



THE CITY OF SAN DIEGO

## NEGATIVE DECLARATION

Project No. 545299

SCH No. N/A

**SUBJECT:** **Sorrento Valley MO:** A CONDITIONAL USE PERMIT and COASTAL DEVELOPMENT PERMIT for the operation and tenant improvements of a Marijuana Outlet (MO). The 3,475-square-foot tenant space would be within an existing 50,284 square-foot vacant building, which was previously scientific research offices. Additionally, the project includes various site improvements including reconstruction of three driveways to current City standards, and parking lot restriping that would include motorcycle and accessible parking. The developed 12.04-acre project site is located at 10150 Sorrento Valley Road. The site is designated Industrial and zoned IL-3-1 within the Torrey Pines Community Plan area. Additionally the project site is located within the Coastal Zone Boundary, Airport Land Use Compatibility Overlay Zone (Marine Corps Air Station (MCAS) Miramar), Airport Land Use Compatibility Plan (ALUCP) Noise Contours (MCAS Miramar 60-65 Community Noise Equivalent Level (CNEL)), Airport Influence Area (Review Area 1), Federal Aviation Administration (FAA) Part 77 Noticing Area, Airports Safety Zone (MCAS Miramar Accident Potential Zone 2), Coastal Overlay Zone (Appealable and Non-Appealable), Community Plan Implementation Overlay Zone-A, Very High Fire Hazard Severity Zone, Parking Impact Overlay Zone (Coastal and Campus), Prime Industrial Lands, Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), and the Transit Priority Area. (LEGAL DESCRIPTION: Lot No. 3, Map No. 435). Applicant: Sean St. Peter.

**UPDATE:** **March 20, 2019. Revisions and/or minor corrections have been made to this document when compared to the draft Negative Declaration (ND). More specifically, the Description of Project, Number 8 of the Initial Study Checklist has been revised to include background information describing history related to the environmental document, and Section XVI (Transportation) has been updated to remove unrelated project information. The revisions are shown in ~~strikethrough~~ underline format. In accordance with the California Environmental Quality Act, Section 15073.5 (c)(4), the addition of new information that clarifies, amplifies, or makes insignificant modification does not require recirculation as there are no new impacts and no new mitigation identified. An environmental document need only be recirculated when there is identification of new significant environmental impact or the addition of a new mitigation measure required to avoid a significant environmental impact. Modifications within the environmental document do not affect the environmental analysis or conclusions of the final ND.**

**I. PROJECT DESCRIPTION:**

See attached Initial Study.

**II. ENVIRONMENTAL SETTING:**

See attached Initial Study.

**III. DETERMINATION:**

The City of San Diego has conducted an Initial Study and determined that the proposed project will not have a significant environmental effect and the preparation of an Environmental Impact Report will not be required.

**IV. DOCUMENTATION:**

The attached Initial Study documents the reasons to support the above Determination.

**V. MITIGATION, MONITORING AND REPORTING PROGRAM:**

NONE REQUIRED

**VI. PUBLIC REVIEW DISTRIBUTION:**

Draft copies or notice of this Negative Declaration were distributed to:

STATE

Coastal Commission (47)

CITY OF SAN DIEGO

Mayor's Office

Councilmember Bry, District 1

Council Member Campbell, District 2

Council Member Ward, District 3

Council Member Montgomery, District 4

Council Member Kersey, District 5

Council Member Cate, District 6

Council Member Sherman, District 7

Council Member Moreno, District 8

Council President Gomez, District 9

City Attorney (93C)

Development Services Department

EAS

Planning Review

Engineering Review

Transportation

DPM

Library, Government Documents (81)  
San Diego Central Library (81A)  
North University Branch Library (81JJJ)

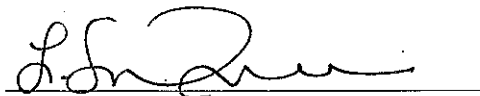
OTHER ORGANIZATIONS, GROUPS AND INTERESTED INDIVIDUALS

Torrey Pines Community Planning Board (469)  
Torrey Pines Association (472)  
CA Department of Parks and Recreation Southern Service Center (474)  
Crest Canyon Citizens Advisory Committee (475)  
California State Parks (476)  
Friends of Los Penasquitos Canyon Preserve (477)  
Heather Riley, Allen Matkins Leck Gamble Mallory & Natsis LLP

**VII. RESULTS OF PUBLIC REVIEW:**

- ( ) No comments were received during the public input period.
- ( ) Comments were received but did not address the accuracy or completeness of the draft environmental document. No response is necessary and the letters are incorporated herein.
- (X) Comments addressing the accuracy or completeness of the draft environmental document were received during the public input period. The letters and responses are incorporated herein.

Copies of the draft Negative Declaration, the Mitigation, Monitoring and Reporting Program and any Initial Study material are available in the office of the Land Development Review Division for review, or for purchase at the cost of reproduction.



Elizabeth Shearer-Nguyen  
Senior Planner  
Development Services Department

January 30, 2019

Date of Draft Report

March 20, 2019

Date of Final Report

Analyst: M. Dresser

Attachments: Initial Study Checklist  
Figure 1 – Location Map  
Figure 2 – Site Plan

# Allen Matkins

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Direct Dial: 619.235.1564 File Number: 377656-00001/SD881851.01

## City staff response(s) to Allen Matkins Leck Gamble Mallory & Natsis LLP comment(s) letter for Sorrento Valley MO, Project No. 545299

### Via Electronic Mail

February 28, 2019

Morgan Dresser  
City of San Diego  
Development Services Center  
1222 First Avenue, MS-501  
San Diego, CA 92101

Email: dsdeas@sandiego.gov

Re: Comments on Draft Negative Declaration for Sorrento Valley MO Project No. 545299

Dear Ms. Dresser:

Thank you for the opportunity to comment on the above-referenced recirculated draft negative declaration ("Recirculated ND") prepared for the revised Sorrento Valley MO (the "Revised Project"). This firm represents SVRMC, LLC, who filed an appeal of the environmental determination for the originally circulated negative declaration ("Original ND") in connection with the prior iteration of the project ("Original Project").

For the reasons outlined below, the Recirculated ND and the Revised Project must be considered by a Hearing Officer pursuant to the Land Development Procedures, Chapter 11, Article 2, Division 5, of the San Diego Municipal Code ("SDMC"). The decision by the applicant to amend the Original Project description, thereby resulting in a substantial revision to, and recirculation of, the environmental document, requires the City of San Diego ("City") to comply with Decision Process Three by scheduling a public hearing before a Hearing Officer to act upon the Revised Project and the Revised ND. The City Council lacks jurisdiction, at this time, to consider the adequacy of the Recirculated ND or the merits of the appeal filed in connection with the Original ND.

Moreover, the Recirculated ND contains significant flaws and internal inconsistencies, discussed below, necessitating further recirculation of the document.

#### **I. Environmental Appeal History**

By way of background, the City Council first considered the appeal of the environmental determination for the Original Project on November 15, 2018. At that time, the City Council continued the hearing and did not act to grant or deny the appeal. Similarly, on January 28, 2019, the City Council again continued the appeal without taking formal action pursuant to SDMC section 112.0520. In the time between these City Council hearings, the applicant submitted additional traffic analysis to City staff recognizing a significant and unmitigated impact not

1. This statement is an introduction to comments that follow. Responses to specific comments are provided below.

2. This comment provides a brief summary of the project history. Comment noted.

2.  
Cont.

previously identified. To avoid the impact, the applicant revised the Original Project to avoid the significant impact. On January 30, 2019, the City published a notice of the availability of the Recirculated ND for the Revised Project, incorporating project description revisions and additional traffic analysis.

**II. Decision Process Three Requires That a Hearing Officer, Not the City Council, Initially Act Upon the Revised Project and the Recirculated ND**

The City's process for the consideration of an environmental determination appeal has been tested in the courts and upheld both in published and unpublished decisions. Specifically, the Court of Appeal in *Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161 ("*Clews*"), and more recently in *La Jolla Shores Tomorrow v. City of San Diego*, an unpublished decision filed February 22, 2019 ("*LJST*", a copy of which is attached hereto as Exhibit A), addressed environmental appeals of Process Three Determinations. In *Clews*, the court explained that pursuant to SDMC section 112.0520(f)(1), when the City Council *grants* an environmental appeal, the previous decision to approve the project (in *Clews*, a Planning Commission determination), is held in abeyance and the City Council retains jurisdiction to consider both the revised environmental document and the project at issue. (*Clews*, 19 Cal.App.5th, at pp. 185-186.)

In *LJST*, the City Council on two occasions *granted* environmental appeals of proposed mitigated negative declarations for a project. Following the grant of the first appeal, the Planning Commission adopted a second mitigated negative declaration. The City Council then granted a second environmental appeal. This time, the Planning Commission certified an environmental impact report ("EIR") analyzing a reduced density project. The City Council then denied a third appeal by upholding the EIR certification as well as the project approval. (*LJST*, at p. 15)

3.

In *Clews* and *LJST*, the Court of Appeal explained that the *grant* of an environmental appeal compelled the Planning Director, pursuant to SDMC section 112.0520(f)(2), to reconsider the environmental determination and prepare a revised environmental document "as appropriate, in consideration of any direction from the City Council." Moreover, the SDMC dictates that when the City Council *grants* an appeal, it must consider the revised environmental determination at a "subsequent hearing." (SDMC § 112.0520(f)(3).) In contrast to *LJST*, however, the City Council did not act on the environmental appeal in the current situation. Rather, on two separate occasions, the appeal hearing was continued without action. In the interim, as noted above, the applicant amended the Original Project. This voluntary decision compelled the circulation of the Recirculated ND due to a "substantial revision," as defined by the CEQA Guidelines. (14 Cal. Code Regs., § 15073.5.)

Pursuant to the SDMC provisions discussed above, had the City Council granted the environmental appeal and directed staff to bring the environmental analysis into compliance with CEQA, the City Council would have retained jurisdiction over the environmental appeal and the Revised Project, as outlined in *Clews* and *LJST*. That is not what happened here. The Revised Project applicant, by its actions, effectively conceded the issues raised by the prior environmental appeal. Pursuant to Decision Process Three, the Hearing Officer, not the City Council, must now consider the Revised Project and the Recirculated ND in the first instance, subject to possible later

3. Comment noted. This comment does not address the adequacy or accuracy of the Negative Declaration, no further response is required.

3.  
Cont.

appeal to the City Council. Returning this matter directly to the City Council violates the public's fundamental right to participate in the process because the environmental appeal submitted in response to the Original ND does not address, and was not filed, in connection with the Recirculated ND.

The City may not circumvent the established SDMC Decision Process, and the due process rights enshrined therein, with a series of City Council continuances until the applicant "gets it right" with a revised project and new environmental analysis. In *LJST*, the City Council granted environmental appeals compelling new CEQA review and triggering the right of the public to participate in subsequent public hearings of the Planning Commission, subject to later environmental appeal to the City Council. The same procedural due diligence must be followed here. The City Council may not consider the Recirculated ND, pursuant to Decision Process Three, except on an environmental appeal filed after the Hearing Officer considers the Revised Project and the Recirculated ND in the first instance.

### III. The Recirculated Negative Declaration is Flawed and Must Be Substantially Revised

4.

The Recirculated ND makes no reference to the Original ND and does not inform the reader of the factual history giving rise to the need for recirculation. As such, Recirculated ND is inadequate as an informational document.

Further, the document itself contains numerous errors. For instance, at Page 3, Section VII, "RESULTS OF PUBLIC REVIEW," the box is checked, reading as follows:

5.

Comments were received, but did not address the accuracy or completeness of the drafted environmental document. No response is necessary and the letters are incorporated herein.

Notwithstanding that the box is checked, this provision is inapplicable. Yet, as drafted, this error causes confusion regarding whether the City is presently accepting public comments on the document or whether the City already has received public comments on the document and chosen not to respond. Combined with the failure of the document to provide historical and procedural context, this error demonstrates the inadequacy of the Recirculated ND as an informational document.

6.

Moreover, at Page 22, under Section XVI, "TRANSPORTATION/TRAFFIC," the Recirculated ND contains inherently conflicting and irreconcilable information. On the one hand, the document states:

The project is anticipated to generate approximately 995 average weekday trips, with 90 AM peak-hour trips (45 in and 45 out) and 160 PM peak-hour trips (80 in and 80 out). The project analysis does not identify any significant traffic impacts on roadways or intersections analyzed for existing plus project conditions and near-term plus project conditions.

4. The Description of Project, Number 8 of the Initial Study Checklist in the final Negative Declaration has been revised to include background information describing history related to the environmental document. Pursuant to the California Environmental Quality Act, Section 15073.5(c)(4), the addition of new information that merely clarifies, amplifies, or makes insignificant modifications does not require recirculation. The modifications within the environmental document do not affect the environmental analysis or conclusions of the final Negative Declaration. Therefore, recirculation is not warranted.

