



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: October 8, 2026

AGENDA ITEM 2

Project Description

APN: 0608-051-02, 03 and 04
Applicant: Yucca Trail 11 / Marlow LaFountaine
Community: Joshua Tree
Location: Southeast corner of Twenty-Nine Palms Highway and Mile Square Road
Project No: PROJ-2023-00061
Staff: Oliver Mujica
Rep: Archer Stephenson
Proposal: Tentative Parcel Map to subdivide 3 parcels totaling approximately 15 acres into 4 parcels (Parcel 1: 5.27 acres; Parcel 2: 2.57 acres; Parcel 3: 2.56 acres; and Parcel 4: 2.24 acres), and Conditional Use Permit to construct and operate a 20-guest-room hotel and associated guest amenities, consisting of a 3,500 square foot restaurant, 3,800 square foot health spa, 3,600 square foot club room, 1,300 square foot restaurant, 1,300 square foot café, 1,800 square foot wine bar, 2,550 square foot lobby/office, and 58 parking spaces on Parcel 1.



15 Public Hearing Notices Sent on: September 23, 2026

Report Prepared By: Oliver Mujica, Contract Planner III

SITE INFORMATION:

Parcel Size: 5.27 acres of 15-acre parcel
Vegetation: Scattered desert landscaping

TABLE 1 – SITE AND SURROUNDING LAND USES AND ZONING

AREA	EXISTING LAND USE	LAND USE CATEGORY	LAND USE ZONING DISTRICT
SITE	Vacant	Commercial and Very Low Density Residential	Neighborhood Commercial (CN) and Multiple Residential (RM)
North	Vacant	Public Facility	Neighborhood Industrial (IN)
South	Single-Family Residence	Very Low Density Residential	Single Residential, 20,000 Minimum (RS/20)
East	Vacant	Commercial and Very Low Density Residential	Neighborhood Commercial (CN) and Multiple Residential (RM)
West	Single-Family Residence	Commercial and Very Low Density Residential	Neighborhood Commercial (CN) And Multiple Residential (RM)

City Sphere of Influence:
Water Service:
Sewer Service:

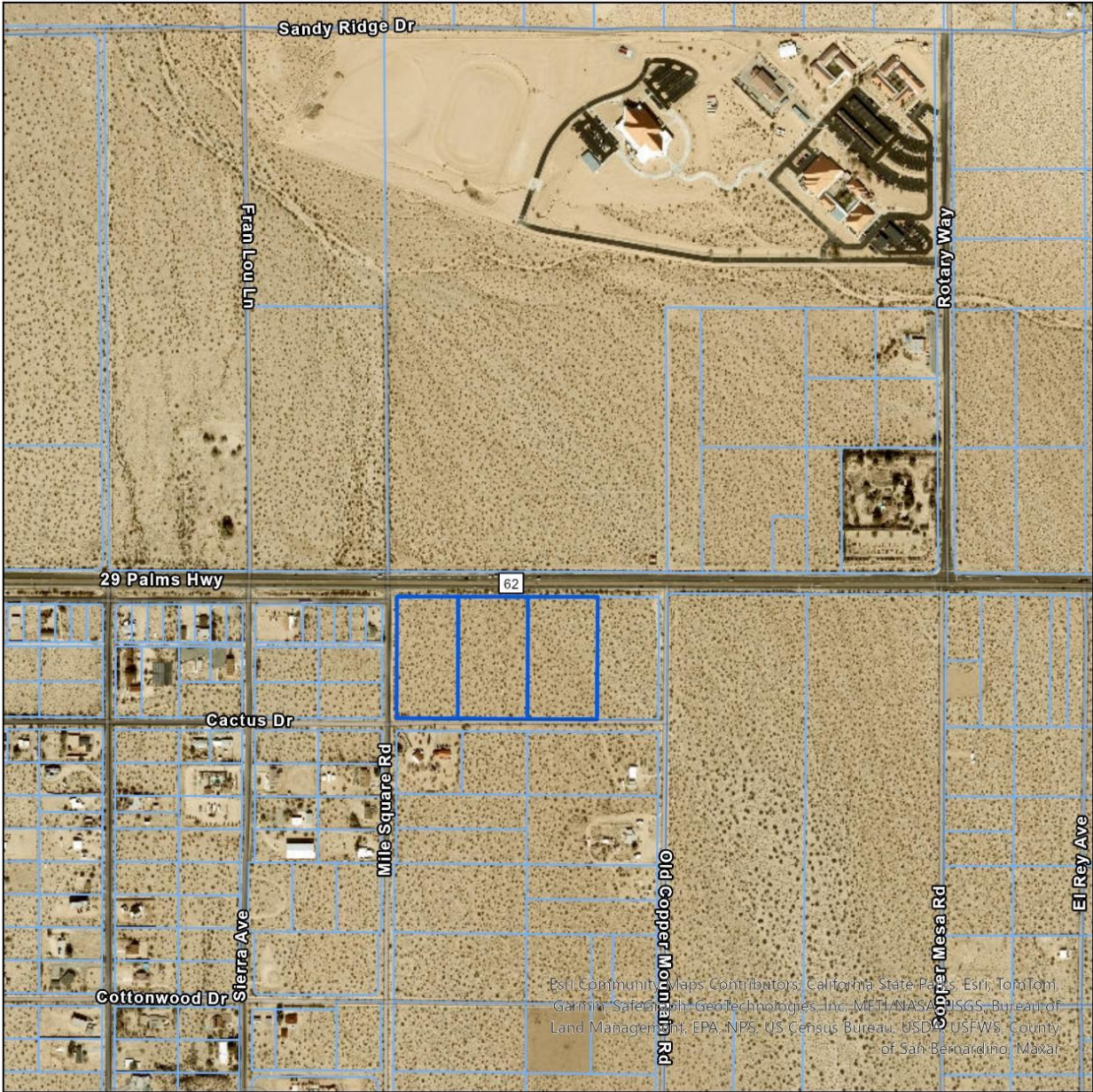
Agency
N/A
Joshua Basin Water District
Joshua Basin Water District

Comment
N/A
Will Serve
Will Serve

STAFF RECOMMENDATION: That the Planning Commission: **ADOPT** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; **ADOPT** the Findings in support of the Tentative Parcel Map and Conditional Use Permit; **APPROVE** the Tentative Parcel Map subdividing 3 parcel into 4 parcels, subject to the Conditions of Approval; **APPROVE** the Conditional Use Permit to allow the construction and operation of a 20-guest-room hotel and associated guest amenities, consisting of a 3,500 square foot restaurant, 3,800 square foot health spa, 3,600 square foot club room, 1,300 square foot restaurant, 1,300 square foot café, 1,800 square foot wine bar, 2,550 square foot lobby/office, and 58 parking spaces on 5.27 acres, subject to the Conditions of Approval; and **DIRECT** the Land Use Services Department to file a Notice of Determination in accordance with CEQA.¹

¹ In accordance with Section 86.08.010 of the Development Code, the action taken by the Planning Commission may be appealed to the Board of Supervisors before its effective date.

FIGURE 1 – VICINITY MAP



Vicinity Aerial Map
PROJ-2023-00061 // Cactus Club Hotel

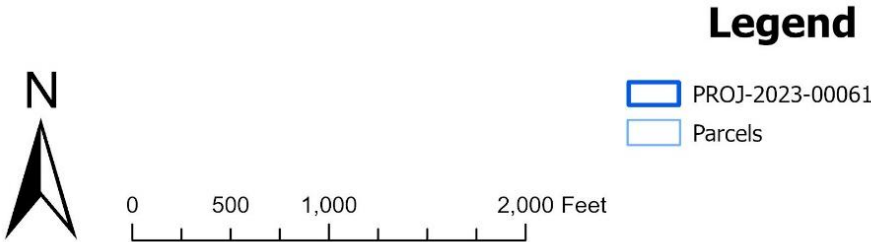
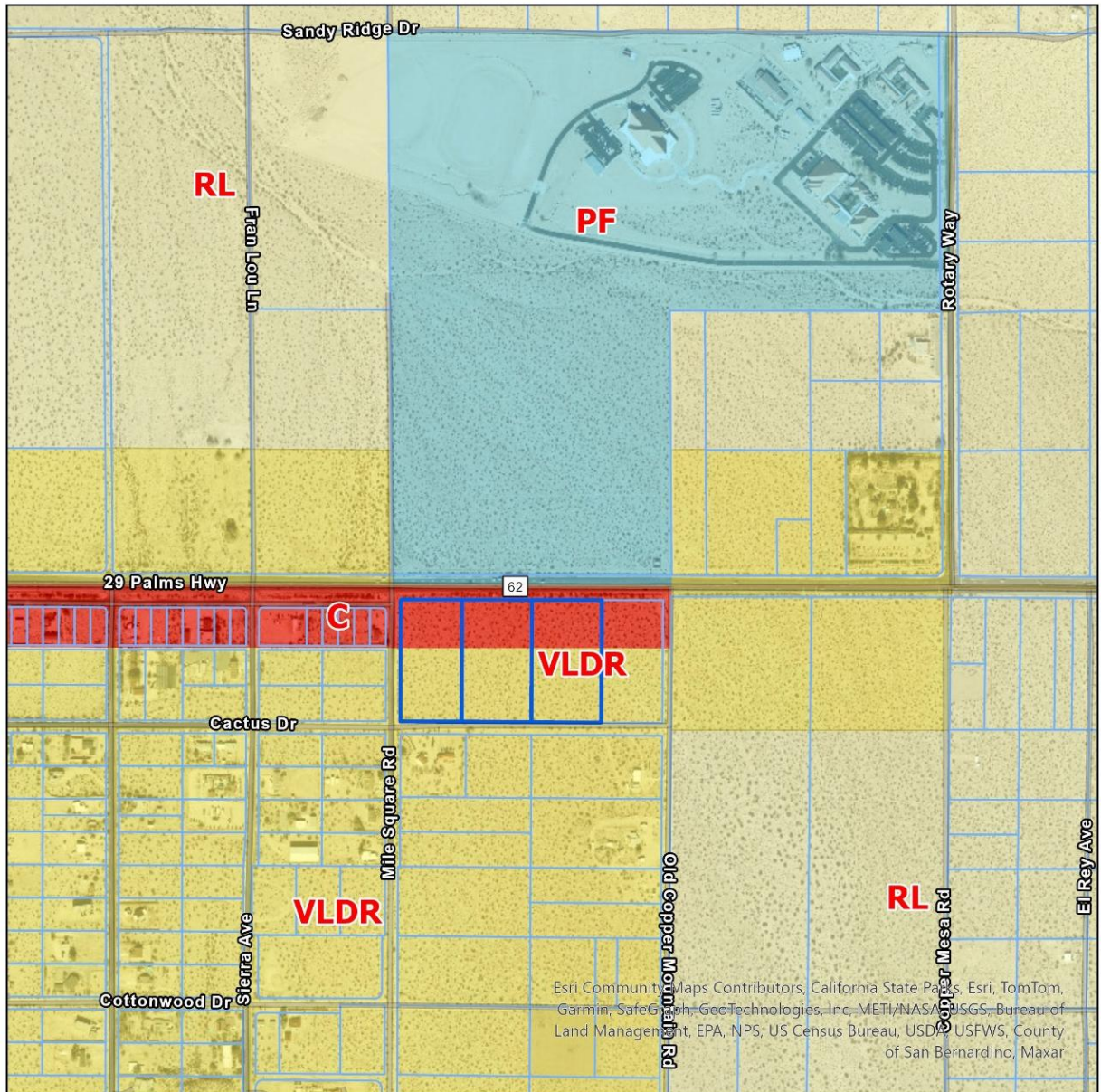


