Impact

There are no recreational facilities proposed as part of the project and the project would not result in the need for additional recreational facilities within the City. Therefore, the project would not result in an adverse physical effect on the environment from construction or expansion of recreational facilities and no mitigation measures are required.

### MITIGATION MEASURES:

None.

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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**XVI. TRANSPORTATION/TRAFFIC -- *Would the project:***

- |   |                          |                                     |                                     |                                     |
|---|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?   | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| e) Result in inadequate emergency access?   | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

**DISCUSSION:**

- a) **Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?**

Potentially Significant Unless Mitigated

Based upon the SANDAG traffic generation rates for the San Diego region, the proposed project is expected to generate 373 vehicle trips per day. Four (4) intersections were identified for traffic analysis as areas most potentially impacted by the proposed project. Operational characteristics for intersections are generally measured by conducting Level of Service (LOS) analysis. LOS is used to evaluate congestion and delay on streets and highways. The relative level of congestion is evaluated on a scale from A to F. LOS A indicates free-flow conditions with minimal delay, whereas LOS F indicates extreme delay. The City of San Marcos considers LOS D or better to be acceptable intersection operating conditions during peak traffic periods. Existing Level of Service (LOS) data for the study intersections is listed below in Table 16.1.

<b>Table 16.1</b> PM Peak Level of Service (LOS) data for Surrounding Intersections	
<b>Intersection</b>	<b>LOS</b>
Rancho Santa Fe Road @ Mission Road	D
Rancho Santa Fe Road @ Capalina Road	D
Rancho Santa Fe Road @ SR-78 (west bound)	D
Rancho Santa Fe Road @ SR-78 (east bound)	C

Based on the projected traffic information and the existing Levels of Service identified in Table 16.1, operation of an entertainment venue during PM peak traffic conditions is not expected to significantly impact LOS at intersections proximal to the project site. The project will, however, contribute toward City-wide traffic resulting in potential cumulative impacts to State Route 78 which currently operates at below-satisfactory Levels of Service. To mitigate for SR 78 cumulative impacts, the proposed project will be required to financially participate in a planned intra-City shuttle system which will assist in the reduction of City-wide traffic congestion. As a result of the incorporation of the mitigation measures identified below, impacts from the project are anticipated to be less than significant.

MM 16.1 - The applicant shall also enter into an agreement with the City regarding financial participation in the planned intra-City shuttle system.

- b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?**

Less than Significant Impact

As stated previously, the project proposes to operate an entertainment venue from an existing restaurant and bar in the city. The project does not propose the creation of residential units or to construct any new structures or expand any existing structures at the project site.

The City of San Marcos General Plan Circulation Element lists the City's goal for acceptable service standards during daily periods as Level of Service (LOS) D for all roadway intersections. LOS ratings of E

and worse would not meet the City's Circulation Element goal. Any project related traffic impact that would result in a change of LOS from acceptable (LOS D or better) to a deficient LOS (E or worse) at an intersection would be considered a significant impact. Like with all development, approval of the project would result in an incremental increase to network wide traffic congestion, however incorporation of previously discussed mitigation measures restricting entertainment/ events to start times after peak PM traffic congestion periods should mitigate any potential impacts to proximal intersection levels of service (LOS). As a result, the project is not expected to conflict with an applicable congestion management program and no additional mitigation measures are required.

**c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?**

No Impact

The proposed project is not located in close proximity to a public or private airport, and does not include development of a private airstrip or heliport. As a result, no impacts are anticipated and no mitigation measures are required.

**d) Substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?**

No Impact

The project would utilize existing facilities and does not propose any modifications to the site or to the circulation of the site. As a result, no impacts are anticipated and no mitigation measures are required.

**e) Result in inadequate emergency access?**

No Impact

The project would utilize existing facilities and does not propose any modifications to the site or to the circulation of the site. Emergency access to the site would be via Rancho Santa Fe Road and Capalina Road. Access along these roads is existing and not expected to be impacted by the proposed project and as a result no mitigation measures are required.