5. The draft Negative Declaration was inadvertently distributed identifying that comments were received. However, the distributed Public Notice of a Draft Negative Declaration correctly identified that comments must be received by February 28, 2019 to be included in the final document. Having this box checked would not preclude the public from submitting a comment letter on the draft Negative Declaration. Therefore, the draft Negative Declaration provides the necessary analysis to inform the decision-maker and the public about potential significant impacts of the project and recirculation is not warranted.

6. The draft Negative Declaration inadvertently contained information in Section XVI (Transportation) pertaining to the project at 3,980-square foot Marijuana Outlet. The unrelated project information has been struck from the final Negative Declaration.

The Darnell & Associates Memorandum dated December 9, 2018 identifies the 3,980-square foot Marijuana Outlet would generate 995 Average Daily Trips, which could result in a potential impact when analyzed with a different set of assumptions, similar to those utilized by Linscott, Law and Greenspan (LLG). This information was included in the Memorandum in order to compare the 3,980-square foot Marijuana Outlet to various potential reduced project scenarios.

Table 1, "Summary of AM Peak Hour Significance Based on Alternative Development Square Footage for the 10150 Sorrento Valley Road Marijuana Outlet Project at I-805 Northbound off ramp/Vista Sorrento Parkway/Sorrento Valley Road and Mira Mesa Boulevard Intersection" of the Darnell & Associates Memorandum dated December 9, 2018 provides a comparison of the 3,980-square foot Marijuana Outlet and alternative development scenarios with reduced square-footage. As identified, a reduction from 3,980 to 3,500 square feet or less would not result in a significant impact using the alternative assumptions previously used by LLG.

Allen Matkins Leek Gamble Mallory & Natsis LLP  
Attorneys at Law

Morgan Dresser  
February 28, 2019  
Page 4

6.  
Cont.

The very next paragraph reads as follows, in part:

The project is anticipated to generate approximately 875 average weekday trips, with 79 AM peak-hour trips (40 in and 39 out) and 140 PM peak-hour trips (70 in and 70 out).

The second paragraph referenced above cites a Darnell & Associates memo dated December 9, 2018. The referenced memo concludes, contrary to the statement in the Recirculated ND, that a project generating 995 average weekday trips will indeed result in significant and unmitigated impacts. (See, December 9, 2018, Darnell & Associates Memo, Table 1.) These inconsistent statements cause fundamental confusion about how many average weekday trips the Revised Project generates. Worse, the text of the Recirculated ND indicates that the Revised Project will *not* result in significant traffic impacts, yet Table 1 of the memo concludes that significant impacts *will* occur.

7.

These errors in the Recirculated ND, both individually and collectively, deprive the public of a clear understanding of the Revised Project and its impacts. Therefore, the environmental document should, at a minimum, be corrected and recirculated for public review.

#### IV. Conclusion

8.

The April 16, 2019 City Council hearing date to consider the environmental appeal of the Original ND must be taken off calendar. The City Council lacks jurisdiction to consider the Revised Project or the Recirculated ND under the auspices of the previously filed environmental appeal. Both the Revised Project and Recirculated ND must be calendared for Hearing Officer consideration, after the defects in the Recirculated ND have been corrected and the document again circulated for public review.

Thank you for your consideration of these comments.

Very truly yours,



Heather S. Riley

HSR:sn  
Enclosure

cc: SVRMC, LLC  
Anna L. McPherson, AICP, Assistant Deputy Director (w/ encl.)  
Elizabeth Shearer-Nguyen, Senior Planner (w/ encl.)  
Corrine L. Neuffer (w/ encl.)

7. Although the draft document inadvertently contained information no longer relevant to the 3,475-square foot Marijuana Outlet, it would not deprive the public of a meaningful opportunity to comment on the draft Negative Declaration. Although clarifying language has been added to the final Negative Declaration, pursuant to the California Environmental Quality Act, Section 15073.5(c)(4), the addition of new information that merely clarifies, amplifies, or makes insignificant modifications does not require recirculation. The modifications within the environmental document do not affect the environmental analysis or conclusions of the final Negative Declaration. Therefore, recirculation is not warranted.
8. Refer to Response Number 7 for recirculation issues. The remainder of the comment does not address the adequacy of the Negative Declaration. Although the final Negative Declaration has been revised recirculation is not warranted.

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# EXHIBIT A



**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

LA JOLLA SHORES TOMORROW,

D072140

Plaintiff and Appellant,

v.

(Super. Ct. No. 37-2015-00037115-  
CU-TT-CTL)

CITY OF SAN DIEGO,

Defendant and Respondent,

BOB WHITNEY et al.

Real Parties in Interest and  
Respondents.

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APPEAL from a judgment of the Superior Court of San Diego County, Joel R.

Wohlfeil, Judge. Affirmed.

The Law Office of Julie M. Hamilton, Julie M. Hamilton and Joseph Bruno for  
Plaintiff and Appellant.

Mara W. Elliot, City Attorney, Glenn T. Spitzer and Heidi Vonblum, Deputy City  
Attorneys, for Defendant and Respondent.

Varco & Rosenbaum Environmental Law Group, Suzanne R. Varco and Jana Mickova Will for Real Parties in Interest and Respondents.

La Jolla Shores Tomorrow (LJST) appeals a judgment denying its Code of Civil Procedure section 1094.5<sup>1</sup> petition for writ of mandate that challenged a decision by the City of San Diego (City) approving construction of a building proposed by real parties in interest Bob Whitney and Playa Grande, LLC (together Playa Grande) in the community of La Jolla Shores and certifying the final environmental impact report (FEIR) for that project. On appeal, LJST contends that City: (1) violated the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) because the San Diego City Council (City Council) did not have the authority to consider the project approvals when it considered the FEIR; (2) violated section 113.0273 of the San Diego Municipal Code (Municipal Code) and did not proceed in the manner required by law because it approved the project without requiring visibility triangles;<sup>2</sup> and (3) did not proceed in the manner required by law because it approved the project with driveways in excess of those permitted by Municipal Code section 142.0560. Based on our reasoning *ante*, we conclude the trial court correctly denied the petition for writ of mandate.

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<sup>1</sup> Undesignated references are to the Code of Civil Procedure.

<sup>2</sup> A visibility triangle is a triangular area without structures that allows adequate sight distance for safe vehicle and pedestrian movement at intersections with a public right-of-way. (Mun. Code, § 113.0273.)

## FACTUAL AND PROCEDURAL BACKGROUND

In 2009 Playa Grande applied for a site development permit, coastal development permit, and tentative map waiver to demolish an existing 1,519-square-foot single-story residential building and an existing 1,538-square-foot single-story commercial building and construct a new three-story mixed-use building (Project) in the community of La Jolla Shores. The Project's site encompasses two lots totaling 3,952 square feet and is surrounded by mixed-use, commercial, office, and multi-family residential development. The Project will include 1,867 square feet of ground floor retail space, a 3,179-square-foot second floor condominium, a 2,780-square-foot third floor condominium, and 3,257 square feet of underground parking. The Project will be set back 10 feet from its eastern neighbor, a three-story mixed-use building. The Project will include a 15-foot by 15-foot entry plaza/visibility triangle at its southwest corner located at the intersection of Avenida de la Playa and El Paseo Grande and a visibility triangle at its northwest corner located at the intersection of El Paseo Grande and Calle Clara. An open carport accessed from Calle Clara will be located at the Project's northwest corner and underground parking for the condominiums will be accessed from Calle Clara through mechanical garage doors and two car elevators.

In 2009 City prepared an initial study under CEQA for the Project. In 2010 a mitigated negative declaration (MND) was completed and circulated for public comment. A City hearing officer adopted the MND and approved the Project's entitlements. City's planning commission (Planning Commission) denied an appeal, adopted the MND, and approved the Project's entitlements. After the City Council granted an appeal from that

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decision, the Planning Commission again adopted the MND and approved the Project's entitlements. The City Council granted a second appeal, finding there was substantial evidence that the Project might have significant environmental impacts. Thereafter, Playa Grande revised the Project by reducing its total square footage, adding car elevators, increasing setbacks, and modifying its design.

In June 2011 City issued a notice of preparation (NOP) and received public comments. In 2013 City prepared a draft environmental impact report and circulated it for public comment. City responded to the public comments in the FEIR, which it circulated in 2015. As a result of public comments, the Planning Commission required further modifications to the Project, including a 15-foot setback on its eastern side. In April 2015 the Planning Commission certified the FEIR and approved the Project's entitlements. In October 2015 the City Council denied an appeal and approved certification of the FEIR.

In November 2015 LJST filed the instant section 1094.5 petition for writ of mandate, alleging City failed to proceed in the manner required by law by violating CEQA and/or the Municipal Code. LJST sought a writ of mandate ordering City to set aside its certification of the Project's FEIR and its approval of the coastal development permit, site development permit, and tentative map waiver for the Project. City and Playa Grande filed a joint opposition to the petition. Following oral argument, the trial court ruled in City's favor, finding: (1) City's process for environmental appeals complies with CEQA's requirements; (2) City properly concluded the Municipal Code does not require visibility triangles for the Project; and (3) City properly concluded the Project does not



propose development of parking facilities that are regulated by the Municipal Code. On February 24, 2017, the court entered judgment for City on the petition. Subsequently, the court denied LJST's motion for a new trial. LJST timely filed a notice of appeal.<sup>3</sup>

On December 20, 2017, we denied without prejudice LJST's December 6, 2017 motion for judicial notice of four exhibits. On February 15, 2018, LJST refiled its motion for judicial notice, requesting that we exercise our discretion under Evidence Code sections 452, 453, and 459 to take notice of the four exhibits attached thereto. On February 22, 2018, we deemed its motion for judicial notice of exhibit 3 to be a motion to augment the record and granted that motion to augment, and we deferred ruling on its motion for judicial notice of exhibits 1, 2, and 4 for consideration concurrently with this appeal.<sup>4</sup> Because those exhibits should have, but were not, presented to the trial court and/or did not exist at the time of City's October 2015 decision, we now decline to exercise our discretion to take judicial notice of those exhibits and deny LJST's motion for judicial notice of exhibits 1, 2, and 4.<sup>5</sup> (Evid. Code, §§ 452, subd. (d), 453, 459,

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<sup>3</sup> On April 4, 2018, we denied the joint motion of City and Playa Grande to consolidate the instant appeal with the appeal in case No. D072215, filed by Bernard I. Segal, which also involves the Project. However, we granted their alternative motion to coordinate the appeals. Both cases have been decided by the same panel.

<sup>4</sup> Those exhibits include: (1) minutes of the City Council meeting held on April 5, 2016; (2) minutes of the City Council meeting held on August 2, 2011; and (3) pages 12 and 13 of the City staff report, dated January 6, 2016, to the Planning Commission.

<sup>5</sup> On March 26, 2018, City and Playa Grande filed a joint conditional motion for judicial notice requesting that we take judicial notice of two exhibits attached thereto *only* in the event we granted LJST's motion for judicial notice. That motion is denied as moot.

subd. (a); *Brosterhous v. State Bar* (1995) 12 Cal.4th 315, 325-326; *Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 444, fn. 3; *CREED-21 v. City of San Diego* (2015) 234 Cal.App.4th 488, 520.)

## DISCUSSION

### I. CITY'S ENVIRONMENTAL APPEALS PROCESS

LJST contends the trial court erroneously denied its petition for writ of mandate because City's process for appeals of environmental decisions and approvals of projects violates CEQA by not requiring those determinations to be made by the same decision-making body. In particular, LJST argues that although the Planning Commission certified the FEIR and approved the Project's entitlements, the Municipal Code allowed an appeal to the City Council of only the Planning Commission's certification of the FEIR.

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#### A. *Denial of Petition*

In October 2015, after the Planning Commission had certified the FEIR and approved the Project's entitlements, the City Council heard and denied an appeal and approved certification of the FEIR. The public agenda for the City Council's consideration of the appeal stated in pertinent part: "If the City Council grants the appeal, the lower-decision maker's decision to approve the project shall be held in abeyance. The City Council shall retain jurisdiction to act on the revised environmental document and associated project at the subsequent public hearing."

In denying LJST's petition for writ of mandate, the trial court concluded City's process for environmental appeals did not violate CEQA. The court stated:

"CEQA is violated when the authority to approve or disapprove the project is separated from the responsibility to complete the environmental review. [Citation.] The environmental review document must be reviewed and considered by the same person or group of persons who make the decision to approve or disapprove the project at issue in order to comply with CEQA's basic purpose of informing governmental decision makers about environmental issues. [Citation.] The separation of the approval function from the review and consideration of the environmental assessment is inconsistent with the purpose served by an environmental assessment as it insulates the person or group approving the project from public awareness and the possible reaction to the individual members' environmental and economic values. [Citation.] In short, a decision-making body's responsibilities are twofold: (a) whether to approve the project and (b) considering and adopting the environmental review document. [Citation.] A lead agency, such as the City, may delegate both types of authority to a nonelected, subordinate body, provided it also provides for an appeal to the lead agency's elected decision-making body. [Citation.]