FIGURE 2 – LAND USE CATEGORY MAP



Land Use Categories
 PROJ-2023-00061 // Cactus Club Hotel

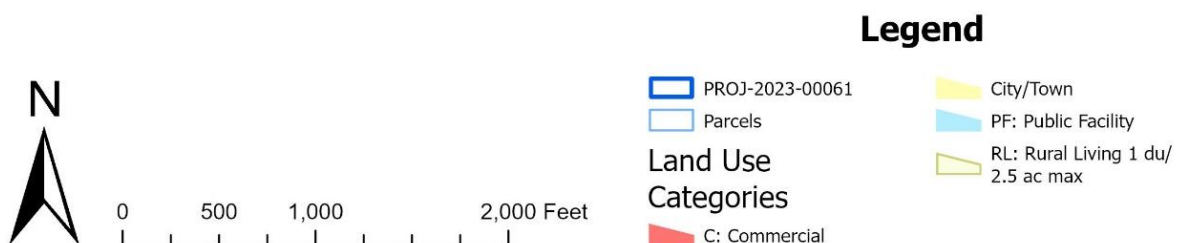
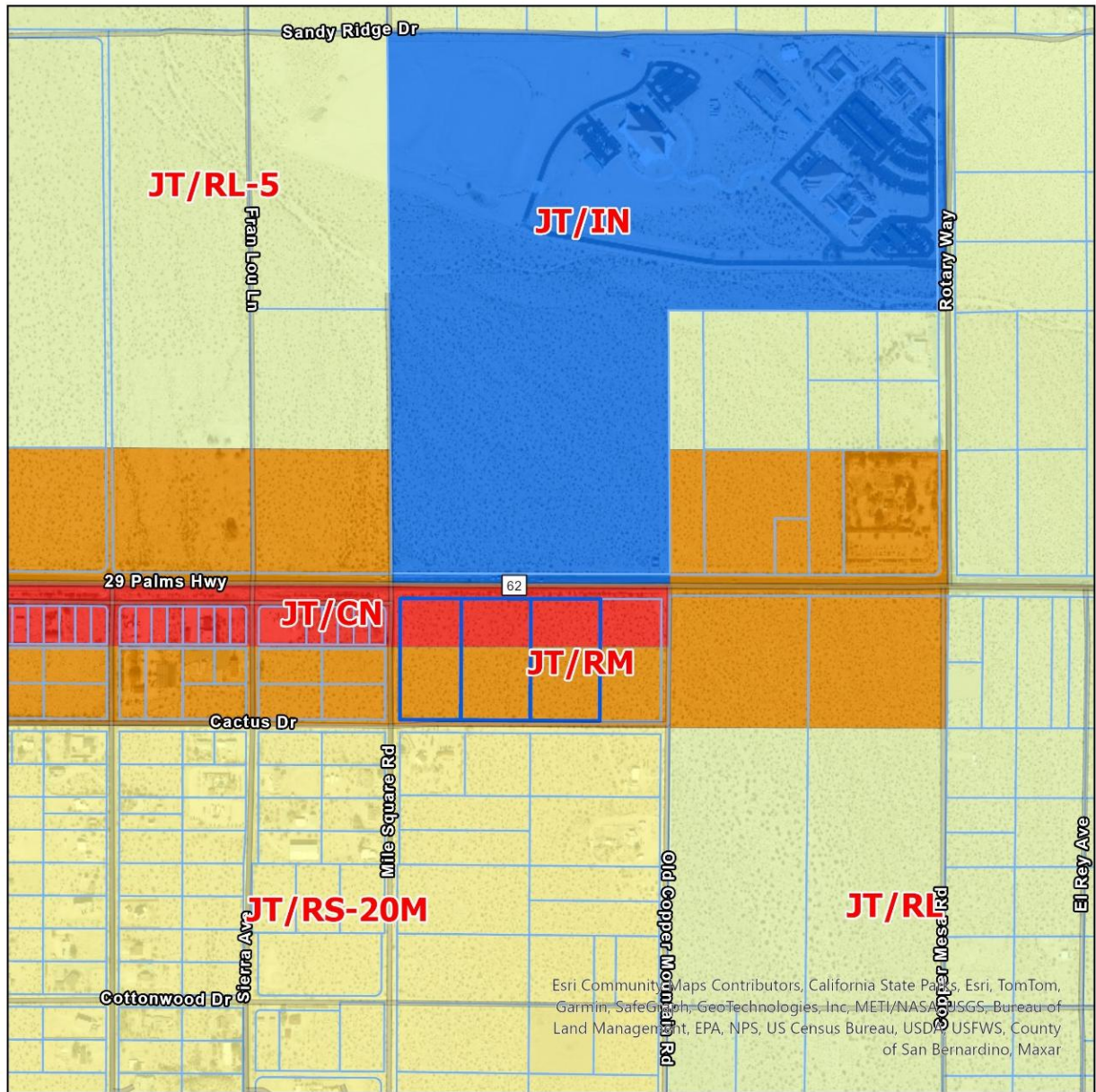


FIGURE 3 – ZONING MAP



Land Use Zoning Districts
 PROJ-2023-00061 // Cactus Club Hotel

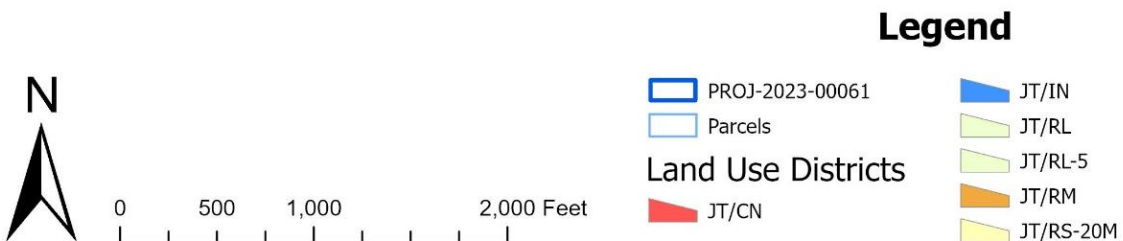


FIGURE 4 - PROJECT SITE

View looking east on Twenty-Nine Palms Highway



FIGURE 5 - PROJECT SITE

View looking north on Mile Square Road



FIGURE 6 - PROJECT SITE

View looking west on Twenty-Nine Palms Highway



FIGURE 7 – TENTATIVE PARCEL MAP NO. 20774

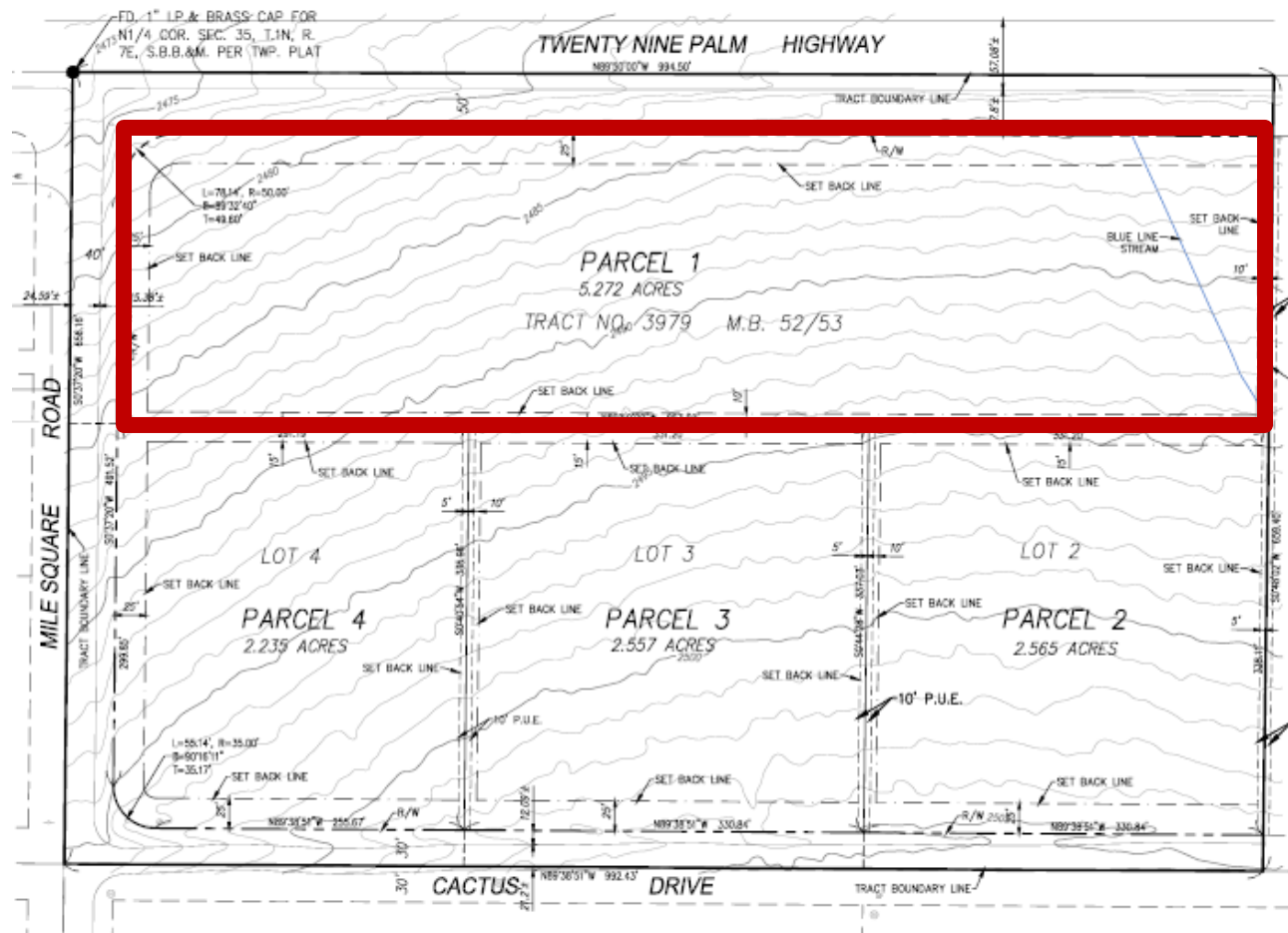


FIGURE 8 – SITE PLAN

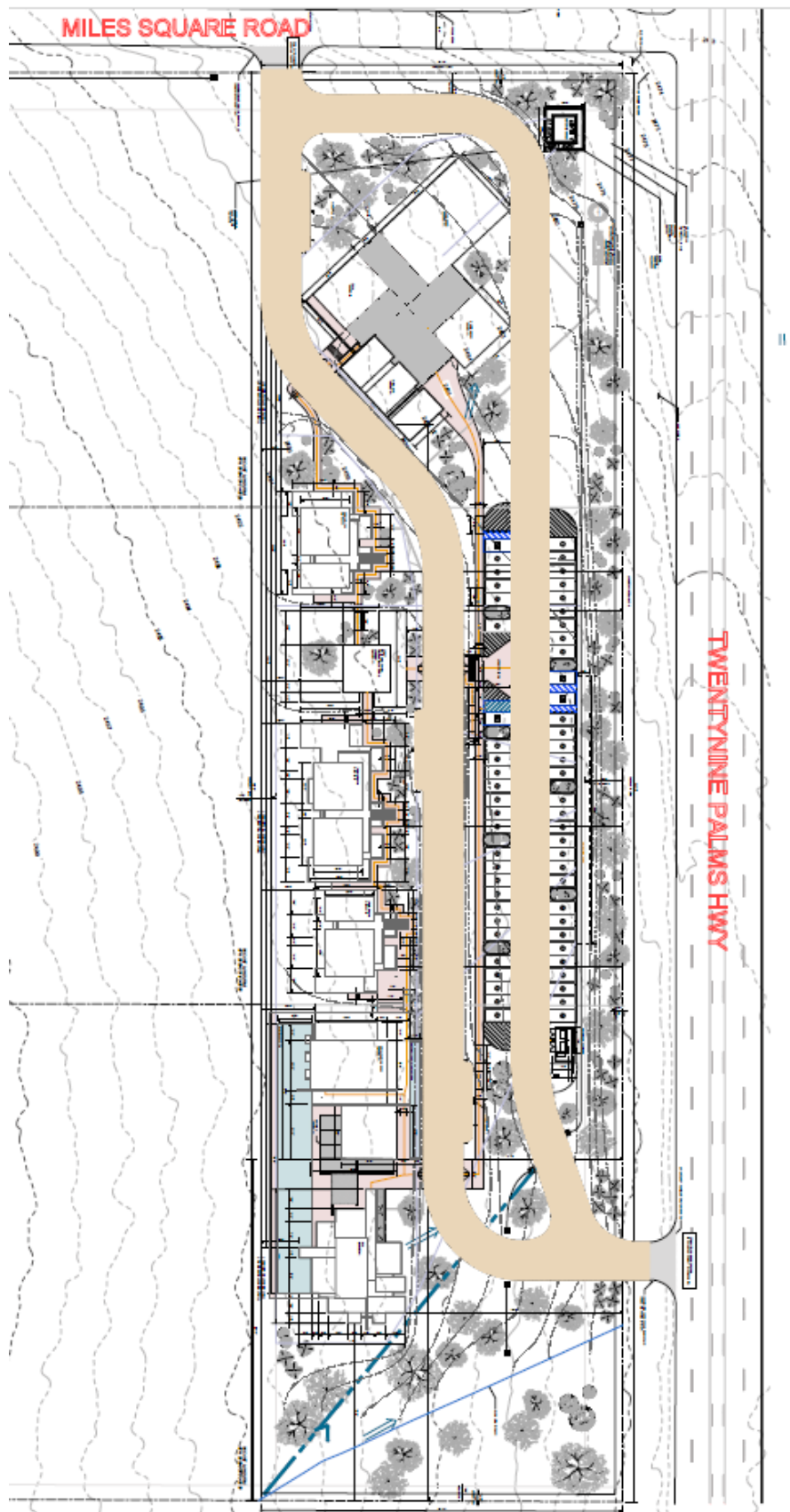
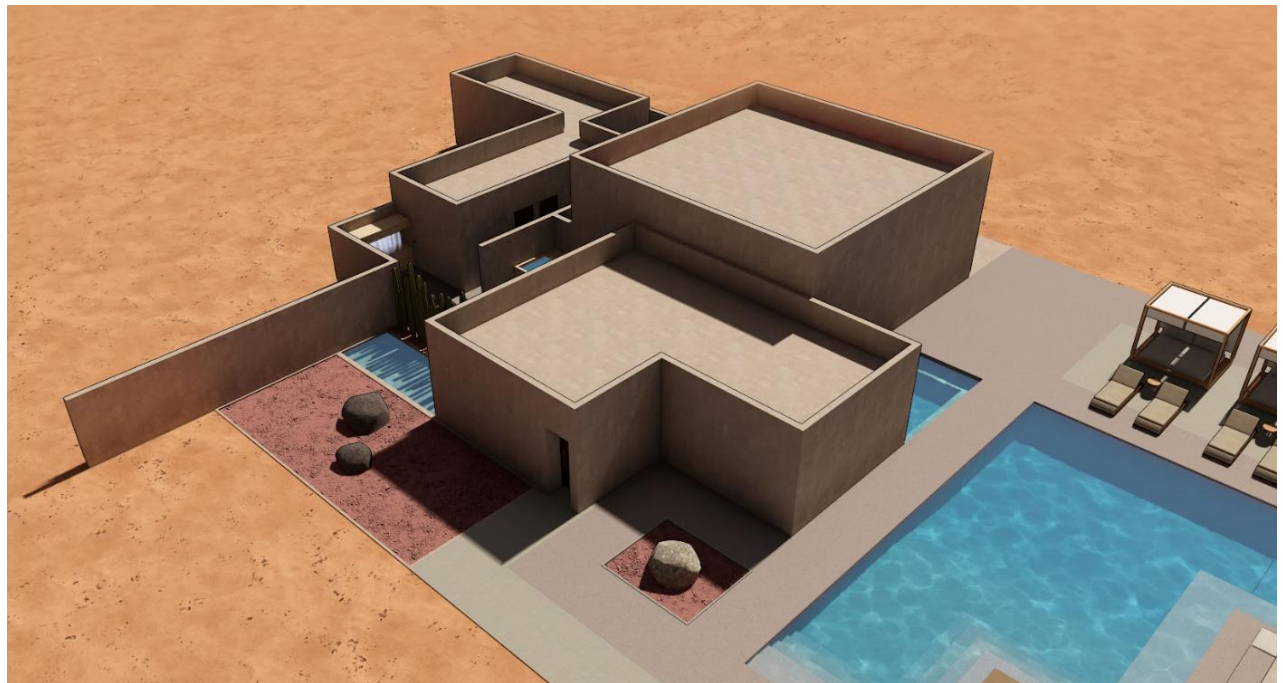


Figure 9 – Renderings



Photorealistic Rendering of Proposed Club Room and Restaurant Buildings



Photorealistic Rendering of Proposed Guest Room Buildings

BACKGROUND AND PROJECT DESCRIPTION

Proposed Project

The Applicant is requesting approval of a Tentative Parcel Map and Conditional Use Permit to construct and operate a lodging development consisting of a hotel with associated guest amenities (Project) on a 5.27-acre parcel (Project site).