**f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?**

No Impact

Development of the proposed project would not conflict with adopted policies or involve elimination of facilities supporting alternative transportation such as bus turnouts or bicycle racks. As a result, no impacts are anticipated from the project and no mitigation measures are required.

**MITIGATION MEASURES:**

MM 16.1 - The applicant shall also enter into an agreement with the City regarding financial participation in the planned intra-City shuttle system.

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
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**XVII. UTILITIES AND SERVICE SYSTEMS --** *Would the project:*

- |   |                          |                          |                                     |                                     |
|---|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?                            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?  | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| g) Comply with federal, state, and local statutes and regulations related to solid waste?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

**DISCUSSION:**

- a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?**

No Impact

The city of San Marcos is within the jurisdiction of the San Diego Regional Water Quality Control Board (SDRWQCB) and the project site is located within the Vallecitos Water District's (VWD) service area. The project site is also already connected to water and sanitary sewer service through the VWD and the

project has been reviewed by the VWD for compliance with wastewater treatment requirements of the SDRWQCB. The project has also been conditioned to install and maintain a grease interceptor (as required in MM 9.1). As a result, no impacts are anticipated from the proposed project that would exceed treatment requirements of the SDRWQCB and no additional mitigation measures are required.

- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

No Impact

The project site is located within the Vallecitos Water District (VWD) service area. The project proposes no physical changes to existing facilities or site conditions. As with any development, the project will cause an incremental increase in the consumption of new water and quantity of effluent discharged. However, these increases are within the capacity of existing water and wastewater treatment facilities. As a result, no impacts are anticipated that would require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities and no mitigation measures are required.

- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?**

No Impact

The project proposes to utilize existing structures and facilities and will not result in an increase in the amount of impervious surfaces or change existing drainage patterns at the site. Existing stormwater drainage facilities are already in place on Mission Road and the project would not result in the construction of any new stormwater drainage facilities. As a result, no impacts are anticipated from the project and no mitigation measures are required.

- d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?**

No Impact

As stated previously, the project site is located within the Vallecitos Water District (VWD) service area and is already connected to both VWD water and sanitary sewer service. The project has been reviewed by the VWD for water availability and wastewater treatment capacity and sufficient supplies and facilities exist to service the proposed project. As a result, no impacts are anticipated from the proposed project and no mitigation measures are required.

- e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

No Impact

As previously discussed, the project site is located within the Vallecitos Water District (VWD) service area and is already connected to VWD sanitary sewer service. In addition, the project does not propose to construct any new structures or expand/modify existing facilities (including plumbing fixtures/appliances)



or site conditions. The project has been reviewed by the VWD for the availability of wastewater treatment services and VWD has determined that sufficient capacity and facilities exist to service the proposed project. As a result, no impacts are anticipated from the proposed project and no mitigation measures are required.

**f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?**

Less Than significant Impact

Solid waste collected in San Marcos enters the countywide landfill system through the use of any one of the three waste transfer/material recovery facilities serving North County San Diego (the Palomar Transfer Station in Carlsbad, the Escondido Resource Recovery or the Fallbrook Recycling & Transfer Station). Waste transfer/material recovery facilities collect waste from local haulers, sort waste streams, recover recyclables, consolidate waste and materials onto larger capacity vehicles and coordinate the transfer of waste and materials to regional facilities (such as landfills) with sufficient capacity to accept waste. According to the 2005 San Diego County Integrated Waste Management Plan, there was a remaining countywide landfill capacity of 62,893,695 tons. At currently projected disposal rates, and with the planned expansions of the Miramar and Sycamore landfills (capacities not included in the 62,893,695 ton regional capacity) there should be sufficient capacity to accommodate the region's waste through 2028, meeting the requirements of Section 18755.3(c) of the California Code of Regulations.

Currently the project site is already serviced by EDCO Waste and Recycling Services, Inc., the contracted waste hauler for the City of San Marcos. If approved, the project would contribute an incremental increase to the solid waste already generated at the site. This increase is not expected to be significant and as stated above, sufficient solid waste disposal capacity remains in the countywide landfill system to accommodate any increases in waste from the proposed project. As a result, the project is expected to create a less than significant impact and no mitigation measures are required.