"CEQA Guidelines [California Code of Regulations, title 14,] section 15185[, subdivision] (a) provides that a lead agency may establish its own procedures for environmental appeals. The City's procedure for appeals is set forth in [Municipal Code] section 112.0520. The process set forth within this Municipal Code section complies with the requirements of CEQA such that the City proceeded as required by law. If an appeal is granted pursuant to [Municipal Code] section 112.0520[, subdivision] (d)(2), then the lower decision is held in abeyance until the environmental document is addressed by the City Council. The City Council is empowered to reconsider the environmental document and the project before project approval and certification of the [environmental impact report]. The City Council, as the final decision-maker, retains the ability to address the project and can modify or deny the project at the final hearing. . . . In this action, the decision on the project and [FEIR] was made by a single decision-making body, the Planning Commission. The appeal of the [FEIR] held the Planning Commission's approval in abeyance, giving the City Council jurisdiction to act on a revised environmental document and associated project at a subsequent public hearing. . . . Therefore, LJST's contention lacks merit."

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Accordingly, the court denied LJST's petition.

## B. CEQA Requirements

"The basic purposes of CEQA are to: [¶] (1) Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities. [¶] (2) Identify ways that environmental damage can be avoided or significantly reduced. [¶] (3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible. [¶] (4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.' (Cal. Code Regs., tit. 14, § 15002.)" (Tomlinson v. County of Alameda (2012) 54 Cal.4th 281, 285-286.) When a proposed project will arguably have significant environmental effects, CEQA requires a public agency to prepare an [environmental impact report] before giving project approval. (*Id.* at p. 286.)

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Public Resources Code section 21061 generally requires an environmental impact report (EIR) or other environmental review document to be considered by a public agency prior to its approval or disapproval of a project.<sup>6</sup> Similarly, California Code of Regulations, title 14, section 15004, subdivision (b)(2),<sup>7</sup> provides: "[P]ublic agencies

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<sup>6</sup> Public Resources Code section 21061 provides that an EIR "is an informational document which, when its preparation is required by [CEQA], shall be considered by every public agency prior to its approval or disapproval of a project."

<sup>7</sup> All references to regulations are to the California Code of Regulations. The regulatory guidelines implementing CEQA are found therein at title 14, section 15000 et seq. (Guidelines).



shall not undertake actions concerning the proposed public project that would have a significant adverse effect or limit the choice of alternatives or mitigation measures, before completion of CEQA compliance." In *POET, LLC v. State Air Resources Bd.*

(2013) 218 Cal.App.4th 681 (*POET*), the court stated:

"[CEQA's] purposes are best served when the environmental review document, such as an EIR or its equivalent, 'provide[s] decision makers with information they can use in deciding *whether* to approve a proposed project, not [informs] them of the environmental effects of projects that they have already approved.' [Citation.] When an environmental review occurs after approval of the project, it is likely to become nothing more than a post hoc rationalization to support action already taken. [Citation.] In short, the policy declaration in [Public Resources Code] section 21002 implies that an evaluation of environmental issues, such as feasible alternatives and mitigation measures, should occur *before* an agency approves a project." (*Id.* at p. 715.)

Guidelines section 15356 defines the term "[d]ecision-making body" as "any person or group of people within a public agency permitted by law to approve or disapprove the project at issue." Public Resources Code section 21151, subdivision (c), provides: "If a nonelected decisionmaking body of a local lead agency certifies an [EIR], approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decisionmaking body, if any." The Guidelines provide that a local agency with an elected decisionmaking body "shall provide for such appeals" and provide that an agency may establish its own procedures for such appeals.

(Guidelines, §§ 15090, subd. (b), 15185, subd. (a).)

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Because LJST challenges the trial court's conclusion on the question of law whether City's environmental appeal process complied with CEQA's requirements, we apply a de novo standard of review. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435; *California Teachers Assn. v. San Diego Community College Dist.* (1981) 28 Cal.3d 692, 699.)

*C. Process Three*

LJST argues City violated CEQA because its process for appeals of environmental decisions and approvals of projects did not require those determinations to be made by the same decision-making body. We disagree.

LJST does not dispute that City applied its "Process Three" (Mun. Code, § 112.0501 et seq.) in reviewing the Project. However, contrary to LJST's assertion, the administrative record indicates that City applied the 2011 version of that process, and not its former 2009 version, when the Planning Commission and City Council considered the Project in 2015. In particular, as noted *ante*, the public agenda for the City Council's October 5, 2015 meeting and consideration of the appeal stated in pertinent part: "If the City Council grants the appeal, the lower-decision maker's decision to approve the project shall be held in abeyance. The City Council shall retain jurisdiction to act on the revised environmental document and associated project at a subsequent public hearing." That description of City's process reflects the 2011 version of its Process Three, as discussed *post*. LJST, City, and Playa Grande agree that the abeyance language in the 2011 version

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of section 112.0520 of the Municipal Code did not exist in its former 2009 version.<sup>8</sup>

Furthermore, our independent review of the record shows that City applied the 2011

version of Process Three.<sup>9</sup>

*In Clews Land & Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161

(*Clews*), we explained Process Three:

"Under Process Three, an application may be approved, conditionally approved, or denied by a hearing officer at a public hearing. ([Mun. Code], § 112.0505.) The hearing officer must comply with CEQA's environmental review and certify or adopt the appropriate environmental document (e.g., negative declaration, MND, or EIR). ([Mun. Code], § 128.0311[ subd.] (a)). The hearing officer's decision may be appealed to the [P]lanning [C]ommission within 10 business days by filing an application with the City Manager. (*Id.*, § 112.0506.) The [P]lanning [C]ommission may affirm, reverse, or modify the decision being appealed. (*Id.*, § 112.0506, subd. (f).)

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<sup>8</sup> On LJST's request, we ordered the record to be augmented to include the "strikeout ordinance" from the minutes of the August 2, 2011 City Council meeting. The former version of Process Three reflected in that strikeout ordinance did not include the abeyance language included in the amendment to section 112.0520 of the Municipal Code adopted by the City Council at that 2011 meeting.

<sup>9</sup> Although LJST cites to excerpts from the administrative record regarding comments made at a April 16, 2015 Planning Commission hearing by its chairperson and a deputy city attorney in support of its argument that City necessarily applied the former 2009 version of Process Three, we are unpersuaded that the comments reflected in those record citations show that in 2015 City actually applied the former 2009 version instead of the then-current 2011 version of Process Three in conducting its environmental review and project approval of the Project. Those comments express their (correct) understanding that only the Planning Commission's certification of the FEIR, and not its approval of the Project, was appealable to the City Council. As discussed *post*, that understanding was consistent not only with the 2011 version of Process Three, but also with CEQA's requirements.



"The [Municipal Code] contains a separate section describing the procedure for environmental determination appeals. ([Mun. Code], § 112.0520.) The [Municipal Code] defines an 'environmental determination' as 'a decision by any non-elected City decision maker, to certify an environmental impact report, adopt a negative declaration or mitigated negative declaration, or to determine that a project is exempt from [CEQA] . . . .' (*Id.*, § 113.0103.) The procedure for environmental determination appeals applies regardless of the decision process adopted by the City: 'Notwithstanding other provisions of this Code, any person may appeal an environmental determination not made by the City Council.' (*Id.*, § 112.0520, subd. (a), italics omitted.) . . .

"The City Council may grant or deny the appeal. ([Mun. Code], § 112.0520, subd. (e).) If the City Council denies the appeal, it will 'approve the environmental determination and adopt the CEQA findings and statement of overriding considerations of the previous decision[.]maker, where appropriate.' (*Id.*, § 112.0520, subd. (e)(2), italics omitted.) If the City Council grants the appeal, it will set aside the environmental determination and return it to City staff for reconsideration. (*Id.*, § 112.0520, subds. (e)(2), (f)(2).) 'The Planning Director shall reconsider the environmental determination . . . and prepare a revised environmental document as appropriate, in consideration of any direction from the City Council.' (*Id.*, § 112.0520, subd. (f)(2), italics omitted.) *During this time, '[t]he lower decision[.]maker's decision to approve the project shall be held in abeyance. The City Council shall retain jurisdiction to act on the revised environmental document and associated project at a subsequent public hearing.'* (*Id.*, § 112.520, subd. (f)(1).)

*"At the subsequent hearing, the City Council has the power to consider the revised environmental document and the associated project. 'At a subsequent hearing, the City Council shall again consider the environmental determination and associated projects, and may take action as follows: [¶] (A) Certify or adopt the environmental document; adopt CEQA findings and statement of overriding considerations as appropriate; and affirm the previous decision to approve the associated project; [¶] (B) Certify or adopt the environmental document; adopt CEQA findings and statement of overriding considerations as appropriate; condition and approve the associated project as modified; or [¶] (C) Find that the environmental document is insufficient, in which case the document shall not be certified. The associated project shall be denied and the*

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decision shall be deemed the final administrative action.' ([Mun. Code], § 112.0520, subd. (f)(3), italics omitted.)" (*Clews*, 19 Cal.App.5th at pp. 185-186, italics added.)

*Clews* concluded the Municipal Code provisions cited in its opinion "establish[ed] a bifurcated appeals procedure for Process Three decisions made by a hearing officer." (*Clews*, 19 Cal.App.5th at p. 186.) While a hearing officer's decision may be appealed to the Planning Commission, his or her environmental determination must simultaneously be appealed to the City Council. (*Ibid.*) Accordingly, "an appeal to the Planning Commission covers only the nonenvironmental project approvals (e.g., permits), while an appeal to the City Council covers the environmental determination. If the City Council grants the appeal, however, it may consider the nonenvironmental project approvals as well." (*Id.* at pp. 186-187.)

In *Clews*, we rejected the claim that City's bifurcated appeals process was invalid under CEQA. (*Clews*, *supra*, 19 Cal.App.5th at pp. 187-189.) We stated:

"The City's procedure . . . complies with [CEQA's] requirements. Under Process Three, the hearing officer has the authority to approve the project and comply with CEQA's environmental review. ([Mun. Code], §§ 112.0505, 128.0311, subd. (a).) The hearing officer is therefore the City's decisionmaking body under the Guidelines. And, because the hearing officer is unelected, the City's procedures allow an appeal of the hearing officer's environmental determination to the City's elected City Council. ([Mun. Code], § 112.0520.)" (*Clews*, at pp. 187-188.)

In that case, the hearing officer's adoption of the environmental document for the project was "procedurally proper" because the hearing officer "also had the authority to approve the project." (*Id.* at p. 188.) Furthermore, "City's procedure establishing an appeal to the City Council to challenge the hearing officer's adoption of the [environmental document]

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was likewise proper." (*Ibid.*) We rejected the argument that City's procedures were inadequate "because the Planning Commission has authority over project approvals but not the environmental determination." (*Ibid.*) That purported inadequacy "does not affect the validity of the hearing officer's environmental determination." (*Id.* at pp. 188-189.)

In *Clews*, we also rejected the argument that City's procedures were invalid because approval of a project under Process Three progresses from the hearing officer to the Planning Commission. (*Clews, supra*, 19 Cal.App.5th at p. 189.) Although no independent appeal to the City Council of the hearing officer's approval of a project is authorized (other than his or her environmental determination) and the Planning Commission's determination regarding that approval is ostensibly final, "[i]f the City [Council] grants the environmental determination appeal, however, [the City Council] has such authority [to approve or disapprove the project]. ([Mun. Code], § 112.0520, subd. (f).)" (*Ibid.*) "Neither CEQA nor the Guidelines require that a local agency's elected decisionmaking body accept appeals regarding every project approval, separate and apart from environmental review. They require only that the environmental determination be appealable. [Citations.] The City's procedures allow exactly that." (*Ibid.*)

In this appeal, LJST argues that City's procedures violated CEQA because although the Planning Commission certified the FEIR and approved the Project's entitlements, the Municipal Code allowed an appeal to the City Council of only the Planning Commission's certification of the FEIR and not its approval of the Project's entitlements (e.g., permits). However, *Clews* compels the conclusion that City's

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procedures complied with CEQA's requirements. As in *Clews*, in this case the hearing officer conducted the initial environmental review and made the project approval determinations. After the hearing officer adopted the MND and approved the Project's entitlements, the Planning Commission denied an appeal, adopted the MND, and approved the Project's entitlements. After the City Council granted an appeal from that decision, the Planning Commission again adopted the MND and approved the Project's entitlements. However, the City Council granted a second appeal and found there was substantial evidence that the Project might have significant environmental impacts. As a result of the City Council's grant of that appeal, the Planning Commission's decision to approve the Project was held in abeyance and the City Council retained jurisdiction to consider a revised environmental document and the Project. (Mun. Code, § 112.0520, subd. (f)(1).)