Pursuant to Section 82.01.020(c)(3)(B) of the San Bernardino County Development Code (Development Code), “[t]he Neighborhood Commercial (CN) land use zoning district provides sites for retail trade and personal services, repair services, lodging services, professional services, recreation and entertainment services, and similar and compatible uses.” Correspondingly, pursuant to Section 82.05.040(b), “Lodging – Hotel or motel – 20 or fewer guest rooms,” and associated amenities and accessory uses such as “Restaurant, café, coffee shop”, “Bar, tavern” and “health facility” are land uses permitted within the Neighborhood Commercial (CN) zoning district. While the Applicant initially filed an application for a Minor Use Permit, a project that is likely to result in controversy must be processed as a Conditional Use Permit. Due to the comments received from the public in response to project notices relating to land use compatibility, increased traffic, and habitat protection, the Project is being processed as a Conditional Use Permit in compliance with Chapter 85.06 of the Development Code.

PROJECT ANALYSIS

Tentative Parcel Map No. 20774:

The Project site is situated on east side of Mile Square Road between Twenty-Nine Palms Highway and Cactus Drive. As illustrated in Figure 3, the three (3) parcels of the Project site are within two (2) zoning districts. The frontage along the south side of Twenty-Nine Palms Highway is within the Neighborhood Commercial (CN) zoning district, and the frontage along north side of Cactus Drive is within the Multiple Residential (RM) zoning district. The Tentative Parcel Map will subdivide the 3 parcels totaling 15 acres into 4 parcels (Figure 7 and Exhibit G), as follows:

- Parcel 1 (5.27 acres) – Neighborhood Commercial (CN)
- Parcel 2 (2.57 acres) – Multiple Residential (RM)
- Parcel 3 (2.56 acres) – Multiple Residential (RM)
- Parcel 4 (2.24 acres) – Multiple Residential (RM)

Parcel 1 will be developed with the proposed Cactus Club Hotel (Figure 9 and Exhibit H) and associated amenities, and Parcels 2, 3, and 4 will remain vacant and any proposed future development will be processed under separate entitlement applications.

Land Use:

The Project (Figure 8) is comprised of the following hotel and accessory guest amenities:

- 20-Room Hotel (7,705 square feet)
- Lobby/office/mechanical room/laundry room (2,550 square feet)
- Club room (3,600 square feet)
- Health spa (3,800 square feet)
- Restaurant (3,500 square feet)
- Restaurant (1,300 square feet)
- Café (1,300 square feet)
- Wine bar (1,800 square feet)
- 58 parking spaces, including 4 ADA accessible parking spaces

The Project is anticipated to be staffed 24 hours/day with up to 18 employees per day as follows: Hotel operations: 8; Spa: 1; Wine Bar: 2; Café: 2; and Restaurants: 5. The proposed hotel amenities consisting of the restaurants, café and wine bar will be open to hotel guests from 11:00 a.m. to 10:00 p.m., health spa from 8:00 a.m. to 4:00 p.m., and club room from 11:00 a.m. to 10:00 p.m. One (1) on-site security guard will be provided 24 hours/7 days/week in 3 shifts by 3 people. The proposed hotel consists of 20 rooms designed to accommodate a maximum of 2 guests per room, yielding a total maximum occupancy of 40 hotel guests.

Project Setting:

The undisturbed Project site is located on the southeast corner of Twenty-Nine Palms Highway and Mile Square Road, in the desert region of Joshua Tree with a flat topography. The properties located to the north and east of the Project site are also vacant and undisturbed. A single-family residence is located to the south of the Project site, and a single-family residence is located to the west of the Project site.

Site Design:

The Applicant's objective of the Project is to create compelling and appropriate architecture for the desert setting. The buildings are low profile with a height below twenty-two (22) feet and set back within the rear portion of the Project site buffered by landscaping, parking areas and drive-aisles so as to minimize the potential visual impact along Twenty-Nine Palms Highway. The buildings are designed to complement the unique character of the Joshua Tree community, and to provide a full-service experience for guests. The architecture is intended to reflect the cultural and natural heritage of the area.

The Project plans have been reviewed and accepted by the Land Use Services Department's Building and Safety, Geology, and Land Development Divisions, the Environmental Health Services, and Public Works (Traffic and Solid Waste Management) Departments, and the San Bernardino County Fire Protection District (Fire District).

Drainage:

The Preliminary Drainage Study has been approved by the Land Development Division, and the proposed Project has been conditioned to provide adequate provisions to intercept and conduct the tributary off-site and on-site 100-year drainage flows from the southeast corner through the Project site to a retention basin located near the northwest corner of the Project site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed.

Utilities:

Potable water supply will be provided to the Project site by the Joshua Basin Water District. The amount of water projected to be used by the Project is relatively small due to Project operations. Water supplies available through connection to the Joshua Basin Water District are projected to be sufficient to serve the proposed Project and reasonably foreseeable future development.

The Project site is not currently connected to sewer lines nor is it served by a wastewater treatment plant. The proposed Project will utilize an on-site wastewater disposal system with 3 chambers consisting of a 4800-gallon capacity. Due to the parcel size, the Project may be required to install an approved backflow device and pay the wastewater capacity fee.

Access/Circulation:

Access to the Project site is provided by two (2) entrances (commercial driveways). One (1) from Twenty-Nine Palms Highway located near the southeasterly corner of the Project site, and one (1) from Miles Square Road located near the southwesterly corner of the Project site. The internal

driveway provides looped access to the hotel, hotel guest amenities, and parking spaces. The proposed driveways and locations have been reviewed and approved by the Department of Public Works. These improvements along with the on-site circulation drive aisles meet the Development Code and County's Land Use Services and Public Works Department's standards, as well as the Fire District standards.

Landscaping:

Pursuant to Section 83.10.080(c)(2) and (3) (Desert Region) of the Development Code, "[p]lant materials shall be a cohesive mix of evergreen and deciduous trees, shrubs, groundcovers, succulents, and native plant material that are drought and infestation tolerant; turf shall be minimized," and "[t]he front yard and street side yard setback areas of a parcel shall be landscaped using xeriscape landscaping techniques, which combines drought tolerant plant and hardscape materials in a variety of aesthetically pleasing designs." Accordingly, xeriscape landscaping will be utilized throughout the Project site. The landscape design includes a 30-foot wide planter along Twentynine Palms Highway and a 15-foot planter along Miles Square Road. The site also includes a 29,750-square foot native open space area within the eastern portion of the Project site. In total, 29.4% of the site is landscaped. There are no Joshua Trees existing on the Project site, and all existing plants protected by the State Desert Native Plants Act will be protected.

Parking: The proposed Project provides a total of 58 parking spaces exceeding the Development Code requirement. Section 83.11.040 (Number of Parking Spaces Required) of the Development Code requires a minimum of one (1) parking space for each guest room for a total of twenty (20) parking spaces. The Development Code does not require employee parking spaces for motel uses; however, the proposed Project does provide at least eighteen (18) parking spaces for the anticipated number of employees per work shift. This provides a total of thirty-eight (38) parking spaces. In addition, while the motel amenities are intended for motel guests, there may be occasions when such motel guests may have local visitors wanting to join them during the day while on their stay. Therefore, the Project has provided a total of 58 parking spaces as summarized in Table 2 below:

TABLE 2: PARKING ANALYSIS

Use	Required	Provided
Guest Rooms	20 Parking Spaces	20 Parking Spaces (4 ADA)
Employees	N/A	18 Parking Spaces
Guest Visitors	N/A	20 Parking Spaces
Total	20 Parking Spaces	58 Parking Spaces (4 ADA)

Code Compliance Summary: The proposed Project satisfies all applicable standards of the Development Code for development within the Neighborhood Commercial (CN) zoning district, as illustrated on the site plan and in Table 3 below:

TABLE 3: PROJECT CODE COMPLIANCE

Project Component	San Bernardino Development Code		Project Plans
Parking	20 spaces		58 spaces
Minimum Setbacks	Front Yard	25 Feet	30 Feet
	Street Side Yard	25 Feet	50 Feet
	Interior Side Yard	10 Feet	119 Feet
	Rear Yard	10 Feet	10 Feet
Landscaping	Minimum Landscaping	20%	29.4%
Maximum Building Height	35 Feet		28 Feet

Maximum Lot Coverage	80%	70.0%
Drive Aisles	26 Feet	26 Feet

TABLE 3: COUNTYWIDE POLICY PLAN CONSISTENCY

Policy LU-2.1: Compatibility with Existing Uses	Consistency
We require that new development is located, scaled, buffered, and designed to minimize negative impacts on existing conforming uses and adjacent neighborhoods. We also require that new residential developments are located, scaled, buffered, and designed so as to not hinder the viability and continuity of existing conforming nonresidential development.	The site design and development features for the construction and operation of the lodging development consisting of a hotel with associated guest amenities have been developed to be consistent with the Development Code. Along with implementing the Conditions of Approval, as well as the Mitigation Monitoring and Reporting Program, the Project minimizes potential negative impacts on the surrounding land uses and adjacent neighborhoods.
Policy LU-2.4: Land Use Map Consistency	Consistency
We consider the proposed development that is consistent with the Land Use Map (i.e., it does not require a change in Land Use Category), to be generally compatible and consistent with surrounding land uses and a community's identity. Additional site, building, and landscape design treatment, per other policies in the Policy Plan and development standards in the Development Code, may be required to maximize compatibility with surrounding land uses and community identity.	The development of the Project conforms with the performance standards that are identified in the Development Code. The lodging development consisting of a hotel with associated guest amenities are allowed uses within the Neighborhood Commercial (CN) zoning district subject to the approval of a Conditional Use Permit. Additionally, the Project's site plan identifies compliance with the Development Code.
Policy LU-4.5: Community Identity	Consistency
It is required that new development be consistent with and reinforce the physical and historical character and identity of our unincorporated communities, as described in Table LU-3 and in the values section of Community Action Guides. In addition, we consider the aspirations section of Community Action Guides in our review of new development.	As detailed in the Planning Commission Staff Report, the objective of the Project is to create compelling and appropriate architecture for the desert setting. The buildings are low profile and set back within the rear portion of the Project site buffered by landscaping, parking areas and drive-aisles so as to minimize the potential visual impact along Twenty-Nine Palms Highway. The buildings are designed to complement the unique character of the Joshua Tree community, and to provide a full-service experience for guests. The architecture is intended to reflect the cultural and natural heritage of the area. As indicated above, the Project site is proposed on a site that is consistent with the existing Commercial Land Use Category designation and therefore is being proposed in an area where the limited commercial development has been planned. The Project site will maintain the rural lifestyle characteristics of the area, while also

	providing support to the community's local economy and tourists through its various lodging and accessory uses. The Project also reenforces the values, including, but not limited to, maintaining dark night skies via compliance with the County's Light Trespass Ordinance, protecting natural resources and the natural landscape through conservation and the use of desert landscaping techniques, and contributing to the sense of community by providing local commercial options to a small business that is compatible with the natural environment and surrounding use.
--	--

CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

Initial Study/Mitigated Negative Declaration: An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the Project in accordance with the California Environmental Quality Act (CEQA) (Exhibit A). The IS/MND evaluated the Project's potential environmental effects across the environmental resource areas identified in Appendix G of the CEQA Guidelines and concludes that the Project could have potentially significant effects related to Biological Resources, Cultural Resources, and Tribal Cultural Resources, but that those effects would be reduced to less than significant levels through implementation of mitigation measures incorporated into the Project. Based on that analysis, the IS/MND concludes that a Mitigated Negative Declaration (MND) is the appropriate CEQA document.

A Notice of Availability/Notice of Intent to adopt the MND was advertised and distributed for the CEQA mandated 30-day public review and comment period from September 22, 2025, through October 21, 2025. There were six (6) comments received during the 30-day period.

Comment letters were received from:

- California Highway Patrol, dated October 8, 2025 (Exhibit I)
- California Department of Fish and Wildlife (CDFW), dated October 6, 2025 (Exhibit J)
- Center for Biological Diversity, dated October 6, 2025 (Exhibit K)
- Desert Tortoise Council, dated October 16, 2025 (Exhibit L)
- Levon Kazarian, Community Member, dated October 7, 2025 (Exhibit M)
- Morongo Basin Conservation Association, dated October 7, 2025 (Exhibit N)

Comments and Responses to Comments: The comments raised issues concerning, among other matters, the Project description and operation, traffic and access, aesthetics, drainage and wastewater, and biological resources, including desert tortoise, burrowing owl, nesting birds, wildlife connectivity, and potential jurisdictional drainages. Responses to Comments were prepared addressing the issues raised and providing additional factual information and clarification regarding the Project and the environmental analysis (Exhibit B).