(Source: 2005 San Diego County Integrated Waste Management Plan. URL:  
<http://www.sdcdpw.org/siting/pdf/San%20Diego%20County%20Summary%20Plan%202005.pdf>)

**g) Comply with federal, state, and local statutes and regulations related to solid waste?**

No Impact

The project consists of the operation of an entertainment venue which will not conflict with any regulations related to solid waste. In addition, the proposed project is required to comply with all federal, state and local statutes and regulations related to the collection, storage and disposal of all solid waste generated at the site. As a result, no impacts are anticipated from the proposed project and no mitigation measures are required.

**MITIGATION MEASURES:**

None.

Potentially Significant Impact	Potentially Significant Unless Mitigated	Less Than Significant Impact	No Impact
--------------------------------------	---	---------------------------------------	--------------

## XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --

- |  |                          |                                     |                                     |                                     |
|--|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

### DISCUSSION:

- a) **Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

#### No Impact

The project site is located in an already developed urban environment with no known native vegetative communities, or sensitive, threatened or endangered wildlife or plant species to occur at the project site. In addition, the project proposes no physical changes to existing facilities or site conditions. Due to the project’s location in an already developed site, the potential for sensitive species to use the site is very low. Lastly, for reasons discussed in the cultural analysis (Section 5), the project would not significantly affect important examples of California history or prehistory. As a result, no impacts are anticipated from the proposed project.

- b) **Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when**

**viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?**

Potentially Significant Unless Mitigated

The project proposes the operation of an entertainment venue at an existing restaurant and bar in the Business and Industrial District of the city. While the analysis of environmental impacts by the initial study did identify potential impacts from the project, most of these impacts are not expected to be significant or in some instances, mitigation measures have been recommended for adoption to reduce impacts to a level of less than significant. Cumulatively considerable impacts from the project are anticipated to be limited to citywide traffic congestion and potential impacts to SR-78 which have been mitigated through financial participation in the planned intra-City shuttle system (MM 16.2). As a result of the implementation of the mitigation measures contained herein, no impacts from the project will be individually limited, but cumulatively considerable.

- c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?**

Less Than Significant Impact

Based on the environmental analysis contained herein, there are no potential impacts identified that can't be mitigated to a level of less than significant. As a result, the project would not cause substantial adverse effects on human beings either directly or indirectly.

## MITIGATION MONITORING PROGRAM FOR NEGATIVE DECLARATION 10-805

MITIGATION MEASURES	MONITORING ACTIVITY/TIMING	RESPONSIBILITY
Applicant shall install and/or maintain a grease interceptor to capture and contain FOGs (Fats, Oils or Greases) or other materials that may impair water quality, in compliance with the California Plumbing Code. (MM 9.1)	Prior to the reliance on CUP	Applicant
Applicant shall use dry methods (sweeping) to maintain all patio outdoor dining/seating areas. (MM 9.2)	On going	Applicant
Patios and outdoor dining/seating areas shall be covered and kept clear of all trash, debris, or other materials that may impair water quality. (MM 9.3)	On going	Applicant
Any FOGs (Fats, Oils or Greases) present on patios and outdoor dining/seating shall be cleaned using methods described in the CASQA Handbook. (MM 9.4)	On going	Applicant
The proposed project requires the approval of a Conditional Use Permit (CUP) to operate an entertainment venue at an existing restaurant and bar in the Commercial “C” zone. (MM 10.1)	On going	Applicant
All north facing (rear) doors of the facility shall be kept closed at all times during the operation of the entertainment venue. (MM 12.1)	On going	Applicant
The applicant shall monitor noise levels outside the facility during the operation of the entertainment venue and adjust audible sound levels to comply with the City of San Marcos’ noise ordinance. (MM 12.2)	On going	Applicant
Amplified sound equipment shall be prohibited outside the facility (including on patios) during the operation of the entertainment venue. (MM 12.3)	On going	Applicant
Special taxes levied by the Community Facilities Districts (CFD): CFD 98-01 shall be adjusted to reflect the conditional use proposed by the project at the site if necessary. The applicant shall comply with all rules, regulations, policies and practices established by the City with respect to the CFDs including, without limitation, requirements for notice and disclosure to future owners or residents. (MM 14.1)	Prior to the reliance on CUP	Applicant
Prior to the reliance on the Conditional Use Permit and operation of the entertainment venue, the applicant shall post the required security per Sec. 20.96.050 S.M.M.C. (MM 14.2)	Prior to the reliance on CUP	Applicant
Prior to the reliance on the Conditional Use Permit and operation of the entertainment venue, the applicant shall submit a Safety and Security Plan for review and approval by the City. (MM 14.3)	Prior to the reliance on CUP	Applicant
Special taxes levied by the Community Facilities Districts (CFD): CFD 98-02 shall be adjusted to reflect the conditional use proposed by the project at the site if necessary. The applicant shall comply with all rules, regulations, policies and practices established by the City with respect to the CFDs including, without limitation, requirements for notice and disclosure to future owners or residents. (MM 14.4)	Prior to the reliance on CUP	Applicant
The applicant shall also enter into an agreement with the City regarding financial participation in the planned intra-City shuttle system. (MM 16.1)	Prior to the reliance on CUP	Applicant