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City prepared the draft environmental impact report and circulated it for public comment. City considered and responded to the public comments in the FEIR, which it circulated in 2015. On April 16, 2015, after requiring further modifications to the Project, the Planning Commission certified the FEIR and approved the Project's entitlements. On October 5, 2015, the City Council denied an appeal and approved certification of the FEIR. In so doing, the City Council considered the Planning Commission's environmental determination and the Project and certified the FEIR. (Mun. Code, § 112.0520, subd. (f)(2), (3).) Because the Planning Commission's decision to approve the Project was held in abeyance after the City Council granted the CEQA appeal, that decision became final on City Council's subsequent decision to certify the

FEIR. (Mun. Code, § 112.0520, subd. (f)(1), (3)(A).) Therefore, at its October 5, 2015 meeting, the City Council acted as the final decision maker under CEQA when it considered and approved certification of the FEIR and, in effect, simultaneously approved the Planning Commission's decision to approve the Project, which decision had been held in abeyance pending further environmental review.<sup>10</sup> As stated *ante*, CEQA does not require that a local agency's elected decisionmaking body (e.g., City Council) accept appeals from every project approval. (*Clews, supra*, 19 Cal.App.4th at p. 189.) Rather, CEQA requires only that the environmental determination (e.g., FEIR certification) be appealable to that elected decisionmaking body (e.g., City Council). (*Clews*, at p. 189.) Because the hearing officer and the Planning Commission, at the times of their respective decisions, were responsible for complying with CEQA's environmental review requirements (e.g., certifying the FEIR) at the same time as they were responsible for approving the Project, the same decisionmaking body was responsible for both decisions and there was no bifurcated decisionmaking. (*Clews*, at pp. 187-189.) Accordingly, City's decisionmaking process did not violate CEQA.

None of the cases cited by LJST are apposite to this case or otherwise persuade us to reach a contrary conclusion. (See, e.g., *Kleist v. City of Glendale* (1976) 56

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<sup>10</sup> LJST concedes that the 2011 version of section 112.0520 of the Municipal Code "does permit the City Council to consider the project when it considers the appeal of the environmental document." As discussed *ante*, we reject LJST's argument that City applied the former 2009 version, and not the then-current 2011 version, of section 112.0520 of the Municipal Code when the Planning Commission and the City Council considered and approved certification of the FEIR and approved the Project in 2015.

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Cal.App.3d 770, 775-777 [city's environmental review procedures violated CEQA because they did not provide for review of EIR by its city council]; *POET, supra*, 218 Cal.App.4th at p. 731 [board's delegation to executive officer of authority to complete environmental review of project, but without delegating authority to approve project, violated CEQA]; *Citizens for the Restoration of L Street v. City of Fresno* (2014) 229 Cal.App.4th 340, 355, 360 [city's delegation to preservation commission of authority to approve permit for project, but without delegating authority to complete environmental review, violated CEQA].)

## II. VISIBILITY TRIANGLES

LJST contends City did not proceed in the manner required by law because it approved the Project without requiring visibility triangles under section 113.0273 of the Municipal Code, which ordinance provides rules for measuring "visibility areas." In particular, it argues that ordinance required visibility triangles at the intersections of Calle Clara and the Project's driveways.

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### A. Background

In 2010 City staff requested that the hearing officer approve a variance from Municipal Code section 113.0273's provisions for the Project's driveways with Calle Clara. However, the hearing officer found no variance was necessary because that ordinance provided only rules for calculation and measurement of visibility triangles when a specific ordinance or regulation required visibility triangles, but there was no specific provision of the La Jolla Shores Planned District Ordinance (PDO) (Mun. Code, § 1510.0101 et seq.) or other Municipal Code provision requiring visibility triangles for

the Project. The hearing officer reasoned that Municipal Code section 113.0273, which is part of chapter 11 of the Municipal Code, "exists to give guides to those people who are designing projects and enforce regulations. [¶] It's there to tell you how to implement a requirement. It tells you how to measure things. It's not a portion of the [M]unicipal [C]ode that tells you to do something. So unless you can point to a place in the [PDO] that says that visibility triangles are required for this site, I don't see where one is required." He stated: "All I see is that the measurement and visibility area section for rules and calculations tells you how to do it. [¶] I don't see anything that triggers it and makes it a requirement that needs to be done." Accordingly, the hearing officer denied City's request for a variance because a variance from Municipal Code section 113.0273 was not required for the Project.

Thereafter, the Planning Commission approved the Project's entitlements and subsequently reaffirmed those approvals after the City Council granted appeals under CEQA and returned review of the Project back to it. At each hearing, the Planning Commission heard and considered arguments by LJST and others that Municipal Code section 113.0273 and the PDO required visibility triangles for the Project. In particular, at the 2010 hearing when a planning commissioner asked a City staff member if any properties on Calle Clara were required to have visibility triangles, the staff member replied that none of the properties on the south side of Calle Clara had visibility triangles.<sup>11</sup> It was also noted that the south side of Calle Clara, which was originally

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<sup>11</sup> The Project's north side is located on the south side of Calle Clara.

dedicated as a public right of way in 1926, had a zero lot line for adjacent properties, low or no curbs, and no sidewalks. In its penultimate April 16, 2015 resolution approving the Project's entitlements, the Planning Commission found the Project complied with all applicable regulations of the Land Development Code (i.e., chapters 11, 12, 13, & 14 of the Municipal Code [per Mun. Code, § 111.0101, subd. (a)]) and did not propose any deviations therefrom. After the City Council denied the subsequent appeal, LJST filed the instant writ petition, again asserting that Municipal Code section 113.0273 requires the Project to include visibility triangles and, in particular, at the intersection of Calle Clara and the Project's driveways. In its order denying the petition, the trial court concluded that City properly concluded section 113.0273 of the Municipal Code did not require visibility triangles for the Project. The court stated:

"Section 113.0273 [of the Municipal Code] acts to clarify and define the manner in which development regulations are applied. City staff reasonably interpreted the various Municipal Code sections [e.g., §§ 113.0201, 113.0202, 113.0273] such that they properly determined that a variance was not required for the Project. The [PDO] does not require visibility triangles. The determination that Calle Clara does not meet the minimum requirements for classification as a street, and instead functions as an alley, is supported by substantial evidence. This determination relies on a correct interpretation of the subject Municipal Code sections. As a result, the visibility triangle guidelines set forth within [Municipal Code] section 113.0273[, subdivision] (c) do not apply."

Accordingly, the court denied the petition.

#### *B. Interpretation of Statutes*

"Ultimately, the interpretation of a statute is a legal question for the courts to decide, and an administrative agency's interpretation is not binding." (*Sara M. v. Superior*

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*Court* (2005) 36 Cal.4th 998, 1011.) Nevertheless, a past or contemporaneous construction of a statute by an administrative agency is entitled to great weight unless that construction is clearly erroneous or unauthorized. (*Id.* at p. 1012; *Adams v. Commission on Judicial Performance* (1994) 8 Cal.4th 630, 657-658; *Zenker-Felt Imports v. Malloy* (1981) 115 Cal.App.3d 713, 720.) Likewise, the interpretation of an ordinance or other legislation by its enacting body "is of very persuasive significance." (*City of Walnut Creek v. County of Contra Costa* (1980) 101 Cal.App.3d 1012, 1021.)

"Courts must . . . independently judge the text of the statute, taking into account and respecting the agency's interpretation of its meaning, of course, whether embodied in a formal rule or less formal interpretation. Where the meaning and legal effect of a statute is the issue, an agency's interpretation is one among several tools available to the court." (*Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 7.)

"Whether judicial deference to an agency's interpretation is appropriate and, if so, its extent—the 'weight' it should be given—is fundamentally *situational*." (*Id.* at p. 12.) In those situations in which an " 'agency has expertise and technical knowledge, especially where the legal text to be interpreted is technical, obscure, complex, open-ended, or entwined with issues of fact, policy, and discretion, [courts are] more likely to defer to an agency's interpretation of its own regulation than to [their] interpretation of a statute, since the agency is likely to be intimately familiar with regulations it authored and sensitive to the practical implications of one interpretation over another.' " (*Ibid.*) Greater deference is also given to interpretations by agencies where there are indications that senior agency officials have carefully considered those interpretations. (*Id.* at p. 13.)

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C. *Municipal Code Section 113.0273*

LJST argues that Municipal Code section 113.0273 operates independently as a regulation requiring visibility triangles where Calle Clara intersects the Project's driveways. We disagree.

Article 3 of chapter 11 of the Municipal Code provides definitions for land development terms and rules for calculation and measurement when applicable land development regulations include certain terms or concepts. (Mun. Code, §§ 113.0101, 113.0201, 113.0202.) Municipal Code section 113.0201 provides:

*"The purpose of this division [i.e., Municipal Code chapter 11, article 3, division 2] is to clarify and define the manner in which specific land development terms and development regulations are applied. The intent is to provide the rules for calculating, determining, establishing, and measuring those aspects of the natural and built environment that are regulated by the Land Development Code [i.e., Municipal Code chapters 11, 12, 13, & 14]." (Italics added.)*

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Importantly, Municipal Code section 113.0202 provides:

*"This division [i.e., Municipal Code chapter 11, article 3, division 2] applies to development when the applicable regulations include terms or concepts that are shown in Table 113-02A. The Rules for Calculation and Measurement [i.e., Municipal Code chapter 11, article 3, division 2] clarify development regulations and land development terms by expanding on the regulations and providing detailed explanations of pertinent aspects of the regulation. These rules govern the way in which the development regulations are implemented. The land development terms and the sections for the corresponding rules are provided in Table 113-02A. The Rules for Calculation and Measurement of one regulation or term may be used in conjunction with another." (Italics added.)*

The express language of Municipal Code sections 113.0201 and 113.0202 shows that the provisions of division 2 of article 3 of chapter 11 of the Municipal Code (i.e.,

"Rules for Calculation and Measurement") do *not* apply *unless* there is a specific development regulation that applies to a development project and includes terms or concepts set forth in Table 113-02A, which is part of Municipal Code section 113.0202. Alternatively stated, none of the provisions of division 2 of article 3 of chapter 11 of the Municipal Code apply independently to a development project in the absence of an underlying development regulation found elsewhere in the Land Development Code that applies to a particular development project. Absent a substantive development regulation found outside of division 2 of article 3 of chapter 11 of the Municipal Code that expressly applies to and requires visibility triangles for a specific project, Municipal Code section 113.0273 does not apply to that project.

Accordingly, contrary to LJST's assertion, Municipal Code section 113.0273, which is included within division 2 of article 3 of chapter 11 of the Municipal Code, does *not* apply independently to require visibility triangles for the Project. Table 113-02A lists certain land development terms and concepts for which division 2 provides rules for their calculation and measurement and then identifies the respective division 2 ordinance that provides those rules. Table 113-02A includes the term "[v]isibility area" as one such term or concept and identifies Municipal Code section 113.0273 as the division 2 ordinance that provides rules for calculation and measurement of visibility areas. (Mun. Code, § 113.0202.)

Municipal Code section 113.0273, titled "Measuring Visibility Area," provides:

"The *visibility area* is a triangular portion of a *premises* formed by drawing one line perpendicular to and one line parallel to the *property line* or *public right-of-way* for a specified length and one

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line diagonally joining the other two lines, as shown in Diagram 113-02SS. [¶] No *structures* may be located within a *visibility area* unless otherwise provided by the applicable zone or the regulations in Chapter 14, Article 2 (General Development Regulations). [¶] . . .

" . . . For *visibility areas* at the intersection of a *street* and driveway, one side of the triangle extends from the intersection of the *street* and the driveway for 10 feet along the *property line*. The second side extends from the intersection of the *street* and driveway for 10 feet inward from the property line along the driveway edge and the third side of the triangle connects the two."<sup>12</sup>

Although Municipal Code section 113.0273 includes certain language that is regulatory (i.e., "No *structures* may be located within a *visibility area* . . ."), that language must be construed in the context of Municipal Code sections 113.0201 and 113.0202, as discussed *ante*. Accordingly, contrary to LJST's assertion, Municipal Code section 113.0273 does not apply independently to require visibility triangles for the Project.<sup>13</sup> Rather, there must be an underlying development regulation outside of division 2 of article 3 of chapter

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<sup>12</sup> Although not relevant to LJST's arguments on appeal, Municipal Code section 113.0273 also provides: "(1) For *visibility areas* at the intersection of *streets*, two sides of the triangle extend along the intersecting *property lines* for 25 feet and the third side is a diagonal line that connects the two. [¶] (2) For *visibility areas* at the intersection of a *street* and *alley*, two sides of the triangle extend along the intersecting *property lines* for 10 feet and the third side is a diagonal line that connects the two."

<sup>13</sup> Likewise, LJST's assertion that Municipal Code section 113.0273 is a "regulatory" ordinance does not persuade us that it applies to the Project independently of any underlying substantive development regulation that applies to the Project. Rather, assuming *arguendo* that ordinance is "regulatory" within the broad meaning of that term, the language of Municipal Code sections 113.0201 and 113.0202, as discussed *ante*, clearly shows that Municipal Code section 113.0273 does not operate independently to require visibility areas or triangles absent a separate, underlying development regulation that requires visibility areas or triangles for the Project.

11 of the Municipal Code that applies to the Project and requires the Project to have visibility triangles. However, LJST has not cited, nor have we found, any such underlying development regulation.