In particular, CDFW recommended revisions to Mitigation Measure BIO-2 concerning nesting-bird surveys and the addition of Mitigation Measures BIO-4 and BIO-5 concerning potential Fish and Game Code section 1602 resources and burrowing owl surveys, respectively. CDFW identified a mapped blue-line stream and potential section 1602 resources and recommended notification to CDFW before ground disturbance. CDFW also identified the Project area as predicted burrowing

owl habitat with recorded occurrences within two miles and recommended two preconstruction avoidance surveys.

Errata and Revisions to Mitigation Measures: An Errata to the IS/MND was prepared to incorporate clarifications, factual corrections, and revisions resulting from review of the comments (Exhibit C). Among other changes, the Errata updates the State listing status of the Mojave desert tortoise from threatened to endangered and revises BIO-1 and BIO-2 to strengthen the requirements applicable to desert tortoise by committing to protocol-level surveys before ground disturbance, use of qualified biologists and appropriate survey timing, and additional avoidance and agency coordination if desert tortoise or sign is detected, as well as strengthen the timing and methodology for nesting-bird surveys.

The Errata also adds the following biological resource measures:

- BIO-4 – Fish and Game Code Section 1602 Resources. Before ground-disturbing activities, the Project proponent must notify CDFW regarding activities potentially affecting a river, stream, lake, bed, bank, or channel and, if required by CDFW, obtain and comply with a Lake or Streambed Alteration Agreement.
- BIO-5 – Burrowing Owl. Before ground disturbance, a qualified biologist must conduct two focused burrowing owl surveys consistent with CDFW's survey protocol—one no more than 14 days before initial ground disturbance and another within 24 hours before disturbance—with avoidance and further regulatory requirements if burrowing owl is detected.

Recirculation: CEQA Guidelines section 15073.5 requires recirculation of a proposed MND before adoption when the document must be “substantially revised” following public notice. A substantial revision occurs where (1) a new, avoidable significant effect is identified and mitigation or project revisions must be added to reduce that effect to insignificance, or (2) previously proposed mitigation or project revisions are determined insufficient to reduce a potentially significant effect and new measures or revisions are required. Conversely, recirculation is not required where mitigation is replaced with equal or more effective mitigation, project revisions are added in response to comments concerning effects already identified in the proposed negative declaration and do not involve a new avoidable significant effect, conditions are added that are not required to mitigate a newly identified significant effect, or new information merely clarifies, amplifies, or makes insignificant modifications to the negative declaration. (CEQA Guidelines, § 15073.5(b)-(c).)

The revisions reflected in the Responses to Comments and Errata do not constitute substantial revisions requiring recirculation under section 15073.5. Biological resources, including potential impacts to special-status wildlife, were evaluated in the circulated IS/MND and were already identified as requiring mitigation. The revised and additional measures respond to comments concerning those previously evaluated effects by clarifying and strengthening survey, avoidance, monitoring, and regulatory-coordination requirements. The revisions do not identify a new significant environmental effect that was omitted from the circulated IS/MND or determine that an environmental effect previously found less than significant cannot be reduced to less than significant. Rather, the revisions provide additional protection and specificity to ensure that the previously identified biological-resource effects remain less than significant with mitigation. The Errata accordingly concludes that the revisions clarify and refine the mitigation and factual information without changing the IS/MND's significance conclusions.

Recommended mitigation measures intended to reduce the Project's impact on the environment to less than significant, including the modified and added mitigation, are contained in the Project's Mitigation Monitoring and Reporting Program (Exhibit D). The mitigation measures include the following topics: Biological Resources, Cultural Resources, and Tribal Cultural Resources.

PUBLIC COMMENTS

On August 25, 2023, Project Notices were mailed to the 14 surrounding property owners within 300 feet of the Project site, as required by Section 85.03.080 of the Development Code. Three (3) public comment letters were received (Exhibit O). The Project has addressed the expressed concerns, as follows:

- **Land Use Compatibility:** The Project is permitted within the Neighborhood Commercial (CN) zoning district, subject to the approval of a Conditional Use Permit. By offering 20 guest rooms on one site, the Project helps to lessen the footprint of vacation rentals in the area. The goal is to provide a more sustainable and environmentally friendly alternative to short-term rentals, which often have a significant impact on the local community and environment. Overall, the Project in Joshua Tree is focused on promoting economic development, creating jobs, promoting sustainability, and lessening the footprint of vacation rentals. The building design complements the unique character of the Joshua Tree community and reflects the cultural and natural heritage of the area.
- **Increased Traffic:** The Traffic Impact Analysis prepared for the IS/MND has adequately analyzed traffic thresholds. With 56 AM vehicle trips (9 total a.m. peak hour) and 51 PM vehicle trips (12 total p.m. peak hour), any potential impact is a level of less than significant impact.
- **Habitat Protection:** The Biological Resources Report prepared for the IS/MND has adequately analyzed biological resources, including but not limited to the Desert Tortoise habitat. Mitigation Measures have been prepared to reduce any potential impact to a level of less than significant impact and included in the Mitigation Monitoring and Reporting Program.

NOTICE OF HEARING

On September 24, 2026, pursuant to the Development Code, a notice of the Planning Commission public hearing on this item was mailed to the surrounding 14 property owners within a 300-foot radius of the Project site, and others who had requested written notice. As of the preparation of this staff report, no public comments have been received.

RECOMMENDATION

That the Planning Commission take the following actions:

- 1) **ADOPT** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Exhibits A-D);
- 2) **ADOPT** the Findings in support of the Tentative Parcel Map and Conditional Use Permit (Exhibit E);
- 3) **APPROVE** the Tentative Parcel Map to subdivide 3 parcels totaling 15 acres into 4 parcels (Parcel 1: 5.27 acres; Parcel 2: 2.57 acres; Parcel 3: 2.56 acres; and Parcel 4: 2.24 acres), subject to the Conditions of Approval (Exhibit F);
- 4) **APPROVE** a Conditional Use Permit to construct and operate a 20-guest-room hotel and associated guest amenities, consisting of a 3,500 square foot restaurant, 3,800 square foot health spa, 3,600 square foot club room, 1,300 square foot restaurant, 1,300 square foot café, 1,800 square foot wine bar, 2,550 square foot lobby/office, and 58 parking spaces on a 5.27-acre site, subject to the Conditions of Approval (Exhibit F); and
- 5) **DIRECT** the Land Use Services Department to file a Notice of Determination in accordance with the California Environmental Quality Act.

ATTACHMENTS:

- EXHIBIT A: Mitigated Negative Declaration, link:
<https://lus.sbcounty.gov/wp-content/uploads/sites/48/Draft-ISMND-August-2025.pdf>
- EXHIBIT B: Responses to Comments on Draft Initial Study/Mitigated Negative Declaration
- EXHIBIT C: Errata to Final Initial Study/Mitigated Negative Declaration
- EXHIBIT D: Mitigation Monitoring and Reporting Program
- EXHIBIT E: Findings for Tentative Parcel Map and Conditional Use Permit
- EXHIBIT F: Conditions of Approval
- EXHIBIT G: Tentative Parcel Map No. 20774
- EXHIBIT H: Project Site Plan
- EXHIBIT I: Letter from California Highway Patrol, dated October 8, 2025
- EXHIBIT J: Letter from California Department of Fish and Wildlife, dated October 6, 2025
- EXHIBIT K: Letter from Center for Biological Diversity, dated October 6, 2025
- EXHIBIT L: Letter from Desert Tortoise Council, dated October 7, 2025
- EXHIBIT M: Letter from Levon Kazarian, Community Member, dated October 7, 2025
- EXHIBIT N: Letter from Morongo Basin Conservation Association, dated October 7, 2025
- EXHIBIT O: Project Notice Comments

EXHIBIT A

EXHIBIT A

EXHIBIT A: Mitigated Negative Declaration, link:

<https://lus.sbcounty.gov/wp-content/uploads/sites/48/Draft-ISMND-August-2025.pdf>

EXHIBIT B

APPLICANT'S RESPONSES TO COMMENTS

Cactus Club Hotel

PROJ-2023-00061

APNs: 0608-051-02, 03, 04

Twentynine Palms Highway, Joshua Tree, CA | 3rd Supervisorial District

Applicant: Archer Stephenson / Evoque Modern LLC

Prepared by: Archer Stephenson

Date: May 19, 2026

Submitted to: Oliver Mujica, Contract Planner III
County of San Bernardino Land Use Services Department, Planning Division
385 N. Arrowhead Ave First Floor, San Bernardino, CA 92415-0187

TABLE OF CONTENTS

Letter 1: California Highway Patrol (CHP) — October 8, 2025

Letter 2: Center for Biological Diversity (CBD) — October 6, 2025

Letter 3: California Department of Fish and Wildlife (CDFW) — October 6, 2025

Letter 4: Desert Tortoise Council (DTC) — October 7, 2025

Letter 5: Levon Kazarian, Community Member — October 7, 2025

Letter 6: Morongo Basin Conservation Association (MBCA) — October 7, 2025

Letter 1: California Highway Patrol (CHP)

Commenter: California Highway Patrol, Morongo Basin Area — Lt. T. Skinner, Commander

Date: October 8, 2025

File No.: 870.16640.16200

Comment Summary

The CHP Morongo Basin Area submitted comments expressing concern that the proposed project could result in increased traffic congestion, additional enforcement demands, and increased incidents requiring emergency response on State Route 62. CHP noted that traffic congestion could necessitate additional traffic control measures to mitigate potential crashes, and requested that construction site operators diligently establish, monitor, and enforce vehicle safety rules consistent with the California Vehicle Code.

Response CHP-1: Traffic Generation and Congestion

A Transportation Impact Study Screening Memorandum was prepared for the project by TJW Engineering, Inc. (Thomas Wheat, PE, TE; July 18, 2023), utilizing trip generation rates from the ITE Trip Generation Manual, 11th Edition (2021), LUC 310 — Hotel. Based on 20 rooms, the project is anticipated to generate 160 daily trips, 9 AM peak hour trips, and 12 PM peak hour trips.

Under the County of San Bernardino's Transportation Impact Study Guidelines (July 9, 2019), a full Traffic Impact Study is required only when a project generates 100 or more peak hour trips, is located within 300 feet of an intersection of two Collector or higher roadways, or creates identified safety or operational concerns. This project meets none of those thresholds. Peak hour trip generation is well below 100 vehicles in both the AM and PM periods, and the project is not located within 300 feet of a qualifying intersection. TJW Engineering concluded that no Traffic Impact Study is required.

Given these volumes, the project's incremental contribution to traffic on SR-62 is minor. Highway 62 in the Joshua Tree area is a high-capacity two-lane state highway corridor; an increase of 9–12 peak hour trips does not present a discernible congestion impact on operations. Guests will arrive and depart throughout the day, and all on-site amenities are designed to serve hotel guests, limiting the external draw that would otherwise compound trip generation.

Response CHP-2: Access Design and Safety on SR-62

The project includes two points of vehicular access: one driveway connection to Twentynine Palms Highway (SR-62) and one to Mile Square Road. The SR-62 driveway connection is subject to Caltrans Local Development Review (LDR) approval and an encroachment permit prior to construction. Caltrans coordination is currently in progress, and the applicant will comply with all access design requirements established by Caltrans, including sight distance, turning radii, deceleration lanes, and signage, as applicable. If Caltrans determines that turn pockets or deceleration lanes are warranted at the SR-62 driveway, those improvements will be incorporated into the project as a condition of approval prior to any construction activity affecting the state right-of-way.

The Mile Square Road access will be reviewed and approved by the County Land Development Division per the Road and Drainage Conditions of Approval issued March 3, 2026 (Eanas Shanabo, Supervising Project Manager). Required dedications and street improvements on Mile Square Road will be designed by a Registered Civil Engineer per County Standard 114a.

Response CHP-3: Construction Traffic and Vehicle Safety

The applicant acknowledges CHP's request that construction site operators diligently establish and enforce vehicle safety protocols consistent with the California Vehicle Code. The applicant commits to the following during the construction phase:

A Construction Traffic Management Plan will be prepared and implemented as a condition of the grading permit, addressing haul routes, truck delivery scheduling, and flagging protocols for ingress/egress movements at SR-62. Heavy equipment deliveries will be scheduled outside of peak travel periods to minimize interference with through traffic on SR-62. Any work encroaching on the Caltrans right-of-way will require advance coordination with both Caltrans and CHP, including any necessary CHP escort for oversized load movements. Construction site rules regarding vehicle safety and California Vehicle Code compliance will be incorporated into contractor requirements and enforced by the site superintendent. The applicant welcomes ongoing coordination with the CHP Morongo Basin Area office and will provide the final site access design for CHP's review upon Caltrans approval of the encroachment permit.

Conclusion

The project's traffic generation is well below County thresholds for significant impact, and access design will be subject to full Caltrans review and approval before construction affecting SR-62 commences. The applicant is committed to proactive coordination with CHP on both construction management and operational safety. No significant impact to traffic operations or law enforcement resources is anticipated.

Letter 2: Center for Biological Diversity (CBD)

Commenter: Shannon E. Labuschagne, Center for Biological Diversity

Date: October 6, 2025

Preliminary Statement

The applicant has reviewed the Center for Biological Diversity's (CBD) comment letter in full. The letter raises numerous legal and factual assertions regarding the adequacy of the IS/MND. The applicant respectfully disagrees with the Center's characterization of the IS/MND as inadequate and with its assertion that an Environmental Impact Report is required. The responses below address each of the Center's concerns in sequence, provide factual clarifications where the letter relies on incomplete or inaccurate information, and identify where the Final IS/MND and Conditions of Approval have been revised or strengthened in response to comments received during the public review period. As demonstrated below, the record contains no substantial evidence of any unmitigated significant environmental effect that would require preparation of an EIR under Public Resources Code §21064.5 or CEQA Guidelines §15064(f)(1).