## **APPENDIX A**

### *Traffic Generation Rates*

Use	Area	Rate	Weekday Trips	AM Peak	PM Peak	Vehicle Miles Traveled
Theater	728	0.08	58.24	0.194133	4.6592	6.1
Restaurant (Quality)	3,148	0.1	314.8	1.049333	25.184	4.7
		<b>Total:</b>	<b>373.04</b>	<b>1.243467</b>	<b>29.8432</b>	<b>1,835</b>

<b>Description of Area</b>	<b>Area (sq ft)</b>
Back of House	892
Behind Bar	370
Dining 1 (bar)	517
Dining 2 (main)	1369
<b>Total Dining</b>	<b>3,148</b>
Stage	289
Dance Floor	439
<b>Total Theater</b>	<b>728</b>
<b>TOTAL:</b>	<b>3,876</b>

## **APPENDIX B**

*Results from URBEMIS 2007 Model for Proposed Project*



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Urbemis 2007 Version 9.2.4

## Combined Annual Emissions Reports (Tons/Year)

File Name:

Project Name: CUP 10-821 - Jumping Turtle

Project Location: California State-wide

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

## AREA SOURCE EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (tons/year, unmitigated)	0.00	0.00	0.00	0.00	0.00	0.00	5.66

## OPERATIONAL (VEHICLE) EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (tons/year, unmitigated)	0.44	0.71	5.59	0.00	0.87	0.17	481.73

## SUM OF AREA SOURCE AND OPERATIONAL EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (tons/year, unmitigated)	0.44	0.71	5.59	0.00	0.87	0.17	487.39

Combined Winter Emissions Reports (Pounds/Day)

File Name:

Project Name: CUP 10-821 - Jumping Turtle

Project Location: California State-wide

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

AREA SOURCE EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	0.00	0.03	0.02	0.00	0.00	0.00	31.04

OPERATIONAL (VEHICLE) EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	2.76	4.94	32.74	0.02	4.77	0.93	2,398.83

SUM OF AREA SOURCE AND OPERATIONAL EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	2.76	4.97	32.76	0.02	4.77	0.93	2,429.87

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Urbemis 2007 Version 9.2.4

## Summary Report for Summer Emissions (Pounds/Day)

File Name:

Project Name: CUP 10-821 - Jumping Turtle

Project Location: California State-wide

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

## AREA SOURCE EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	0.00	0.03	0.02	0.00	0.00	0.00	31.04

## OPERATIONAL (VEHICLE) EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	2.21	3.40	29.58	0.02	4.77	0.93	2,760.05

## SUM OF AREA SOURCE AND OPERATIONAL EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	2.21	3.43	29.60	0.02	4.77	0.93	2,791.09



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## ATTACHMENT F

### Project Plans