In particular, the PDO does not contain any such requirement for development in the La Jolla Shores Planned District. Had City intended to require development within that district to have visibility areas or triangles, it presumably knew how to do so and would have included such requirement in the PDO. For example, the La Jolla Planned District Ordinance (not to be confused with the La Jolla Shores Planned District Ordinance) expressly requires visibility areas in zones 5 and 6 of that neighboring community.<sup>14</sup> Therefore, by omitting such requirements from the PDO and other substantive provisions of the Municipal Code applicable to the La Jolla Shores Planned District, we, like the trial court, infer City intended that development in that district *not* be required to have visibility areas or triangles. Accordingly, without any such underlying development regulation applicable to the Project, Municipal Code section 113.0273 does not apply. Therefore, we conclude the trial court correctly found that a

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<sup>14</sup> Municipal Code section 159.0402, subdivision (b), provides: "Zones 5 and 6— Within every premises in Zones 5 and 6 there shall be established visibility areas adjacent to every street corner intersection, driveway (on or off the premises) and alley. These triangular areas shall be of the size, shape and location shown in Appendix F. Within a visibility area, no portion of any fence, wall or other structure shall exceed three feet in height." Furthermore, at the January 5, 2017 hearing on LJST's petition, Suzanne Varco, Playa Grande's counsel, represented to the trial court that the Municipal Code expressly requires visibility triangles in other planned districts (e.g., Mid-City Communities Planned District, Golden Hill Planned District, Mount Hope Planned District, and La Jolla Planned District).



variance from the application of Municipal section 113.0273 was not required for the Project.

*D. Calle Clara Is Not a "Street"*

Assuming arguendo that Municipal Code section 113.0273 applies notwithstanding the absence of any underlying development regulation applicable to the Project, we nevertheless conclude that City properly found that ordinance did not apply to the intersections of Calle Clara and the Project's driveways because Calle Clara is not a street and instead functions as an alley. We, like the trial court below, conclude there is substantial evidence to support that finding.

In response to public comments on the FEIR regarding the absence of visibility triangles, City stated:

"Calle Clara is 30 feet wide. Pursuant to the definition of an alley in the [Municipal Code], Section 113.0103, an alley is a maximum of 25 feet wide. However, pursuant to the City's Street Design Manual (page 11), an alley is 20 feet wide, but may be wider to accommodate utilities. Utilities are located in Calle Clara. Accordingly, the fact that Calle Clara is 30 feet wide is not the only factor to be used in determining whether it is an alley. The narrowest double-loaded street as defined in the City's Street Design Manual is a minimum of 30 feet from curb-to-curb with a minimum 50-foot right of way plus sidewalks [citation]. Calle Clara does not have a 50-foot right of way nor does it have sidewalks or curbs on the south side where the [P]roject is located. Consequently, *Calle Clara does not meet the minimum requirements for classification as a street.*

"Calle Clara's public right of way, on the north side and rear of the [P]roject site, was established along with the original block's Subdivision Map No. 1913, La Jolla Shores Unit No. 1, June 1, 1926, with the dedication of 10 feet for an unnamed public right of way (approximately 1/2 width of an alley) between Paseo del Ocaso and El Paseo Grande. Typical of an alley, the [P]roject site's entire

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block is currently developed as such with zero lot line development along the alley. Later, Subdivision Map No. 2061, La Jolla Shores Unit No. 3, Sept. 26, 1927, was recorded for the proposed subdivision on the north side of this unnamed alley. This subdivision map required the additional dedication of 20 feet of public right of way (approximately 1/2 width of a street) and identified the total 30 feet of public right of way as 'Calle Clara.' This subsequent subdivision's development produced street side features such as curb and gutter along portions of the north side of Calle Clara. *The combination of the two subdivision requirements has created a public right-of-way street with both street and alley features and does not meet the standards in the City's Street Design Manual for a street.* Technically, the northern 'half' of Calle Clara is 20 feet wide while the southern 'half' is only 10 feet wide. There are curbs along a small portion of the northern side of Calle Clara, but not on the south side. Development along the southern side observes a zero-foot setback as allowed in the [PDO]. Garage doors for all development on the south side of Calle Clara are located on the property line and none observe the visibility triangles pursuant to Municipal Code Section 113.0273. *Calle Clara has therefore traditionally functioned as an alley, not a street.*

"Considering the unique situation and the existing development all along the southern side of Calle Clara observing a zero-foot setback as allowed in the [PDO], *the City Engineer has reviewed the [P]roject as proposed with zero-setback and consider[s] Calle Clara to be functioning as an alley rather than a street.* According to [Municipal Code] Section 113.0273, 'for visibility areas at the intersection of a street and alley, two sides of the triangle extend along the intersecting property lines for 10 feet and the third side is a diagonal line that connects the two.' *Therefore, [Municipal Code] Section 113.0273[, subdivision] (a) would not be applicable to the [P]roject. . . .*" (Italics added.)

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As quoted *ante*, Municipal Code section 113.0273, subdivision (c) provides that for required "*visibility areas* at the intersection of a *street* and driveway, one side of the triangle extends from the intersection of the *street* and the driveway for 10 feet along the *property line*." Therefore, by its express terms, that provision for calculating and

measuring visibility areas does not apply unless there is an intersection of a "street" with a driveway.

Under section 1094.5, we review the trial court's decision denying LJST's petition for writ of mandate, and thus City's decision and its findings on disputed facts, for substantial evidence to support them. (*JKH Enterprises, Inc. v. Department of Industrial Relations* (2006) 142 Cal.App.4th 1046, 1057-1058; *Fort Mojave Indian Tribe v. Department of Health Services* (1995) 38 Cal.App.4th 1574, 1590; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 427; *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514-515 ["Section 1094.5 clearly contemplates that at minimum, the reviewing court must determine both whether substantial evidence supports the administrative agency's findings and whether the findings support the agency's decision."].) "Substantial evidence . . . must be 'of ponderable legal significance,' 'which is reasonable in nature, credible and of solid value.' (*JKH Enterprises, Inc.*, at p. 1057.) In applying the substantial evidence standard of review, we resolve all conflicts in the evidence and draw all reasonable inferences in support of City's decision and its factual findings. (*Id.* at p. 1058.) City's determination whether a particular public right-of-way constitutes a "street" within the meaning of Municipal Code section 113.0273 involves a weighing of the unique circumstances of a specific right-of-way in light of City's expertise and technical knowledge and therefore is primarily a factual, not legal, determination. Accordingly, the substantial evidence standard applies to our review of City's determination that Calle Clara is not a "street" within the meaning of Municipal Code section 113.0273. Because

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neither those facts nor the reasonable inferences drawn therefrom are undisputed, City's determination does not involve a pure question of law that would be subject to de novo review. (Cf. *Shamblin v. Brattain* (1988) 44 Cal.3d 474, 479; *Milton v. Perceptual Development Corp.* (1997) 53 Cal.App.4th 861, 867.)

Contrary to LJST's assertion, there is substantial evidence to support City's finding that Calle Clara is not a "street" within the meaning of Municipal Code section 113.0273. LJST notes that Municipal Code section 113.0103 defines an "[a]lley" as "a public way that is no wider than 25 feet that is dedicated as a secondary means of access to an *abutting property*." Based on that definition, LJST argues that because Calle Clara is 30 feet wide and therefore exceeds the maximum width (i.e., 25 feet) set forth in the Municipal Code's definition of an alley, Calle Clara must necessarily be considered a "street" within the meaning of Municipal Code section 113.0273. We disagree.

The proper analysis must begin with the Municipal Code's definition of "street" and any Municipal Code or other City guidelines for street design. Municipal Code section 113.0103 defines a "street" as "that portion of the *public right-of-way* that is dedicated or condemned for use as a public road and includes highways, boulevards, avenues, places, drives, courts, lanes, or other thoroughfares dedicated to public travel, but does not include *alleys*." Accordingly, contrary to LJST's contention, a public right-of-way that is not an alley is not necessarily a "street." Rather, only a public right-of-way that is dedicated or condemned for use as a public road (e.g., a thoroughfare dedicated to public travel) may be considered a "street" within the meaning of Municipal Code section 113.0103. Furthermore, in determining the meaning of a "street" under Municipal Code

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section 113.0273, City properly considered its Street Design Manual. City and Playa Grande represent, and LJST does not dispute, that the narrowest right-of-way for a street allowed by City's Street Design Manual is 48 feet wide.

Given the above criteria for a "street," City then applied those criteria to the unique circumstances of Calle Clara and determined it was not a "street" within the meaning of Municipal Code section 113.0273 and, instead, functioned as an "alley" even though it exceeded the 25-foot width limitation for an alley under Municipal Code section 113.0103. This finding is supported by substantial evidence. Calle Clara was only 30 feet wide, had a zero lot line for properties on its south side, low or no curbs, and no sidewalks. On June 1, 1926, 10 feet of Calle Clara, comprising its southern "half," was dedicated for a public right of way and its adjacent properties were developed with a zero lot line. As City noted, garage doors for all development on the south side of Calle Clara are located on the property line and none of the properties thereon have visibility triangles. Based on those circumstances, City concluded that Calle Clara has traditionally functioned as an alley, and not a street, and therefore found that Municipal Code section 133.0273's provisions regarding visibility areas or triangles do not apply to the intersections between Calle Clara and the Project's driveways.<sup>15</sup>

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<sup>15</sup> To the extent LJST asserts the determination whether Calle Clara is a "street" within the meaning of Municipal Code section 113.0273 involves instead a question of law for our independent determination, we nevertheless would have reached the same conclusion as City did had we reviewed that question de novo in the circumstances of this case.

### III. *PARKING ORDINANCE*

LJST contends that City did not proceed in the manner required by law because it approved the Project with driveways along Calle Clara in excess of those permitted by Municipal Code section 142.0560. Without quoting specific language from that ordinance, LJST asserts Municipal Code section 142.0560 "allows one 20 foot-wide driveway for every 50 feet of street frontage." LJST argues the Project violates that ordinance because it "provides two parking spaces directly off Calle Clara and two entrances to the garage directly off Calle Clara for a total driveway width of 40 feet."

However, as we concluded *ante*, there is substantial evidence to support City's finding that Calle Clara is not a "street." Therefore, because Calle Clara is not a street, any driveways along Calle Clara are not subject to the purported limitation of one driveway per 50 feet of street frontage under Municipal Code section 142.0560 that LJST argues the Project violates.<sup>16</sup> Accordingly, the trial court correctly rejected LJST's argument that the Project violates Municipal Code section 142.0560.

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<sup>16</sup> Because we reject LJST's argument on that ground, we need not, and do not, address the alternative arguments of City and Playa Grande that the Project does not involve any driveways and/or parking facilities within the meaning of Municipal Code section 142.0560.

DISPOSITION

The judgment is affirmed. City of San Diego, Playa Grande, LLC, and Bob Whitney shall recover their costs on appeal.

NARES, J.

WE CONCUR:

McCONNELL, P. J.

HALLER, J.

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Gavin Newsom  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Kate Gordon  
Director

City staff response(s) to the State of California Governor's Office of Planning and Research,  
State Clearinghouse and Planning Unit comment(s) letter  
for Sorrento Valley MO, Project No. 545299

March 1, 2019

Morgan Dresser  
City of San Diego  
1222 First Avenue, MS-501  
San Diego, CA 92101

Subject: Sorrento Valley MO  
SCH#: 2019011071

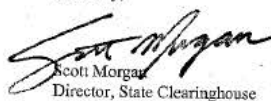
Dear Morgan Dresser:

9.

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. The review period closed on February 28, 2019, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

  
Scott Morgan  
Director, State Clearinghouse

9. The City acknowledges receipt of the State Clearinghouse letter which indicates that the City has complied with the State Clearinghouse review requirements for draft environmental document pursuant to CEQA.



**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2019011071  
**Project Title** Sorrento Valley MO  
**Lead Agency** San Diego, City of

<b>Type</b>	<b>Neg</b> Negative Declaration
<b>Description</b>	A Conditional use permit and coastal development permit for the operation and tenant improvements of a Marijuana Outlet (MO). The 3,475-sf tenant space would be within an existing 50,264 sf vacant building, which was previously scientific research offices. Additionally, the project includes various site improvements including reconstruction of three driveways to current city standards, and parking lot restriping that would include motorcycle and accessible parking. The developed 12.04-acre project site is located at 10150 Sorrento Valley Rd. The site is designated industrial and zoned IL-3-1 within the Torrey Pines Community Plan area. Additionally the project site is located within the coastal zone boundary, airport land use compatibility overlay zone (Marine Corps Air Station Miramar), Airport land use compatibility plan noise contours (MCAS Miramar 60-85 Community Noise Equivalent Level), airport influence area (review area 1), Federal Aviation Administration Part 77 Noticing Area, Airports Safety Zone (MCAS Miramar Accident Potential Zone 2), coastal overlay zone (appealable and non-appealable), community plan implementation overlay Zone-A, Very high fire hazard severity zone, parking impact overlay zone (coastal and campus), prime industrial lands, special flood hazard area (100 year floodway and 100 year floodplain), and the Transit Priority area. (Legal description: Lot No. 3, Map No. 435).