Section I — EIR vs. IS/MND Standard of Review

Response CBD-1

The Center correctly recites the legal standard: an EIR is required only when there is substantial evidence in the record that a project may have a significant effect on the environment that cannot be mitigated. The Center argues that the fair argument standard compels an EIR here. The applicant disagrees. The fair argument standard requires more than generalized assertions or speculation — it requires specific factual evidence or expert opinion predicated on fact. The Center's letter, while extensively citing general scientific literature on desert species and climate change, does not present site-specific substantial evidence demonstrating that a significant unmitigated impact will occur on this particular 5.28-acre commercially zoned parcel. The IS/MND was prepared by qualified technical consultants across all relevant resource areas, identified areas of potential significance, and incorporated mitigation measures sufficient to reduce all impacts to below significance. The Final IS/MND has been further strengthened in response to comments from CDFW, the Desert Tortoise Council, and others, adding and refining mitigation measures for biological resources, nesting birds, and jurisdictional drainages. These enhancements are protective refinements, not admissions of inadequacy.

Section II — Project Description

Response CBD-2: Maximum Occupancy

The proposed hotel consists of 20 rooms designed to accommodate a maximum of 2 guests per room, yielding a total maximum occupancy of 40 hotel guests. This figure is the appropriate baseline for occupancy-dependent impact analyses including noise, traffic, and utilities. The IS/MND's use of ITE Land Use Code 310 (Hotel) for trip generation, applied to 20 rooms, already captures the expected traffic behavior of a hotel at typical occupancy. A maximum of 40 simultaneous guests does not alter the significance conclusions for any resource area.

Response CBD-3: Number of Employees

The project's anticipated employee count is as follows: Hotel Operations: 8; Spa: 1; Club Room: 0; Wine Bar: 2; Café: 2; Restaurant: 5; Total: 18 employees. Employee vehicle trips are a subset of the project's

total trip generation. Eighteen employees commuting to a hospitality establishment represents a modest number of additional daily vehicle trips. Even if each employee made a separate round trip, this would add approximately 36 daily employee vehicle trips. Combined with the 160 daily guest-related trips, total project-related trips remain well under any threshold requiring a full Traffic Impact Study. This information is now formally disclosed and does not alter the significance conclusions of the IS/MND.

Response CBD-4: Parking Count

The Center correctly identifies a discrepancy between the site plan and the Noise Study appendix regarding the number of parking spaces. This inconsistency is acknowledged and corrected. The project provides 80 parking spaces as shown on the current site plan. The reference to 36 spaces in the Noise Study appendix (Appendix E) was an error in that document that does not reflect the actual site design. The parking count of 80 spaces will be reflected in the Final IS/MND and all supporting documents.

Section III — Piecemealing / Segmentation

Response CBD-5

This argument mischaracterizes the project and misapplies the anti-piecemealing doctrine. CEQA's prohibition on segmentation applies when a future phase of development is a reasonably foreseeable consequence of the initial approval and is integral to the same project. That is not the case here. The Tentative Parcel Map (TPM 20774) subdivides the existing parcels solely to separate the CN-zoned land — on which the hotel will be developed — from the Multi-Residential (RM) zoned land comprising Parcels 2, 3, and 4. No development is proposed on Parcels 2, 3, or 4. There are no plans, applications, entitlements, or schematics for any structure, improvement, or commercial use on those parcels. Any future residential development on RM-zoned land would be subject to entirely separate discretionary review, CEQA analysis, and public process at that time. The anti-piecemealing doctrine is not triggered by the mere existence of undeveloped land under common ownership. See *Sierra Club v. West Side Irrigation Dist.* (2005) 128 Cal.App.4th 690.

Section IV — Biological Resources

Response CBD-6: Desert Tortoise Habitat

The Biological Resources Assessment (Jennings Environmental, 2023) characterized the site as marginally suitable for desert tortoise based on professional judgment weighing multiple factors, including proximity to Highway 62, existing edge disturbance, and the absence of any tortoise sign during the reconnaissance survey. Mitigation Measure BIO-1 was included precisely because the site has some habitat characteristics consistent with tortoise occurrence, requiring pre-construction protocol-level surveys. The Final IS/MND has further strengthened BIO-1 in response to comments from CDFW and the Desert Tortoise Council to require mandatory protocol surveys (language changed from 'should' to 'shall'), agency notification, authorized biologist on-site during initial clearing, and exclusion fencing if any tortoise or sign is detected.

Response CBD-7: Rodent Burrows / Survey Credibility

The applicant acknowledges that the biological assessment's statement regarding the absence of small mammal burrows was an overstatement and that small rodent activity is consistent with the broader desert environment. This does not invalidate the survey's conclusions regarding the absence of burrowing owls, desert tortoise, or desert kit fox on the specific survey date, nor does it require an EIR. The IS/MND's mitigation approach accounts for this uncertainty by requiring pre-construction surveys for the very species of concern — tortoise (BIO-1), burrowing owl (BIO-5 as added), and nesting birds (BIO-2 as revised) — prior to any ground disturbance, at appropriate seasons and times of day.

Response CBD-8: Joshua Trees

No Western Joshua trees are present on the project site. The reference in the Paleontological Assessment to Joshua trees appears to describe the broader regional vegetation context rather than site-specific conditions. On-site verification confirms the absence of Joshua trees within the project footprint. The Final IS/MND will correct this discrepancy with a clear statement confirming the absence of Western Joshua trees on the project site, eliminating any concern regarding compliance with the Western Joshua Tree Conservation Act.

Response CBD-9: Burrowing Owl

Mitigation Measure BIO-5 has been added to the Final IS/MND, requiring two focused burrowing owl surveys prior to ground disturbance: one no more than 14 days before grading and one within 24 hours before ground disturbance, conducted in accordance with CDFW's 2012 Staff Report on Burrowing Owl Mitigation. The Center cites an iNaturalist observation of a burrowing owl approximately 5.5 miles from the project site. An observation at that distance, in a different landscape context, does not constitute substantial evidence of burrowing owl presence or breeding on this specific site. Nevertheless, BIO-5 addresses this concern by ensuring that if owls have colonized the site prior to construction, they will be detected and protected.

Response CBD-10: Desert Kit Fox

Pre-construction surveys under BIO-1 and BIO-5 will include observations for any special-status wildlife present, including kit fox. The project's trash enclosure will utilize wildlife-resistant containers consistent with CDFW guidance, and a guest wildlife interaction policy will be incorporated into hotel operations prohibiting guest feeding of wildlife. The retention basin will be designed with sloped or ramped edges to prevent entrapment of wildlife.

Response CBD-11: American Badger

Pre-construction clearance surveys will include visual observation for any wildlife on site including badger. No rodenticides will be used on the project site during construction or operation, eliminating secondary poisoning risk to badgers and other predators.

Response CBD-12: Migratory Birds / Bird-Window Collisions

The revised BIO-2 addresses nesting birds through pre-construction surveys and no-work buffers. The applicant additionally commits that exterior glazing on the hotel buildings will incorporate bird-safe design features — including angled glass, non-reflective coatings, or exterior screens on large glass panels — consistent with current best practices for reducing bird-building strike mortality. This commitment will be incorporated as a condition of approval.

Response CBD-13: Joshua Trees — Not Present

As stated in Response CBD-8 above, no Western Joshua trees are present on the project site. No mitigation is required under the Western Joshua Tree Conservation Act because no trees will be impacted.

Response CBD-14: Wildlife Connectivity

The IS/MND will be supplemented to clarify that while the site is not within a formally designated wildlife corridor, its location within a broad Essential Connectivity Area warrants consideration. The applicable analysis is whether the project will substantially interfere with the movement of native wildlife species. Given the site's context — bounded by Twentynine Palms Highway to the north, Cactus Drive to the south, and Mile Square Road to the west, with existing commercial and institutional development adjacent — the site already functions within a matrix of disturbed and developed land. The absence of perimeter fencing means wildlife may continue to move through the undeveloped portions of the site. The project does not construct any barrier to regional wildlife movement.

Response CBD-15: Noise Impacts on Wildlife

The applicant commits to the following operational measures to minimize noise generation: outdoor amplified sound will not be permitted on the project site without a separate special event permit; facilities including the restaurant, café, wine bar, and club room will operate only during daytime and evening hours with quiet hours enforced after 10:00 p.m.; and mechanical equipment will be enclosed or shielded to minimize noise propagation beyond the project boundary. These measures will be incorporated as conditions of approval.

Response CBD-16: Light Pollution — Biological Impacts

The project's lighting design requires fully shielded, downward-directed fixtures at low color temperature ($\leq 3000\text{K}$), which minimizes biological light pollution impacts. Warm-spectrum, shielded lighting is consistent with current best practices for reducing impacts on nocturnal wildlife. No upward-directed decorative lighting will be used. These design commitments will be incorporated as conditions of approval.

Response CBD-17: Raven Subsidization / Retention Basin

The applicant commits to the following raven-deterrent measures: all trash will be stored in fully enclosed, raven-proof containers; no food waste will be left in open outdoor areas; and the retention basin will be designed with gradual slopes or escape ramps and will not hold permanent standing water — it is a stormwater retention feature designed to percolate within 72 hours of a storm event, not a decorative pond. These commitments will be formalized as conditions of approval.

Section V — Aesthetics

Response CBD-18

The applicant acknowledges that the Visual Impact Study (Appendix H) was inaccessible due to an apparent file corruption on the County's website. The applicant requests that the County upload a corrected version of Appendix H and will provide a clean copy to the planner for that purpose. The Visual Impact Study was properly prepared and submitted as part of the application package. The hotel is located on the south side of Highway 62, approximately 8 miles from the National Park boundary. At that distance, a two-story structure (maximum 28 feet) has a negligible angular footprint against the horizon as viewed from the Park. The IS/MND's conclusion of less-than-significant aesthetic impact is supported by the Visual Impact Assessment.

Section VI — Air Quality

Response CBD-19

Now that maximum occupancy (40 guests), employee count (18), and parking (80 spaces) have been formally disclosed, the CalEEMod-based air quality assessment can be confirmed against these figures. The project's total daily person-trips remain well below the Mojave Desert AQMD significance thresholds for operational emissions. The County's determination that operational emissions are below MDAQMD thresholds is supported by the data. The Center's argument that nonattainment status alone is sufficient to trigger an EIR is not supported by CEQA — significance is determined by whether the project exceeds applicable thresholds, not by regional air quality conditions in isolation.

Section VII — Traffic

Response CBD-20

Commercial delivery trucks servicing a 20-room hotel and its associated food and beverage operations are a routine element of hotel operations and are captured within the ITE Land Use Code 310 trip generation rate. The incremental addition of delivery trucks to Highway 62 — which already serves commercial traffic for the Joshua Tree community — does not constitute a significant traffic impact. Any marginal increase in vehicle volumes on a highway that already generates wildlife collision risk is not a project-specific significant impact attributable to 160 additional daily trips on a high-volume state route. The IS/MND's conclusion of less-than-significant traffic impact is supported by the TJW Engineering screening memorandum.

Section VIII — Water Quality

Response CBD-21

The applicant wishes to ensure the record accurately reflects existing site conditions regarding the CNDDDB-mapped blue line stream: the feature is not observable on the ground, contains no water at any point during the year, exhibits no defined bed or bank, and its mapped alignment crosses Twentynine Palms Highway (SR-62) — a paved state highway — indicating the mapping reflects a regional hydrological inference rather than a verified on-site drainage feature. These observations are consistent with the Biological Resources Assessment (Jennings Environmental, 2023).

Notwithstanding these site conditions, Mitigation Measure BIO-4 (added at CDFW's recommendation) requires notification to CDFW pursuant to Fish and Game Code §1602 prior to any ground-disturbing activities. The §1602 process is the appropriate mechanism for CDFW to make its own independent jurisdictional determination.

The retention basin is currently a conceptual element. Prior to grading permit issuance, a full drainage study must be submitted to and approved by LDD. The applicant commits that the retention basin design will include wildlife escape features and will be engineered to percolate within 72 hours of a storm event. The OWTS must be designed and approved by County Environmental Health Services prior to building permit issuance.

Section IX — Greenhouse Gas Emissions

Response CBD-22

With 40 maximum guests and 18 employees now formally disclosed, the total VMT-based operational GHG profile remains well below MDAQMD thresholds. CEQA does not require carbon accounting for every disturbed acre of native vegetation in a project below GHG significance thresholds. The project's compliance with MDAQMD thresholds, confirmed by the CalEEMod analysis, is the applicable standard.

Section X — Wastewater Treatment

Response CBD-23

The project proposes a conventional On-Site Wastewater Treatment System (OWTS) — a septic tank and leach field — not an industrial wastewater treatment plant. A properly designed commercial septic system does not generate measurable methane emissions at a scale relevant to CEQA GHG thresholds, nor does it generate operational noise beyond baseline ambient levels. County Environmental Health Services will review and approve the OWTS design prior to permit issuance.

Conclusion

The applicant has provided factual clarifications addressing each of the Center for Biological Diversity's specific concerns. The information now formally disclosed — maximum occupancy of 40 guests, 18 employees, 80 parking spaces, no Joshua trees on site, no development proposed on Parcels 2 through 4, and no perimeter fencing — supplements the IS/MND project description and does not alter any significance conclusion. The Final IS/MND has been strengthened with additional and revised mitigation measures. These refinements do not constitute substantial revisions requiring recirculation under CEQA Guidelines §15073.5. The applicant maintains that the IS/MND is legally adequate, factually supported, and sufficient to allow the County to proceed with adoption of the Final IS/MND and Mitigated Negative Declaration.

Letter 3: California Department of Fish and Wildlife (CDFW)

Commenter: Alisa Ellsworth, Environmental Program Manager, CDFW Inland Deserts Region

Date: October 6, 2025

Docusign Envelope: FC3C6C82-E34B-4F70-B024-667C95F58511

Preliminary Statement

The applicant thanks CDFW for its thorough and constructive engagement with the IS/MND for the Cactus Club Hotel project. CDFW's comments reflect the agency's expertise as California's Trustee Agency for fish and wildlife resources, and the applicant accepts all three recommendations in full. The revised and new mitigation measures proposed by CDFW — BIO-2 (revised), BIO-4 (new), and BIO-5 (new) — will be incorporated verbatim into the Final IS/MND and the project's Mitigation Monitoring and Reporting Program (MMRP).

Response to Comment #1 — Nesting Birds (BIO-2 Revision)

The applicant accepts CDFW's recommended revisions to Mitigation Measure BIO-2 in their entirety. The revised measure removes the implied seasonal limitation (February through August) and replaces it with a year-round pre-construction survey requirement, triggered within 3 days prior to any project-related disturbance of nestable habitat regardless of calendar date. The applicant acknowledges CDFW's scientific basis for this revision — that climate-driven shifts in migratory bird phenology may result in nesting activity occurring outside historical seasonal windows — and agrees that year-round protection aligned with Fish and Game Code sections 3503, 3503.5, and 3513 is the appropriate standard.

The Final IS/MND will incorporate the complete revised text of BIO-2 as provided by CDFW, including the expanded survey scope, the behavioral indicators of nesting activity to be documented, the change from weekly to daily nest monitoring, and the nest monitoring protocols designed to minimize predation risk. The MMRP will reflect an implementation schedule of 'within 3 days of initiation of Project activities' with responsible party as 'Project Proponent and Qualified Avian Biologist,' consistent with CDFW's Attachment A.

Response to Comment #2 — Fish and Game Code Section 1602 Resources (BIO-4, New)

The applicant accepts CDFW's recommendation to add Mitigation Measure BIO-4 to the Final IS/MND and commits to notifying CDFW pursuant to Fish and Game Code section 1602 prior to any ground-disturbing activities. The applicant acknowledges that CNDDB identifies a mapped blue line stream in the project vicinity. For full factual context: the feature mapped by CNDDB is not observable on the ground, contains no water at any point during the year, exhibits no defined bed or bank, and its mapped alignment crosses Twentynine Palms Highway (SR-62) — a paved state highway — indicating the mapping reflects a regional hydrological inference rather than a verified on-site drainage feature. These observations are consistent with the Biological Resources Assessment (Jennings Environmental, 2023), which conducted 100% visual coverage and found no definable bed, bank, or riparian feature.

Notwithstanding these site conditions, the applicant accepts BIO-4 without objection. The §1602 notification process is the appropriate mechanism for CDFW to make its own independent jurisdictional determination. If CDFW determines no Agreement is required, that outcome will be documented in the project record. If an Agreement is required, the applicant will comply fully. The MMRP will reflect BIO-4 with implementation trigger of 'prior to initiation of any ground disturbing activity' and responsible party as 'Project Proponent,' consistent with CDFW's Attachment A.

Response to Comment #3 — Burrowing Owl (BIO-5, New)

The applicant accepts CDFW's recommendation to add Mitigation Measure BIO-5 to the Final IS/MND and acknowledges CDFW's determination that the project area falls within predicted burrowing owl habitat per CNDDDB, with confirmed occurrences recorded within 2 miles of the site. The Final IS/MND will incorporate BIO-5 verbatim as provided by CDFW, requiring two protocol-level pre-construction avoidance surveys: an initial survey no less than 14 days prior to ground disturbance, and a final survey within 24 hours prior to ground disturbance, both conducted by a qualified Avian Biologist consistent with the CDFW 2012 Staff Report on Burrowing Owl Mitigation. If burrowing owl presence is confirmed, the applicant will immediately contact CDFW and implement full avoidance or obtain a CESA Incidental Take Permit pursuant to Fish and Game Code section 2081 if complete avoidance is not feasible.

Environmental Data — CNDDDB Reporting

The applicant commits to ensuring that qualified biologists conducting pre-construction surveys under BIO-1, BIO-2, and BIO-5 submit field survey results to CNDDDB in accordance with reporting requirements, regardless of whether special status species are detected.

Environmental Document Filing Fees

The applicant acknowledges CDFW's notification that environmental document filing fees are required upon the Lead Agency's filing of the Notice of Determination, pursuant to California Code of Regulations title 14, section 753.5; Fish and Game Code section 711.4; and Public Resources Code section 21089. The applicant understands that payment of these fees is a prerequisite for the project approval to be operative, vested, and final, and will ensure timely payment upon NOD filing.

Conclusion

The applicant accepts all three of CDFW's recommendations without modification. The revised BIO-2 and new BIO-4 and BIO-5 measures will be incorporated into the Final IS/MND. These additions strengthen the project's biological resource protections and do not require recirculation of the IS/MND under CEQA Guidelines §15073.5. The applicant looks forward to continued coordination with CDFW through the pre-construction survey process and the Fish and Game Code section 1602 notification process.

Letter 4: Desert Tortoise Council (DTC)

Commenter: Edward L. LaRue, Jr., M.S., Chairperson, Desert Tortoise Council Ecosystems Advisory Committee

Date: October 7, 2025

Preliminary Statement

The applicant thanks the Desert Tortoise Council (DTC) for its thorough, technically detailed, and data-rich comments. The DTC's letter reflects the expertise of an organization with decades of field survey experience in the Morongo Basin, and the applicant takes its findings seriously. The survey data provided in Figures 1a and 1b, documenting tortoise and tortoise sign on 16 sites within a half mile of the project, as well as burrowing owl sign on multiple adjacent sites, constitutes meaningful new information that has been considered in the preparation of these responses and will be incorporated into the administrative record. As a threshold matter, the applicant commits to conducting full USFWS 2019 protocol-level surveys for desert tortoise covering the action area prior to any ground-disturbing activity, superseding the reconnaissance-level survey conducted in February 2023.

Response to DTC Comment #1 — Protocol Survey Requirement

The DTC correctly identifies that the February 2023 Jennings Environmental survey was a reconnaissance-level survey and that a formal USFWS 2019 protocol survey is the appropriate methodology for determining tortoise presence or absence under FESA and CESA. The applicant accepts this critique. Mitigation Measure BIO-1 in the Final IS/MND is hereby enhanced to require a full USFWS 2019 protocol-level survey conducted by a biologist deemed qualified by both USFWS and CDFW, covering the full action area as defined in 50 CFR 402.2. The survey shall be conducted at the appropriate season for tortoise detection — April through May or September through October — and shall document all survey conditions as required by USFWS (2019). Survey results shall be submitted to USFWS and CDFW and their responses incorporated into the project record. The enhanced BIO-1 language shall be mandatory ('shall'), not precatory ('should'). No ground disturbance of any kind shall commence until this protocol survey has been completed and reviewed by the County, USFWS, and CDFW.

Response to DTC Comment #2 — Survey Validity / Age of Data

The DTC correctly notes that the February 2023 reconnaissance survey is now more than two years old and that both USFWS and CDFW generally consider survey data older than one year to require updating. The enhanced BIO-1 commitment requires that the protocol survey be conducted within one year prior to ground disturbance, ensuring current and valid data. The 2023 Jennings survey will not be relied upon as the sole basis for any determination regarding tortoise presence or absence. The applicant will contact USFWS Desert Tortoise Recovery Office and CDFW Inland Deserts Region prior to initiating protocol surveys to confirm survey timing, action area delineation, and surveyor qualifications.

Response to DTC Comment #3 — CNDDB Limitations and DTC Supplemental Survey Data

The DTC provides supplemental survey data from Circle Mountain Biological Consultants, Inc. documenting tortoise sign on 10 of 16 survey sites within a half mile of the project, including directly across Highway 62 at Copper Mountain College where more than 25 tortoises have been found since 2005, including hatchlings and juveniles indicative of active reproduction. The applicant acknowledges

this as substantive new information and accepts it into the record. This data will be referenced in the Final IS/MND as supporting the need for protocol surveys and the project's mitigation approach.

Response to DTC Comment #4 — Clearance Surveys vs. Protocol Surveys

The applicant accepts the DTC's distinction between protocol surveys and clearance surveys. The enhanced BIO-1 will require both: a protocol-level survey during the appropriate active season to determine presence or absence across the action area, followed by a clearance survey immediately prior to ground disturbance consistent with USFWS (2020) translocation guidance. If tortoises or sign are detected during the protocol survey, the applicant will coordinate with USFWS and CDFW to develop and implement a Tortoise Relocation Plan prior to any disturbance. Exclusion fencing will be installed around the active construction footprint prior to ground disturbance in the event tortoise presence is detected in the action area during the protocol survey phase.

Response to DTC Comment #5 — Parcel Split, Direct and Indirect Impacts

No development is proposed, planned, or contemplated on Parcels 2, 3, or 4. These parcels are zoned Multi-Residential (RM), and any future residential development would require entirely separate discretionary review and CEQA analysis at that time. The TPM does not authorize construction or ground disturbance on any parcel other than Parcel 1. Growth-inducing impact analysis under CEQA is appropriate where a project would remove an obstacle to further development — here, the RM-zoned parcels already exist as undeveloped land and the TPM does not change their regulatory status in a manner that facilitates new development.

Response to DTC Comment #6 — Linkage Habitat / DRECP Connectivity

The applicant acknowledges that the CEQA analysis of wildlife movement impacts requires more than confirming the absence of a formal corridor designation. The IS/MND will be revised to include discussion of the site's location relative to the DRECP-identified Ord-Rodman to Joshua Tree National Park linkage area and to analyze whether the project, in the context of existing development, would substantially impair wildlife movement through this area.

The following site-specific factors are relevant: the project site is bounded on the north by SR-62, on the west by Mile Square Road, and on the south by Cactus Drive — the site is embedded within an existing developed corridor. The project does not introduce perimeter fencing. Development will be concentrated on Parcel 1; Parcels 2, 3, and 4 remain open and unfenced. The applicant will provide a calculation of existing and project-related surface disturbance relative to the 5% development threshold per square kilometer identified in Averill-Murray et al. (2021) for inclusion in the Final IS/MND.

Response to DTC Comment #7 — Indirect Impacts: Raven Subsidization, Predator Attraction, Drainage

The applicant accepts these as legitimate concerns and commits to the following mitigation measures to be incorporated as conditions of approval: During construction, all food waste generated by workers shall be stored in fully enclosed, wildlife-proof containers and removed from the site daily. All operational refuse shall be stored in fully enclosed, raven-proof containers. No food waste shall be left in open outdoor areas. Guest wildlife interaction policies shall explicitly prohibit the feeding of wildlife. Light poles and other vertical structures will be designed to discourage raven nesting where feasible. The retention basin will be designed to percolate within 72 hours and will not hold permanent standing water; basin edges will incorporate gradual slopes or escape features. Drainage inlets and culverts will be designed with

tortoise-exclusion features such as appropriately spaced grates. No rodenticides shall be used on the project site during construction or operation.

Response to DTC Comment #8 — Mandatory Findings of Significance

The applicant acknowledges the gravity of the Western Mojave tortoise population data provided in Appendix A. This data is now formally part of the administrative record and will be referenced in the Final IS/MND. The applicant's position is that the appropriate response to this data is more rigorous project-specific mitigation — which the enhanced BIO-1 protocol survey commitment and the indirect impact mitigation measures described above provide — not necessarily an EIR. A 5.28-acre commercial development within an existing developed highway corridor, with no perimeter fencing, with protocol surveys and clearance surveys required prior to disturbance, and with robust raven and predator mitigation, can be found to result in less-than-significant impacts to desert tortoise with mitigation. The County will make this determination as lead agency based on the full record. The applicant commits to full cooperation with any additional analysis the County determines is warranted.

Response to DTC Comment #9 — Burrowing Owl Survey Methodology

The applicant accepts the DTC's supplemental data showing burrowing owl sign at multiple nearby survey sites and every tortoise protocol survey at Copper Mountain College since 2008. Mitigation Measure BIO-5, added to the Final IS/MND in response to CDFW's Comment #3, requires two pre-construction protocol burrowing owl surveys consistent with the CDFW 2012 Staff Report. The enhanced BIO-1 protocol survey will additionally include survey coverage of adjacent areas for burrowing owl consistent with CDFW 2012 requirements, including the five transect spacing intervals (30, 60, 90, 120, and 150 meters) in adjacent open lands to the south, east, and southwest of the project site.

Conclusion

The DTC's core recommendations — protocol-level surveys for tortoise and burrowing owl covering the full action area and adjacent lands, conducted at appropriate seasons by USFWS/CDFW-qualified biologists, with results current within one year of ground disturbance — are accepted in full and incorporated into the enhanced Mitigation Measure BIO-1 and existing Mitigation Measure BIO-5. The indirect impact mitigation commitments for raven subsidization, predator attraction, drainage trapping, and rodenticide prohibition are accepted and will be formalized as conditions of approval. The linkage habitat analysis will be revised in the Final IS/MND to engage substantively with the DRECP connectivity context and the Averill-Murray et al. (2021) thresholds. The DTC is acknowledged as an Affected Interest and will be included on the County's distribution list for all subsequent notices and materials associated with this project.