**Lead Agency Contact**

<b>Name</b>	Morgan Dresser	
<b>Agency</b>	City of San Diego	
<b>Phone</b>	(619) 446-5404	<b>Fax</b>
<b>email</b>		
<b>Address</b>	1222 First Avenue, MS-501	
<b>City</b>	San Diego	<b>State</b> CA <b>Zip</b> 92101

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**Project Location**

<b>County</b>	San Diego
<b>City</b>	San Diego
<b>Region</b>	
<b>Lat / Long</b>	32° N / 117° 20' W
<b>Cross Streets</b>	Sorrento Valley Rd and Carroll Canyon Rd
<b>Parcel No.</b>	343-130-16-00
<b>Township</b>	
	<b>Range</b> <b>Section</b> <b>Base</b>

**Proximity to:**

<b>Highways</b>	I-805, I-5
<b>Airports</b>	
<b>Railways</b>	North County Transit District Co
<b>Waterways</b>	Carroll Canyon Creek
<b>Schools</b>	Preuss School, LaJolla Country Day, Eastgate Christian School, T
<b>Land Use</b>	IL-3-1

**Project Issues**

<b>Reviewing Agencies</b>	Resources Agency; California Coastal Commission; Department of Conservation; Department of Fish and Wildlife, Region 5; Cal Fire; Office of Historic Preservation; Department of Parks and Recreation; Caltrans, Division of Aeronautics; Caltrans, District 11; Regional Water Quality Control Board, Region 9; Department of Toxic Substances Control; Air Resources Board, Major Industrial Projects; Department of Food and Agriculture; Office of Emergency Services, California; Native American Heritage Commission; Public Utilities Commission; State Lands Commission
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Note: Blanks in data fields result from insufficient information provided by lead agency.

Document Details Report  
State Clearinghouse Data Base

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*Date Received* 01/30/2019    *Start of Review* 01/30/2019    *End of Review* 02/28/2019

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Note: Blanks in data fields result from insufficient information provided by lead agency.

## INITIAL STUDY CHECKLIST

1. Project title/Project number: Sorrento Valley MO / 545299
2. Lead agency name and address: City of San Diego, 1222 First Avenue, MS-501, San Diego, California 92101
3. Contact person and phone number: M. Dresser / (619) 446-5404
4. Project location: 10150 Sorrento Valley Road, San Diego, California 92121
5. Project Applicant/Sponsor's name and address: Sean St. Peter, 4321 Balboa Avenue, Suite No.162, San Diego, California 92117
6. General/Community Plan designation: Industrial Employment / Industrial
7. Zoning: IL-3-1
8. Description of project (Describe the whole action involved, including but not limited to, later phases of the project, and any secondary, support, or off-site features necessary for its implementation.):

### Project Background

A Negative Declaration, dated September 5, 2018, was prepared for the Sorrento Valley MO project that was before the City of San Diego Hearing Officer on September 19, 2018, and an Environmental Determination Appeal was filed on October 3, 2018. The Environmental Determination Appeal was before the City Council on November 15, 2018, in which a continuance was granted. The applicant reduced the project scope to 3,475-square feet in response to opposition and a revised final Negative Declaration, dated January 10, 2019 was prepared to describe the reduced project. After redistribution of the revised final Negative Declaration, it was brought to City staff's attention that the environmental document required recirculation. Pursuant to the California Environmental Quality Act, Section 15073.5(a), "A lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to Section 15072, but prior to its adoption." Therefore, on January 28, 2019 staff requested that the City Council grant a continuance to allow for the Negative Declaration to be recirculated. Subsequently, in accordance with the California Environmental Quality Act, the Negative Declaration was recirculated for public review.

### Project Description

The project proposes a Conditional Use Permit and Coastal Development Permit for the operation and tenant improvements of a Marijuana Outlet (MO) within a 3,475-square-foot tenant space of an existing 50,284-square-foot building. Tenant improvements would consist of walls for new offices, secured bullet resistant glass, a separate reception room area, common areas, and converting an existing office into a secured vault. The project includes a entry sales area, main sales area, office, hallway, and a storage and vault area. No additional

habitable space is proposed. Hours of operation would be Monday-Sunday 7AM to 9PM. Minor site improvements include the reconstruction of three driveways to current City standards, and parking lot restriping to include motorcycle and accessible parking. The minimum parking required for the site is 374 parking stalls, of which 18 are required for the MO. The project site would contain 482 parking stalls, including ten accessible stalls, and an additional 13 motorcycle stalls.

There is no grading proposed for the project.

9. Surrounding land uses and setting:

The developed 12.04-acre project site is located at 10150 Sorrento Valley Road. The site contains three industrial tilt-up structures comprised of 50,284, 21,782, and 40,271-square-feet, respectively, and associated landscaping, hardscape and surface parking lot. The 3,475-square-foot tenant space is located with the 50,284-square-foot building. Sorrento Valley Road borders the site to the north, Multi Habitat Planning Area (MHPA) to the south, Industrial development to the west, and a vacant undeveloped lot to the east. Carroll Creek runs east to west through the project site immediately south of the existing buildings and north of existing parking. A portion of the project site is within the MHPA, however, railroad tracks bisect the property south of the existing parking and to the north of the MHPA. The primary access to the property is from Sorrento Valley Road. In addition, the project site is currently served by existing public services and utilities.

The project site is designated Industrial and zoned IL-3-1 within the Torrey Pines Community Plan area. Additionally, the project site is within the Coastal Zone, Airport Land Use Compatibility Overlay Zone (Marine Corps Air Station (MCAS) Miramar), Airport Land Use Compatibility Plan Noise Contours (MCAS Miramar 60-65 CNEL), Airport Influence Area (Review Area 1), Federal Aviation Administration Part 77 Noticing Area, Airports Safety Zone (MCAS Miramar Accident Potential Zone 2), Coastal Overlay Zone (Appealable and Non-Appealable), Community Plan Implementation Overlay Zone-A, Very High Fire Hazard Severity Zone, Parking Impact Overlay Zone (Coastal and Campus), Prime Industrial Lands, Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), and the Transit Priority Area. Furthermore, the project is located in a developed area currently served by existing services and utilities.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):

None required.

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?

Consultation in accordance with the requirements of Public Resources Code 21080.3.1 was determined not to be necessary as the project would occur within a tenant space and site improvements (driveway configuration) would occur within previously disturbed areas.

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public



Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

**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" as indicated by the checklist on the following pages.

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

**DETERMINATION: (To be completed by Lead Agency)**

On the basis of this initial evaluation:

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

## EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis.)
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from “Earlier Analyses”, as described in (5) below, may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or (mitigated) negative declaration. *Section 15063(c)(3)(D)*. In this case, a brief discussion should identify the following:
  - a. Earlier Analysis Used. Identify and state where they are available for review.
  - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c. Mitigation Measures. For effects that are “Less Than Significant With Mitigation Measures Incorporated”, describe the mitigation measures that were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
  - a. The significance criteria or threshold, if any, used to evaluate each question; and
  - b. The mitigation measure identified, if any, to reduce the impact to less than significant.

Issue	Potentially Significant Impact	Less Than Significant with 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site is developed with existing structures. The project proposes interior renovations with minor site improvements and would therefore, not have an adverse effect on a scenic vista. No impacts would result.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

No such scenic resources or state scenic highways are located on, near, or adjacent to the project site. Therefore, no impacts would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would not substantially degrade the existing visual character or quality of the site or surrounding area as the project proposes interior renovations with minor site improvements. No impact would result.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Exterior lighting currently exists at the project site. The project would implement interior renovations with minor site improvements. No exterior lighting is proposed, due to the nature of the project. No impact would occur.

II. AGRICULTURAL 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 Department 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) Converts 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site is within a developed area and the project would not convert farmland to non-agricultural uses.



Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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"/>

Refer to response II (a), above. No impact would occur.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 1220(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"/>
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Refer to response II (a), above. No impact would occur.

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"/>
--	--------------------------	--------------------------	--------------------------	-------------------------------------

Refer to response II (a), above. No impacts would occur.

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"/>
--	--------------------------	--------------------------	--------------------------	-------------------------------------

Refer to response II (a), above. No impact would occur.

III. AIR QUALITY – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied on 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"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

The project is consistent with the applicable General Plan, and Community Plan land use designations and the underlying zone. No impact would occur.

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"/>
--	--------------------------	--------------------------	-------------------------------------	--------------------------

### Construction

Short-term emissions associated with the project could temporarily increase the emissions of dust and other pollutants. However, this increase would be minimal and short-term in duration. Therefore, impacts would be less than significant.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
-------	--------------------------------	--	------------------------------	-----------

## Operation

Long-term emission impacts are those associated with stationary sources and mobile sources related to any change caused by a project. The project is consistent with the General Plan, Community Plan and the zoning designation. Project emissions over the long-term are not anticipated to violate any air quality standard or contribute substantially to an existing or projected air quality violation. Impacts would be less than significant.

- |   |                          |                          |                                     |                          |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| 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"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

The project would be consistent with the General Plan, Community Plan and the zoning designation. The project is not anticipated to result in the emissions of dust and other pollutants. However, emissions would be temporary and short-term in duration; implementation of Best Management Practices (BMPs) would reduce potential impacts to a less than significant level. Therefore, the project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under applicable federal or state ambient air quality standards.

- |   |                          |                          |                                     |                          |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| d) Create objectionable odors affecting a substantial number of people? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

The project is not anticipated to result in the creation of objectionable odors. Therefore, impacts associated would be less than significant.

## IV. BIOLOGICAL RESOURCES – Would the project:

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Have substantial adverse effects, 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site is currently developed with industrial buildings and associated hardscape and landscape. The project would occur within a tenant space that would require interior renovations and minor site improvements. No impact would occur.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Have a substantial adverse effect on any riparian habitat or other community identified in local or regional plans, policies, and 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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See response IV (a), above. No impact would occur.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Carroll Creek is located immediately south of the existing industrial building. The project would occur within a previously developed area and would not have an adverse effect directly or indirectly to the creek. No impact would occur.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would not interfere with the movement of any native resident or migratory fish or wildlife species as the project would occur within previously developed areas. No impact would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would not conflict with any local policies and/or ordinances protecting biological resources, as the project would occur within previously developed areas. No impact would occur.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Although MHPA lands occur on site, the project would occur within a tenant space of an existing structure. As described in the project description, the project proposes interior renovations. Minor site improvements are proposed, but would occur within a developed portion on the north side of the existing building, where the MHPA is located on the southern portion of the site. Impacts to the MHPA would not result. Therefore no impact would occur.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	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 an historical resource as defined in §15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The City of San Diego criteria for determination of historic significance, pursuant to CEQA is evaluated based upon age (over 45 years), location, context, association with an important event, uniqueness, or structural integrity of the building. In addition, projects requiring the demolition of structures that are 45 years or older are also reviewed for historic significance in compliance with CEQA. The building was constructed in 1979 making it 38 years in age. Therefore no impact would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site is located on the City of San Diego's Historical Resources Sensitivity Map. Therefore, a records search of the California Historical Resources Information System (CHRIS) digital database was conducted to determine the presence or absence of potential resources within the project site. Based upon the project site's location and the previously developed nature. There is no potential impact to any unique or non-unique historical resources. No impacts would result.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

According to the Geology of the San Diego Metropolitan Area, California (1975) published by the California Division of Mines and Geology, the project site appears to be underlain by Young Alluvial Flood Plain and Ardath Shale Formation, which are assigned a low and high sensitivity rating for paleontological resources, respectively.

The project site is currently developed. Furthermore, the project proposes to utilize an existing building. Additionally, this project does not propose any grading. Therefore, no impact would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d) Disturb and human remains, including those interred outside of dedicated cemeteries? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site is currently developed. Furthermore, the project proposes to utilize an existing building. No impact would occur.

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: |  |  |  |  |
|--|--|--|--|--|



Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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 checked="" type="checkbox"/>	<input type="checkbox"/>

The site is not traversed by an active, potentially active, or inactive fault and is not within an Alquist-Priolo Fault Zone. The project would utilize the existing building and require interior renovations and minor site improvements. No additional habitable space is proposed. Any potential impacts from regional geologic hazards would remain less than significant.

ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
------------------------------------	--------------------------	--------------------------	-------------------------------------	--------------------------

The project site is located within a seismically active southern California region, and is potentially subject to moderate to strong seismic ground shaking along major earthquake faults. Seismic shaking at the site could be generated by any number of known active and potentially active faults in the region. No additional habitable space is proposed. Any potential impacts from regional geologic hazards would remain less than significant.

iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Refer to response VI (a) (ii), above. Liquefaction occurs when loose, unconsolidated, water-laden soils are subject to shaking, causing the soils to lose cohesion. Any potential impacts from regional geologic hazards would remain less than significant.

iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
-----------------	--------------------------	--------------------------	-------------------------------------	--------------------------

According to the City of San Diego Seismic Safety Study Maps, the project site is located in Geologic Hazard Category 21 and 31. Hazard Category 21 is defined as Landslide; Confirmed, known, or highly suspected. Hazard Category 31 is defined as liquefaction; high potential- shallow groundwater major drainages, hydraulic fills. Any potential impacts from regional geologic hazards would remain less than significant.

b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

The project site is currently developed. The project would require interior renovations and minor site improvements. Grading is not required, therefore soil erosion or the loss of topsoil would not result. No impact would occur.

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	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
landslide, lateral spreading, subsidence, liquefaction or collapse?				

Refer to response VI (a) (i), above. No impact would occur.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

No additional habitable space is proposed. Any potential impacts from regional geologic hazards would remain less than significant.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site is located within an area developed with existing infrastructure (i.e., water and sewer lines) and does not propose any septic system. In addition, the project would not require the construction of any new facilities as it relates to wastewater, as services are available to serve the project. No impact would occur.

#### 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"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

The City's Climate Action Plan (CAP) outlines the actions that the City will undertake to achieve its proportional share of State greenhouse gas (GHG) emission reductions. A CAP Consistency Checklist (Checklist) is part of the CAP and contains measures that are required to be implemented on a project-by-project basis to ensure that the specified emission targets identified in the CAP are achieved.

The project is consistent with the existing General Plan and Community Plan land use and zoning designations. The project proposes a use permit that would not result in the expansion or enlargement of a building, therefore the project would only be subject to step one of the CAP Consistency Checklist. The project would not result in a significant cumulative impact to GHG emissions. Impact would be less than significant.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The project would not conflict with an applicable plan, policy, or regulation adopted for the purposes of reducing the emissions of greenhouse gases. The project is consistent with the existing General and Community Plan land use and zoning designations. No impact would occur.

VIII. HAZARDS AND HAZARDOUS MATERIALS – Would the project:

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Due to the nature of the project, the routine transport, use, or disposal of hazardous materials would not occur. The project would not generate hazardous emissions. No part of the project involves the handling of acutely hazardous materials, substances, or waste. No impact would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Create a significant hazard to the public or the environment through reasonably 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

As noted above in response VIII (a), no health risks related to the storage, transport, use, or disposal of hazardous materials would not result from the implementation of the project. The project would not be associated with such impacts.

- |   |                          |                          |                                     |                          |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| 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 checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

There are no existing or proposed schools within a quarter mile from the project site. No impact would occur.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

A hazardous waste site records search was completed utilizing Geotracker in May 2017. The records search showed that no hazardous waste sites exist onsite or within 1,000-feet of the project site. No impact would occur.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two mile of a public airport or public use airport, would the project result in a safety | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
hazard for people residing or working in the project area?				

The project site is located within the MCAS Miramar Airport Land Use Compatibility Plan (ALUCP). Review of the ALUCP identifies the project is mapped within the Airport Land Use Compatibility Overlay Zone (MCAS Miramar), Airport Influence Area (Review Area 1), and Airports Safety Zone (MCAS Miramar Accident Potential Zone 2). The project would occur within an existing building requiring interior renovations and minor site improvements. Although the project site is located within an airport land use plan, the project would not result in a safety hazard in the project area. Therefore, no impact is identified.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project is not located with the vicinity of a private airstrip.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would be located within a developed area and would not interfere with the implementation of or physically interfere with an adopted emergency response or evacuation plan. No roadway improvements are proposed that would interfere with circulation or access, and all improvements would occur onsite. No impact would occur.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would occur within a tenant space within an existing building requiring interior renovations and minor site improvements. No structures would be constructed. No impact would occur.

#### IX. HYDROLOGY AND WATER QUALITY - Would the project:

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project does not involve the development of new structures. Although minor site improvements would occur, the project would comply with the City's Storm Water Regulations and would therefore not result in a violation of any water quality standards or waste discharge requirements. No impact would occur.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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"/>

The project does not require the construction of wells. No impact would occur.

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"/>
---	--------------------------	--------------------------	--------------------------	-------------------------------------

The project site is currently developed. The project would not alter the existing drainage pattern or alter the course of a stream or river in a manner that would result in erosion or siltation on- or off-site. No impact would occur.

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"/>
--	--------------------------	--------------------------	--------------------------	-------------------------------------

The project would not alter the existing drainage pattern or alter 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 would occur.

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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--	--------------------------	--------------------------	-------------------------------------	--------------------------

Due to the nature of this project, any runoff from the site is not anticipated to exceed the capacity of existing storm water systems or provide substantial additional sources of polluted runoff that would require new or expanded facilities. Impacts would be less than significant, and no mitigation measures are required.

f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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No structures would be constructed. The project would comply with all City storm water quality standards during construction of the site improvements. Appropriate BMP's would be implemented to ensure that water quality is not degraded. Impacts would be less than significant, and no 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project does not propose any housing. No impact would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| h) Place within a 100-year flood hazard area, structures that would impede or redirect flood flows? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The 100-year flood hazard area is mapped immediately south of the existing structures along Carrol Creek. No structures are located within the flood hazard area and no structures would be constructed. The project would require interior renovations and minor site improvements. No impacts would occur.

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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project is located within an existing industrial development. The project would not physically divide an established community. No impact would occur.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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 type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would be consistent with the land use designations of the General and Community Plan, and the underlying zone. The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project. No impact would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would require interior renovations and minor site improvements. The project would not conflict with any conservation plan for the site. No impact would result.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site is not currently being used for mineral resource extraction and is zoned and developed for industrial use rather than mining uses. Further, the project site is within an urbanized area, surrounded by light industrial uses; therefore, the project site would not be suitable for mining if mineral deposits were located on site. No impact would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

See XI (a), above.

XII. NOISE – Would the project result in:

- |  |                          |                          |                                     |                          |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a) 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 type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

The project proposes a Marijuana Outlet (MO) with interior renovations within an existing tenant space with minor site improvements. The project would not result in excessive noise. Therefore, impacts would be less than significant.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) Generation of, excessive ground borne vibration or ground borne noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project does not propose any major construction activities, such as erecting new structures. No ground borne vibrations would be generated. No impact would result.

- |  |                          |                          |                                     |                          |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| 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"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

The project would utilize a tenant space within an existing building and site improvements would be implemented. Ambient noise levels would remain similar to what exists currently. Impacts would be less than significant.

- |   |                          |                          |                                     |                          |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above existing without the project? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Interior improvements and activities associated with driveway reconfiguration would result in a temporary increase in ambient noise levels, but would be temporary and short-term in nature. In addition, the project would be required to comply with the San Diego Municipal Code, Article 9.5, Noise Abatement and Control. Therefore, impacts would be less than significant.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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 area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

According to the adopted MCAS Miramar ALUCP, the project site is located within the Miramar Airport Influence Area. The project is located within the 60-65 decibel (dB) Community Noise Equivalent Level (CNEL) noise contour and outside of the overflight areas. As such, the project site would not be exposed to excessive aircraft noise. No impact would result.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project is not located within the vicinity of a private airstrip. No impacts would occur.

### 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site is located in a developed industrial park and is surrounded by similar development. The site currently receives water and sewer service from the City, and no extension of infrastructure to new areas is required. No roadway improvements are proposed as part of the project. As such, the project would not substantially increase housing or population growth in the area. No impacts would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

No such displacement would result as the project does not propose any housing. No impact would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Refer to XIII (b). No impact would occur.

#### XIV. PUBLIC SERVICES

- a) Would the project result in substantial adverse physical impacts associated with the provisions 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 rations, response times or other performance objectives for any of the public services:

i) Fire protection ☐ ☐ ☐ ☒

The project site is located in an urbanized and developed area where fire protection services are already provided. The project would not adversely affect existing levels of fire protection services to the area, and would not require the construction of new or expansion of existing governmental facilities. No impacts would occur.

ii) Police protection ☐ ☐ ☐ ☒

The project site is located in an urbanized and developed area within the City of San Diego where police protection services are already provided. The project would not adversely affect existing levels of police protection services or create significant new significant demand, and would not require the construction of new or expansion of existing governmental facilities. No impacts would occur.

iii) Schools ☐ ☐ ☐ ☒

The project would not affect existing levels of public services and would not require the construction or expansion of a school facility. The project site is located in an urbanized and developed area where public school services are available. The project would not significantly increase the demand on public schools over that which currently exists and is not anticipated to result in a significant increase in demand for public educational services. As such, no impacts related to school services occur.

iv) Parks ☐ ☐ ☐ ☒

The project site is located in an urbanized and developed area where City-operated parks are available. The project would not significantly increase the demand on existing neighborhood or regional parks or other recreational facilities over that which presently exists and is not anticipated to result in a significant increase in demand for parks or other offsite recreational facilities. As such, no impacts related to parks occur.

v) Other public facilities ☐ ☐ ☐ ☒

The project site is located in an urbanized and developed area where City services are already available. The project would not adversely affect existing levels of public services and not require the construction or expansion of an existing governmental facility. Therefore, no new public facilities beyond existing conditions would be required.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	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?

☐
☐
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☒

The project would not adversely affect the availability of and/or need for new or expanded recreational resources. The project would not adversely affect existing levels of public services and would not require the construction or expansion of an existing governmental facility. The project would not significantly increase the use of existing neighborhood or regional parks or other recreational facilities. Therefore the project is not anticipated to result in the use of available parks or facilities such that substantial deterioration occurs, or that would require the construction or expansion of recreational facilities to satisfy demand. As such, no significant impacts related to recreational facilities have been identified.

- 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?

☐
☐
☐
☒

Refer to XV (a) above. The project does not propose recreation facilities nor require the construction or expansion of any such facilities.

#### 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?

☐
☐
☒
☐

~~An Access Analysis Study for the 10150 Sorrento Valley Road Marijuana Outlet (Darnell & Associates, Inc. June 28, 2018) was prepared for the project. The project is anticipated to generate approximately 995 average weekday trips, with 90 AM peak hour trips (45 in and 45 out) and 160 PM peak hour trips (80 in and 80 out). The project analysis does not identify any significant traffic impacts on roadways or intersections analyzed for existing plus project conditions and near term plus project conditions.~~

Additionally, a Memorandum for the Sorrento Valley Marijuana Project Located at 10150 Sorrento Valley Road (Darnell & Associates, Inc. December 9, 2018) was prepared for the project. The project is anticipated to generate approximately 875 average weekday trips, with 79 AM peak hour trips (40



Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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in and 39 out) and 140 PM peak hour trips (70 in and 70 out). Additionally, the AM peak hour at the I-805 Northbound off-ramp – Vista Sorrento Parkway/Sorrento Valley Road – Mira Mesa Boulevard intersection was reanalyzed using a more conservative traffic volume and a 160 second cycle length. It was concluded that the reduction of the project square footage to 3,500-square feet or less would not conflict with the City of San Diego's Significance Threshold of 1.0 second delay.

Furthermore, the project would not conflict with any applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system. The project is not expected to cause a significant short-term or long-term increase in traffic volumes, and therefore, would not adversely affect existing levels of service along area roadways. Impacts would be less than significant.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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 type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Refer to response XVI (a). The project would not result in exceedance of the City's Significance Determination Thresholds (City 2011) nor would it adversely affect any mode of transportation in the area. Therefore, the project would not result in conflict with any applicable congestion management program, level of service standards or travel demand measures. Impacts are considered less than significant, and no 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Implementation of the project would not result in a change in air traffic patterns. As stated in Section VIII (e), MCAS Miramar Airport is located approximately 2 miles from the project site. According to the adopted MCAS Miramar ALUCP, the project site is located within the Miramar Airport Influence Area, Review Area 1. The project site is located outside the Safety Zones established for MCAS Miramar and within the 60-65 dB CNEL. The proposed use would be compatible with this noise environment. As such, the project would not conflict with the MCAS Miramar Airport Land Use Compatibility Plan. Because the project would utilize an existing structure and develop no new structures, an FAA Part 77 determination, as well as an ALUCP consistency determination are not required. Therefore, no impact would result.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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The project has been reviewed and is consistent with applicable regulations. The project would not include any project elements that could potentially create a hazard to the public. No impact would result.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| e) Result in inadequate emergency access? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would utilize a tenant space within an existing structure that would require interior renovations as well as minor site improvements and would therefore not result in inadequate emergency access. No impact would occur.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project site would make no changes to existing bike lanes or access to transit and would not 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 would occur.

XVII. TRIBAL CULTURAL RESOURCES – Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would not cause a substantial adverse effect to tribal cultural resources, as there are no recorded sites listed or sites eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined by the Public Resources Code. No impact would result.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Tribal Cultural Resources include sites, features, places, cultural landscapes, and sacred places or objects that have cultural value or significance to a Native American Tribe. Tribal Cultural Resources include “non-unique archaeological resources” that, instead of being important for

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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"scientific" value as a resource, can also be significant because of the sacred and/or cultural tribal value of the resource. Tribal representatives are considered experts appropriate for providing substantial evidence regarding the locations, types, and significance of tribal cultural resources within their traditionally and cultural affiliated geographic area (PRC § 21080.3.1(a)).