Letter 5: Levon Kazarian — Community Member

Commenter: Levon Kazarian, Joshua Tree Resident and Business Owner

Date: October 7, 2025

Preliminary Statement

The applicant thanks Mr. Kazarian for his comments and acknowledges his support for commercial lodging and restaurant development in Joshua Tree in principle. The applicant notes that several of Mr. Kazarian's factual assertions regarding the applicant and its affiliated companies are materially inaccurate and are corrected below. The remaining concerns regarding wastewater, community character, aesthetics, and planning consistency have been addressed in detail in the applicant's responses to the Morongo Basin Conservation Association and Center for Biological Diversity comment letters, and are summarized here with cross-references to those responses.

Response LK-1 — Correction of Factual Assertions Regarding Evoque Modern and Short-Term Rentals

Mr. Kazarian's letter asserts that Evoque Modern LLC and its alleged affiliate Fieldtrip have used shell companies and LLC membership shuffling to obtain more than two short-term rental licenses in circumvention of the County's STR ordinance, and characterizes the applicant as a 'bad faith player' that has 'duped' the County's Land Use department. The applicant categorically disputes these characterizations as factually inaccurate.

First, Evoque Modern LLC was formed in 2019 and has maintained the same ownership since its formation. No ownership changes, membership shuffles, or shell company structures have been employed by Evoque Modern at any time.

Second, Evoque Modern does not own any short-term rental properties in San Bernardino County. Evoque Modern operates exclusively as a builder and developer. Properties that Evoque Modern has designed and constructed belong to their respective owners — individual clients and investor groups — not to Evoque Modern. The allegation that Evoque Modern has accumulated STR licenses is therefore factually impossible: an entity that does not own the properties it builds cannot hold STR licenses on those properties.

Third, Fieldtrip is a separate company with no ownership interest in the proposed Cactus Club Hotel project and no role in its development, management, or operation. Fieldtrip is not a party to this application, not named in the CUP, and has no legal or operational connection to the project before the County for approval.

Mr. Kazarian's letter concedes he has no precise knowledge of the STR license count, stating only that it is 'certainly WELL above two' without providing any supporting evidence. Unsupported characterizations of this nature are not substantial evidence under CEQA and do not bear on the environmental analysis or the land use merits of this application. The applicant respectfully requests that the County note for the record that these allegations are disputed, factually unsupported, and do not reflect the actual corporate structure, ownership history, or business activities of Evoque Modern LLC.

Response LK-2 — Wastewater / Septic System

Mr. Kazarian questions whether a project of this scale can be adequately served by a septic system and suggests a package wastewater treatment plant should be required. The project's On-Site Wastewater Treatment System (OWTS) must be designed and approved by County Environmental Health Services

prior to building permit issuance, including percolation testing sized for all hotel, food service, and spa uses. Preliminary percolation data confirms sandy, well-draining native soils suitable for a conventional OWTS on the 5.28-acre Parcel 1. If at any point EHS determines a conventional septic system is insufficient, the applicant will be required to install an engineered package treatment system as a condition of permit issuance. The project will not be permitted to operate until an approved wastewater solution is in place.

Response LK-3 — Community Character, Scale, and Planning Consistency

Mr. Kazarian's concern that the project's scale is in tension with 'limited development' language in planning documents, and that it warrants review as a resort, has been addressed in full in the applicant's responses to MBCA (Responses MBCA-1 and MBCA-12). The project is located in a CN zone expressly designated for commercial hospitality uses, and is receiving exactly the level of scrutiny Mr. Kazarian requests — a full CUP process with CEQA review, public comment period, and Planning Commission hearing.

Response LK-4 — Aesthetics and Architectural Drawings

Full architectural elevations have been provided and are part of the Final IS/MND submittal package, depicting a low-profile modern desert design with earth-tone exterior materials, varied rooflines, and building footprints that avoid monolithic massing. A condition of approval will require that final exterior materials, colors, and lighting be reviewed by County planning staff for consistency with Joshua Tree Community Plan objectives prior to building permit issuance. The project's maximum building height of 28 feet is below the 35-foot CN zone limit.

Conclusion

The applicant appreciates Mr. Kazarian's engagement with this process. The factual corrections provided above regarding Evoque Modern's corporate structure and STR activity are entered into the administrative record. The remaining concerns regarding infrastructure, scale, and design are being addressed through the CUP conditions of approval and the Final IS/MND mitigation framework. The applicant is committed to operating the Cactus Club Hotel as a fully compliant, professionally managed commercial lodging facility subject to all applicable County regulations, TOT reporting requirements, and CUP conditions.

Letter 6: Morongo Basin Conservation Association (MBCA)

Commenter: Steve Bardwell, President, Morongo Basin Conservation Association

Date: October 7, 2025

Preliminary Statement

The applicant thanks the Morongo Basin Conservation Association for its engagement with this project and acknowledges MBCA's stated support for commercial development that serves the economic well-being of the Morongo Basin. The MBCA letter raises twelve numbered concerns. Several overlap substantially with issues addressed in the applicant's responses to other commenters, and are cross-referenced accordingly. Each concern is addressed below.

Response MBCA-1 — Project Re-Definition / Hotel vs. Resort Classification

MBCA observes that the accessory use square footage (17,550 sf) exceeds the hotel room square footage (7,705 sf) and argues the project should be re-classified as a resort. The County Development Code does not require a 'resort' classification for a hotel with accessory amenities. The accessory uses — restaurant, café, wine bar, club room, spa — are operationally subordinate to and supportive of the primary hotel use, serving a maximum of 40 guests at full occupancy. Square footage alone does not determine whether a use is primary or accessory under the Development Code; the functional and operational relationship between uses is determinative. The CUP will include conditions ensuring accessory uses remain subordinate in operation, including limits on public access and event activity.

Regarding MBCA's reference to Development Code Chapter 84.01 Director notification: all property owners within 1,000 feet of the project were notified of the CUP application in accordance with standard County procedure, satisfying the spirit and intent of that notification requirement.

Response MBCA-2 — Public Access to Amenities

The fine dining restaurant and café may be open to the public on a limited basis. The club room and hotel restaurant are intended primarily for hotel guests. The spa may accept outside appointments on a limited basis. All of these uses were analyzed in their entirety in the IS/MND — traffic generation, parking, utility demand, and noise analyses accounted for the full project including any public-facing components.

Response MBCA-3 — Scale, Visual Character, and Highway Frontage

The project's maximum building height is 28 feet, below the 35-foot CN zone limit. Building footprints cover approximately 16% of Parcel 1, well below the 80% maximum. Buildings are dispersed across the parcel with open space retained particularly at the eastern end. Earth-tone exterior materials and native desert landscaping are proposed to integrate the project visually with its surroundings. The Visual Impact Assessment confirmed that long-range views of the mountains remain visible above and around the structures. Full architectural elevations have been provided in the Final IS/MND submittal and will be available at the Planning Commission hearing. A condition of approval will require County planning staff design review of final exterior materials, colors, and lighting prior to building permit issuance. The lot coverage calculation will be verified to include all impervious surfaces in the Final IS/MND.

Response MBCA-4 — Parcel Map Exhibits and Neighboring Residences

The applicant acknowledges the IS/MND's description of surrounding land uses as 'vacant land to the north, east, south, and west' is inaccurate and requests it be corrected in the Final IS/MND. The accurate site context is: Twentynine Palms Highway (SR-62) bounds the site to the north; Mile Square Road to the west; and Cactus Drive to the south. The nearest residential structure to the south is located approximately 330 feet from the project boundary, with additional residences in the broader community to the south and southwest. This distance was accounted for in the noise analysis, which confirmed project-generated noise at the nearest residential receptor will remain within County standards. Corrected exhibits clearly delineating the three existing parcels, the four proposed parcels, and the CN/RM zoning boundary will be included in the Final IS/MND submittal.

Response MBCA-5 — Parking Tabulation

MBCA correctly identifies that the parking tabulation on the site plan contained arithmetic errors. The project provides 80 parking spaces as shown on the current site plan. The applicant notes that parking standards were increased during the course of the project in response to evolving County requirements, resulting in a higher space count than initially anticipated. The applicant's preference is actually to reduce the total paved parking area in order to preserve more of the site for native plant habitat — increasing open ground, reducing impervious surface, and better integrating the project with the surrounding desert landscape. The applicant welcomes the County's consideration of any reduction in required parking that current standards and shared-use analysis may support, as fewer paved spaces would directly translate to less site disturbance and greater native plant retention. The corrected parking tabulation will be included in the Final IS/MND.

Response MBCA-6 — Native Plant Preservation

MBCA's assertion that the project will remove all existing native plants on site and replace them with irrigated landscaping is not accurate. The project's Native Plant Plan provides that all native plants outside the active construction footprint will be preserved in place. Within the construction area, a strong effort will be made to tag, carefully excavate, store, and replant as many native plants as feasible, including cacti, creosote, and any other specimens that can survive relocation. The applicant's design intent is explicitly for the project to blend into the existing desert landscape — native plantings are considered one of the site's most valuable assets. Replacement landscaping will use drought-tolerant, locally appropriate native species. Supplemental irrigation, where used, will be targeted and minimal. This commitment will be formalized as a condition of approval requiring submission and County approval of a detailed Native Plant Plan prior to any ground disturbance.

Response MBCA-7 — Traffic, Access, and Cumulative Impacts

The TJW Engineering Transportation Impact Study Screening Memorandum (July 18, 2023) analyzed trip generation for the full project using ITE LUC 310, yielding 160 daily trips, 9 AM peak hour trips, and 12 PM peak hour trips — well below the 100 peak hour trip threshold requiring a full TIS. The SR-62 driveway access will be reviewed and approved by Caltrans through the encroachment permit process. MBCA's suggestion that extending the frontage road to the nearest signal should be considered is noted and will be forwarded to the County Traffic Division and Caltrans for evaluation. The cumulative traffic analysis in the IS/MND considered foreseeable development in the Morongo Basin; even accounting for the projects listed by MBCA cumulatively, the corridor's capacity on SR-62 is not projected to be exceeded at applicable thresholds given the modest individual trip generation of each project.

Response MBCA-8 — Flooding

The project site is located within FEMA Flood Zone X-Unshaded per Panel 06071C8175H, indicating no special flood hazard designation, though the California DWR Awareness Floodplain map identifies the site as flood-prone under approximate assessment procedures. The LDD Conditions of Approval (March 3, 2026) require submission of a full drainage study by a Registered Civil Engineer for review and approval by Land Development Division prior to recordation of the Parcel Map. That study will design drainage improvements to intercept and safely convey the 100-year storm event without adverse impact to adjacent or downstream properties.

Response MBCA-9 — Wastewater

The OWTS design must be submitted to and approved by County Environmental Health Services prior to building permit issuance, sized for all hotel, food service, and spa uses based on confirmed percolation data. If a conventional system is found insufficient, an engineered package treatment system will be required as a condition of permit issuance. The project will not operate until an approved and code-compliant wastewater solution is in place.

Response MBCA-10 — Employee Housing and Workforce

The applicant respectfully disagrees with the premise that this project will create a housing burden on the community. The project is designed to provide quality employment opportunities that can be filled by existing Joshua Tree and Morongo Basin residents — creating economic benefit without requiring new in-migration. San Bernardino County's unemployment rate was approximately 5.2% as of January 2025, and the Riverside-San Bernardino-Ontario MSA's leisure and hospitality sector added 2,700 jobs year-over-year as of late 2025, reflecting ongoing demand for hospitality workers across the region. The Morongo Basin has a substantial working-age population with experience in hospitality, food service, and customer-facing roles driven by the area's established tourism economy centered on Joshua Tree National Park. The 18 positions this project creates — spanning hotel operations, food service, and spa — are well-suited to local residents already present in the community. These are living-wage positions in a commercial hospitality setting, not specialized roles requiring relocation from outside the region. The project therefore does not generate a housing demand that must be 'paired' with new construction; it serves the existing workforce and provides income that allows local residents to thrive in the community where they already live. No employee housing analysis is required under CEQA for a project of this scale generating 18 positions in an area with an existing hospitality workforce.

Response MBCA-11 — Cumulative Traffic (Morongo Basin Projects)

Addressed above in Response MBCA-7. The applicant acknowledges the list of concurrent development proposals in the Morongo Basin and confirms they are part of the cumulative analysis in the IS/MND. The County will evaluate transportation infrastructure needs at a programmatic level as this development pattern continues. This project's individual trip generation is sufficiently modest that it does not tip cumulative conditions into significance at any studied location.

Response MBCA-12 — Countywide Plan Growth Projections

The Countywide Plan's growth projections are planning estimates used for regional infrastructure and environmental analysis — they are not regulatory caps or development quotas. The project is located on commercially zoned land within the community plan area's designated commercial node — precisely where the County's land use framework directs growth to occur, in order to protect residential and open space areas from sprawl. Approving a hotel on a commercially zoned highway parcel is consistent with, not contrary to, the Countywide Plan's growth management intent.

Response — Legibility of Site Plan

MBCA notes the site plan circulated with the Draft IS/MND was not legible. A full-resolution site plan is included in the Final IS/MND submittal package. The applicant does not believe this technical deficiency warrants recirculation under CEQA Guidelines §15073.5, as the project description was fully and accurately described in text throughout the IS/MND and all substantive information was accessible.

Conclusion

The applicant has addressed all twelve of MBCA's numbered concerns. Factual corrections have been made to the project description regarding surrounding land uses and parking tabulation. Commitments regarding native plant preservation, lot coverage verification, design review, and drainage have been formalized. The applicant shares MBCA's commitment to ensuring that development in Joshua Tree respects the community's environmental character and economic fabric, and believes the Cactus Club Hotel — properly conditioned and carefully designed — advances both goals. The Final IS/MND incorporates these responses and the applicant looks forward to presenting the project at the Planning Commission hearing.