City, as lead agency, determined that Tribal Cultural Resources pursuant to subdivision Public Resources Code Section 5024.1(c) would not be potentially be impacted through project implementation. The project would utilize a tenant space within an existing structure that would require interior renovations as well as minor site improvements.

XVIII. 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

Implementation of the project would not interrupt existing sewer service to the project site or other surrounding development. The project is not anticipated to generate significant amount of wastewater. Wastewater facilities used by the project would be operated in accordance with the applicable wastewater treatment requirements of the Regional Water Quality Control Board (RWQCB). Existing sewer infrastructure exists within roadways surrounding the project site and adequate services are available to serve the project. Thus, impact would be less than significant.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

See XVII (a) above. Adequate services are available to serve the site and the project would not require the construction or expansion of existing facilities. Impacts would be less than significant.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would not exceed the capacity of the existing storm water system and require the construction of new or expanded treatment facilities of which would cause significant environmental effects.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project does not meet the CEQA significance threshold requiring the need the preparation of a water supply assessment. The site currently receives water service from the City, and adequate

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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services are available to serve the project without requiring new or expanded entitlements. No impact would occur.

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| 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"/> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would not adversely affect existing wastewater treatment services. Adequate services are available to serve the site without requiring new or expanded facilities. No impact would occur.

- |  |                          |                          |                                     |                          |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| 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"/> |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|

The project would be served by a landfill with sufficient permitted capacity to accommodate the projects disposal needs. The City has enacted codes and policies aimed at helping it achieve this diversion level, including the Refuse and Recyclable Materials Storage Regulations (Municipal Code Chapter 14, Article 2 Division 8), Recycling Ordinance (Municipal Code Chapter 6, Article 6, Division 7), and the Construction and Demolition (C&D) Debris Deposit Ordinance (Municipal Code Chapter 6, Article 6, Division 6). The project would comply with these codes. Impacts would be less than significant.

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| g) Comply with federal, state, and local statutes and regulation related to solid waste? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

The project would not result in a solid waste impact. Please refer to section XVII (f), above. No impact would occur.

#### XIX. 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"/> |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|

As documented in this Initial Study, the project would not have the potential to degrade the quality of the environment. As such, no mitigation measures would be incorporated as all impacts would be less than significant.

Issue	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

As documented in this Initial Study, the project would not have the potential to degrade the quality of the environment. As such, no mitigation measures would be required. Other future project within the surrounding neighborhood or community would be required to comply with applicable local, state and Federal regulations to reduce the potential impacts to less than significant, or to the extent possible. Therefore, the project would not contribute potentially significant cumulative environmental impacts.

c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
--	--------------------------	--------------------------	--------------------------	-------------------------------------

As discussed throughout this document, it is not anticipated that implementation of the project would create conditions that would significantly directly or indirectly impact human beings. Mitigation measures are not required. For this reason, environmental effects fall below the thresholds established by CEQA and the City and therefore, would not result in impacts.



**INITIAL STUDY CHECKLIST  
REFERENCES**

**I. Aesthetics / Neighborhood Character**

- ☒ City of San Diego General Plan
- ☒ Community Plans: Torrey Pines Community Plan

**II. Agricultural Resources & Forest Resources**

- ☐ City of San Diego General Plan
- ☐ U.S. Department of Agriculture, Soil Survey - San Diego Area, California, Part I and II, 1973
- ☐ California Agricultural Land Evaluation and Site Assessment Model (1997)
- ☐ Site Specific Report:

**III. Air Quality**

- ☐ California Clean Air Act Guidelines (Indirect Source Control Programs) 1990
- ☐ Regional Air Quality Strategies (RAQS) - APCD
- ☐ Site Specific Report:

**IV. Biology**

- ☒ City of San Diego, Multiple Species Conservation Program (MSCP), Subarea Plan, 1997
- ☒ City of San Diego, MSCP, "Vegetation Communities with Sensitive Species and Vernal Pools" Maps, 1996
- ☒ City of San Diego, MSCP, "Multiple Habitat Planning Area" maps, 1997
- ☐ Community Plan - Resource Element
- ☐ California Department of Fish and Game, California Natural Diversity Database, "State and Federally-listed Endangered, Threatened, and Rare Plants of California," January 2001
- ☐ California Department of Fish and Game, California Natural Diversity Database, "State and Federally-listed Endangered and Threatened Animals of California," January 2001
- ☐ City of San Diego Land Development Code Biology Guidelines
- ☐ Site Specific Report:

**V. Cultural Resources (includes Historical Resources)**

- ☒ City of San Diego Historical Resources Guidelines
- ☒ City of San Diego Archaeology Library
- ☐ Historical Resources Board List
- ☐ Community Historical Survey:
- ☐ Site Specific Report:

**VI. Geology/Soils**

- ☒ City of San Diego Seismic Safety Study
- ☐ U.S. Department of Agriculture Soil Survey - San Diego Area, California, Part I and II, December 1973 and Part III, 1975
- ☐ Site Specific Report:

**VII. Greenhouse Gas Emissions**

- ☒ Site Specific Report: Climate Action Plan Consistency Checklist, June 2017

**VIII. Hazards and Hazardous Materials**

- ☒ San Diego County Hazardous Materials Environmental Assessment Listing
- ☐ San Diego County Hazardous Materials Management Division
- ☐ FAA Determination
- ☐ State Assessment and Mitigation, Unauthorized Release Listing, Public Use Authorized
- ☐ Airport Land Use Compatibility Plan
- ☐ Site Specific Report:

**IX. Hydrology/Water Quality**

- ☐ Flood Insurance Rate Map (FIRM)
- ☒ Federal Emergency Management Agency (FEMA), National Flood Insurance Program-Flood Boundary and Floodway Map
- ☐ Clean Water Act Section 303(b) list, [http://www.swrcb.ca.gov/tmdl/303d\\_lists.html](http://www.swrcb.ca.gov/tmdl/303d_lists.html)
- ☐ Site Specific Report:

**X. Land Use and Planning**

- ☒ City of San Diego General Plan
- ☒ Community Plan
- ☒ Airport Land Use Compatibility Plan: MCAS Miramar
- ☒ City of San Diego Zoning Maps
- ☐ FAA Determination
- ☐ Other Plans:

**XI. Mineral Resources**

- ☐ California Department of Conservation - Division of Mines and Geology, Mineral Land Classification
- ☐ Division of Mines and Geology, Special Report 153 - Significant Resources Maps
- ☐ Site Specific Report:

**XII. Noise**

- ☒ City of San Diego General Plan
- ☐ Community Plan
- ☐ San Diego International Airport - Lindbergh Field CNEL Maps
- ☐ Brown Field Airport Master Plan CNEL Maps
- ☒ MCAS Miramar Airport Master Plan CNEL Maps
- ☐ Montgomery Field CNEL Maps
- ☐ San Diego Association of Governments - San Diego Regional Average Weekday Traffic Volumes
- ☐ San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG
- ☐ Site Specific Report:

**XIII. Paleontological Resources**

- ☒ City of San Diego Paleontological Guidelines
- ☐ Deméré, Thomas A., and Stephen L. Walsh, "Paleontological Resources City of San Diego," Department of Paleontology San Diego Natural History Museum, 1996

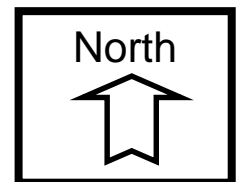
- X   Kennedy, Michael P., and Gary L. Peterson, "Geology of the San Diego Metropolitan Area, California. Del Mar, La Jolla, Point Loma, La Mesa, Poway, and SW 1/4 Escondido 7 1/2 Minute Quadrangles," *California Division of Mines and Geology Bulletin* 200, Sacramento, 1975
- Kennedy, Michael P., and Siang S. Tan, "Geology of National City, Imperial Beach and Otay Mesa Quadrangles, Southern San Diego Metropolitan Area, California," Map Sheet 29, 1977
- Site Specific Report:
- XIV. Population / Housing**
- City of San Diego General Plan
- Community Plan
- Series 11/Series 12 Population Forecasts, SANDAG
- Other:
- XV. Public Services**
- City of San Diego General Plan
- Community Plan
- XVI. Recreational Resources**
- City of San Diego General Plan
- Community Plan
- Department of Park and Recreation
- City of San Diego - San Diego Regional Bicycling Map
- Additional Resources:
- XVII. Transportation / Circulation**
- City of San Diego General Plan
- Community Plan
- San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG
- San Diego Region Weekday Traffic Volumes, SANDAG
- X   Site Specific Report:
- ~~Access Analysis Study for Marijuana Outlet Project 10150 Sorrento Valley Road;~~
- ~~prepared by Darnell & Associates, Inc., dated June 28, 2018.~~
- Memorandum for Sorrento Valley Marijuana Project located 10150 Sorrento Valley Road; prepared by Darnell & Associates, Inc., dated December 9, 2018
- XVIII. Utilities**
- Site Specific Report:
- XIX. Water Conservation**
- Sunset Magazine, *New Western Garden Book*, Rev. ed. Menlo Park, CA: Sunset Magazine

Revised: October 11, 2013

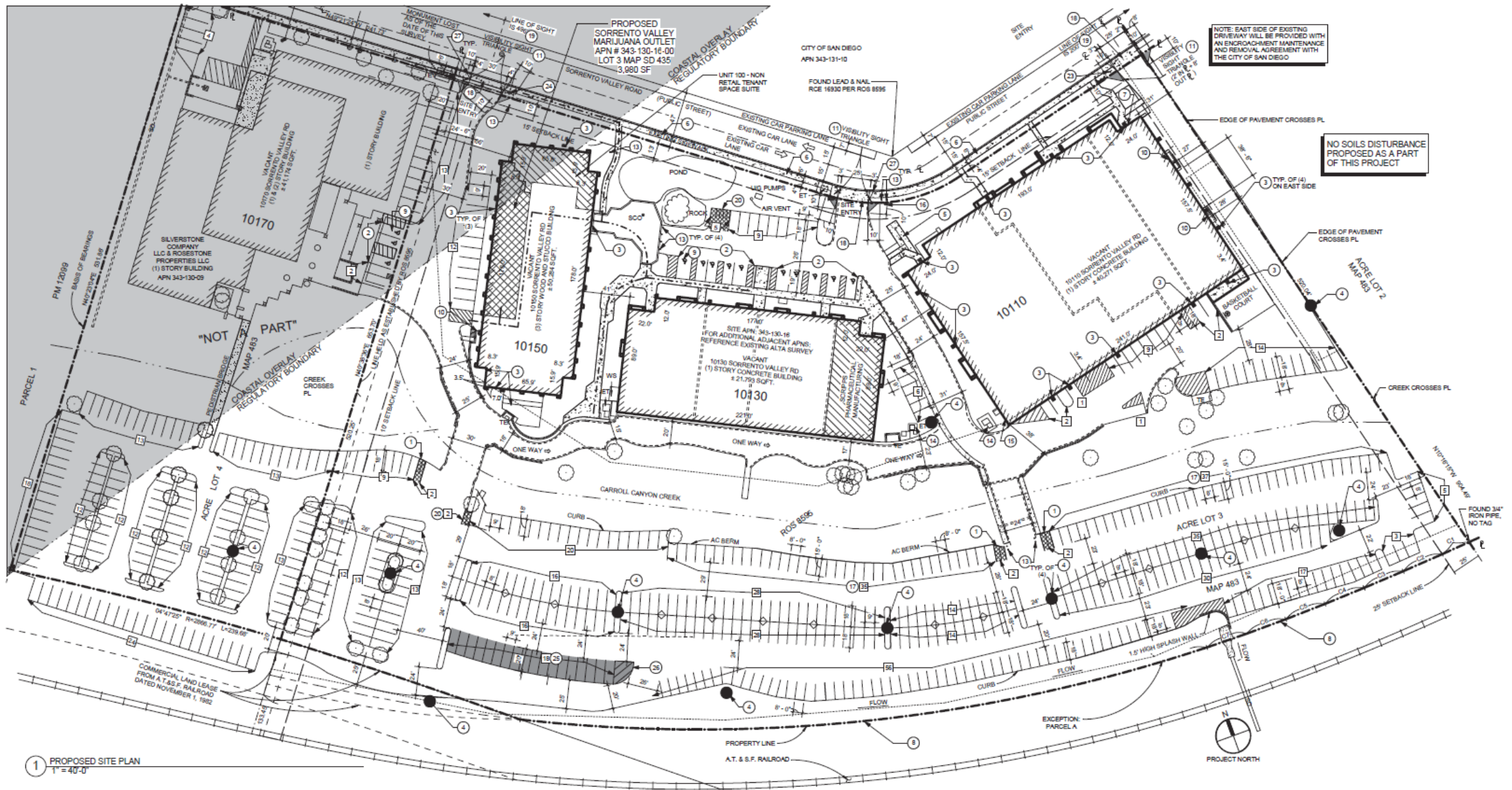


## Project Location Map

Sorrento Valley MO– 10150 Sorrento Valley Road  
**PROJECT NO. 545299**







# Site Plan

**Sorrento Valley MO- 10150 Sorrento Valley Road**  
**PROJECT NO. 545299**

North