EXHIBIT C

Errata to the Final IS/MND – Cactus Club Hotel (PROJ-2023-00061)

This Errata provides clarifications and revisions to the Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Cactus Club Hotel project in response to agency comments and minor corrections. All deletions are shown in strikethrough (text) and additions are shown underlined. These changes do not introduce new significant impacts or increase the severity of impacts identified in the IS/MND; they serve to clarify mitigation commitments and factual information in accordance with CEQA requirements.

1. Page 31 (Section: Special Status Species – Desert Tortoise) – Status Update:

The first sentence of the Desert Tortoise discussion is revised to reflect the species' updated State listing status:

“The desert tortoise is a State and federally listed threatened a State-listed endangered and federally listed threatened species.”

Justification: This change recognizes the July 2025 uplisting of the Mojave desert tortoise from threatened to endangered under the California Endangered Species Act. It ensures the IS/MND's information is current, but does not affect the analysis – the mitigation already provided (MM BIO-1) remains sufficient to avoid significant impacts to desert tortoise (impact conclusion Less Than Significant with Mitigation unchanged).

2. Page 32 (Section: Special Status Species – Burrowing Owl) – Minor Correction (Formatting):

In the description of threats to the burrowing owl (BUOW), a punctuation error is corrected for clarity:

“Throughout its range, the BUOW is vulnerable to habitat loss, predation, vehicular collisions, and destruction of burrow sites, and the poisoning of ground squirrels~~,~~. BUOW has disappeared from significant portions of their range in the last 15 years...”

Justification: This is a minor formatting correction (removal of a superfluous comma) and does not alter the content or conclusions of the IS/MND.

3. Page 87 (Section: Biological Resources – Mitigation Measure BIO-2, Nesting Bird Pre-Construction Surveys) – Revised Mitigation (Nesting Bird Survey Timing & Methodology):

Mitigation Measure BIO-2 is revised as follows to incorporate California Department of Fish and Wildlife (CDFW) recommendations on survey timing and methodology for nesting bird protection:

“MM BIO-2: Nesting Bird Pre-Construction Surveys. Nesting bird nesting season generally extends from February 1 through September 15 in southern California and specifically, March 15 through August 31 for migratory passerine birds. To avoid impacts to nesting birds (com

mon and special-status) during the nesting season, a qualified avian biologist shall conduct pre-construction nesting bird surveys (NBS) within 3 days prior to project-related disturbance to nestable vegetation to identify any active nests. Surveys shall encompass all suitable nesting areas, including trees, shrubs, the ground surface, burrows, cavities, and structures. Surveys shall focus on both direct and indirect evidence of nesting, including nest locations and breeding behaviors (e.g. copulation, carrying nest materials or food, nest building, removal of fecal sacs, sudden flushing at close range, agitation, aggressive interactions, distraction displays, etc.). If no active nests are found, no further action is required. If an active nest is found, the biologist will establish an appropriate no-work buffer around the nest, based on the species' sensitivity to disturbance, nesting stage, and the expected intensity and duration of nearby activity. The nests and buffer zones shall be field-checked daily by a qualified biological monitor and the monitor shall avoid causing nest failure. All reasonable measures shall be implemented to prevent attracting predators or stressing the nesting birds during surveys and monitoring. The biologist may adjust the buffer zone based on site conditions, nest progress, and type of activity proposed. The approved no-work buffer shall be clearly marked in the field, and no disturbance shall commence within the buffer until the biologist confirms that the young have successfully fledged and the nest is no longer active."

Justification: These additions ensure compliance with California Fish and Game Code §§3503, 3503.5 and 3513. By removing the rigid February–August timeframe and specifying a "within 3 days" survey window, the measure accounts for potential early or late nesting in response to climate variations. The clarified methodology (daily monitoring, predator avoidance, etc.) strengthens protection for nesting birds as requested by CDFW. This refinement of MM BIO-2 ensures any potential impacts to nesting birds remain less than significant.

4. Pages 87–88 (Section: Biological Resources – Mitigation Measures) –
New Mitigation Measure (BIO-4, Fish & Game Code §1602 Resources):

"MM BIO-4: Fish and Game Code Section 1602 Resources (New). Prior to any ground-disturbing project activity, the project proponent shall notify the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code §1602 if the activity may substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or remove material from the bed, channel, or bank; or deposit debris or waste where it may pass into such waters. If CDFW determines the project may substantially affect fish and wildlife resources, the proponent shall obtain a Lake and Streambed Alteration Agreement (LSAA) and comply with all measures to avoid, minimize, or mitigate such effects before and during construction."

Justification: This measure is added in response to CDFW's identification of a mapped blue-line stream and smaller drainages near the site. Fish & Game Code §1602 requires notification and LSAA for projects affecting bed, bank, or channel of waterways. MM BIO-4 ensures regulatory compliance and mitigation of any potential impacts to jurisdictional streambed resources.

5. Page 88 (Section: Biological Resources – Mitigation Measures) –
New Mitigation Measure (BIO-5, Burrowing Owl Surveys and Protection):

“MM BIO-5: Burrowing Owl Pre-Construction Surveys (New). Prior to any ground-disturbing activities, the project proponent shall retain a qualified biologist to conduct focused burrowing owl surveys on the project site. Two pre-construction surveys shall be completed consistent with CDFW’s Staff Report on Burrowing Owl Mitigation (2012): one survey no more than 14 days before initial ground disturbance, and a second final survey within 24 hours of ground disturbance. If these surveys confirm absence of burrowing owls on-site, no further action is required. If any burrowing owl is observed occupying the site during either survey, the proponent shall notify CDFW and avoid disturbance of the owl(s) and burrow(s) by establishing an appropriate no-work buffer, unless CDFW authorizes passive relocation. If avoidance is infeasible and take would occur, the proponent shall obtain an incidental take permit from CDFW under Fish & Game Code §2080 before continuing work in the area.”

Justification: This measure addresses CDFW’s concern that the site lies within predicted burrowing owl habitat and known occurrences within 2 miles. MM BIO-5 adopts CDFW’s protocol surveys and adaptive management to ensure no significant impact to burrowing owls will occur.

6. Page 75 (Section: XVII. Transportation, Impact “c” – Hazards) –
Clarification (CHP Traffic Safety Concerns):

“The project site is located along a straight section of Twentynine Palms Highway (State Route 62) and does not involve any design features that would inherently create road hazards. However, the California Highway Patrol (CHP) has noted that the project’s additional traffic could contribute to congestion and may increase demands for traffic enforcement and incident response. To address these concerns, the project will implement standard traffic control measures during construction (e.g. signage, flaggers, lane controls) and the County will coordinate with CHP regarding any needed traffic management or enforcement during operation. With these measures and inter-agency coordination in place, the project is not expected to measurably increase traffic collision hazards or adversely affect emergency response.”

Justification: Addition responds to CHP’s comment (Morongo Basin Area, Oct 8 2025) about potential traffic safety concerns. By committing to construction-period safety measures and coordination with CHP, the IS/MND clarifies traffic management to avoid significant impacts. Transportation impacts remain Less Than Significant.

Page references in this Errata correspond to the Final IS/MND pagination (November 2024 draft). All changes above will be integrated into the Final IS/MND. These clarifications and updates are made in compliance with CEQA Guidelines §§15073.5 and 15074. None of the revisions constitute “substantial revisions” requiring recirculation – they refine mitigation measures and factual details based on agency comments. The IS/MND’s conclusion remains that the Cactus Club Hotel project, with mitigation, will not have any significant unmitigated environmental impacts.

EXHIBIT D

COUNTY OF SAN BERNARDINO

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

Cactus Club Hotel — Conditional Use Permit / TPM 20774, PROJ-2023-00061

Applicant: Archer Stephenson

APNs: 0608-051-02, 0608-051-03, 0608-051-04 | 66121 Twentynine Palms Hwy, Unincorporated Joshua Tree, San Bernardino County, California

Lead Agency Contact: Oliver Mujica, Contract Planner III — (909) 387-4002

Pursuant to Public Resources Code Section 21081.6 and State CEQA Guidelines Section 15097, this Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the Cactus Club Hotel project. It reflects the complete set of adopted mitigation measures: BIO-1, BIO-3, CR-1, CR-2, and PAL-1 as adopted in the Draft IS/MND (Jennings Environmental / CRM Tech, 2023); BIO-2 as revised, and BIO-4 and BIO-5 as newly added, per the Final MND Errata issued in response to CDFW's comment letter; and the BIO-1 work-stoppage/notification language added per the County's Response to Comments (Desert Tortoise Council letter).

MM No.	Mitigation Measure	Implementation Timing	Monitoring / Reporting Action	Responsible Party	Verification (Initials / Date)
MM BIO-1	Desert Tortoise Pre-Construction Survey. Because the site is marginally suitable, pre-construction surveys will be required for this species. These surveys should be conducted by a qualified biologist and at an appropriate time of day/year to observe signs of desert tortoise using the 2018 Desert Tortoise Survey Protocol from the USFWS. [Per County Response to Comments, Desert Tortoise Council letter, Oct. 2025:] If a desert tortoise or sign is observed during the pre-construction survey or at any time during construction, all work shall cease in the vicinity and the Project Proponent shall immediately notify CDFW and USFWS. An authorized desert tortoise biologist shall be retained to consult with the agencies and implement proper avoidance, relocation, and protective measures (such as fencing and monitoring) before work resumes. The Project shall not resume ground disturbance until the biologist, in coordination with the wildlife agencies, confirms the tortoise has been safely relocated out of harm's way and no other individuals are present on-site.	Survey prior to any ground disturbance; work-stoppage protocol applies at any time during construction	Biologist submits pre-construction survey report to the County. If tortoise/sign is detected, CDFW/USFWS notification, agency consultation record, and biologist's clearance confirmation are retained in the project file before work resumes.	Applicant; qualified/authorized desert tortoise biologist; CDFW/USFWS (consultation)	
MM BIO-2	Nesting Bird Pre-Construction Surveys (as revised per Final MND Errata). Nesting bird season generally extends from February 1 through September 15 in southern California, and March 15 through August 31 for migratory passerine birds. A qualified avian biologist shall conduct pre-construction nesting bird surveys (NBS) within 3 days prior to project-related disturbance to nestable vegetation to identify any	Survey within 3 days prior to disturbance of nestable vegetation, any time of year (no seasonal cutoff)	Biologist documents survey findings; if active nests found, daily buffer monitoring logs submitted to the County until nest is confirmed inactive/fledged.	Applicant; qualified avian biologist; qualified biological monitor	

MM No.	Mitigation Measure	Implementation Timing	Monitoring / Reporting Action	Responsible Party	Verification (Initials / Date)
	active nests, encompassing all suitable nesting areas (trees, shrubs, ground surface, burrows, cavities, structures) and both direct and indirect evidence of nesting. If no active nests are found, no further action is required. If an active nest is found, the biologist will establish an appropriate no-work buffer based on species sensitivity, nesting stage, and expected intensity/duration of nearby activity. The nests and buffer zones shall be field-checked daily by a qualified biological monitor, who shall avoid causing nest failure and prevent attracting predators or stressing nesting birds. The no-work buffer shall be clearly marked in the field, and no disturbance shall commence within it until the biologist confirms the young have fledged and the nest is no longer active.				
MM BIO-3	Desert Native Plant Protection. Flagging and relocation to a nursery or suitable other entity shall occur prior to construction, for any species protected by the California Desert Native Plant Act that will be impacted (the site contains Silver cholla, a covered species). Any construction that removes any protected plant species will require a permit from the Agricultural Commissioner or local sheriff in the county where protected plants will be removed.	Prior to construction / vegetation clearing	Applicant provides County with copy of Agricultural Commissioner/sheriff permit and documentation of flagging and relocation prior to clearing permit issuance.	Applicant; qualified biologist/landscape contractor	
MM BIO-4	Fish and Game Code Section 1602 Resources (New — Final MND Errata). Prior to any ground-disturbing project activity, the project proponent shall notify CDFW pursuant to Fish and Game Code §1602 if the activity may substantially divert or obstruct the natural flow of any river, stream, or lake; substantially change or remove material from the bed, channel, or bank; or deposit debris or waste where it may pass into such waters. If CDFW determines the project may substantially affect fish and wildlife resources, the proponent shall obtain a Lake and Streambed Alteration Agreement (LSAA) and comply with all measures to avoid, minimize, or mitigate such effects before and during construction.	Prior to any ground-disturbing project activity	Applicant submits CDFW notification and, if applicable, executed LSAA and compliance documentation to the County prior to grading permit issuance.	Applicant; CDFW (LSAA issuance, if required)	
MM BIO-5	Burrowing Owl Pre-Construction Surveys (New — Final MND Errata). Prior to any ground-disturbing activities, the project proponent shall retain a qualified biologist to conduct focused burrowing owl surveys on the project site, consistent with CDFW's Staff Report on Burrowing Owl Mitigation (2012): one survey no	Survey 1: no more than 14 days before initial ground disturbance. Survey 2: within 24 hours of ground disturbance.	Biologist submits both survey results to the County. If owls are detected, CDFW notification and buffer/relocation/take-permit documentation retained in the project file.	Applicant; qualified biologist; CDFW (authorization, if needed)	

MM No.	Mitigation Measure	Implementation Timing	Monitoring / Reporting Action	Responsible Party	Verification (Initials / Date)
	more than 14 days before initial ground disturbance, and a second, final survey within 24 hours of ground disturbance. If these surveys confirm absence of burrowing owls on-site, no further action is required. If any burrowing owl is observed occupying the site during either survey, the proponent shall notify CDFW and avoid disturbance of the owl(s) and burrow(s) by establishing an appropriate no-work buffer, unless CDFW authorizes passive relocation. If avoidance is infeasible and take would occur, the proponent shall obtain an incidental take permit from CDFW under Fish & Game Code §2080 before continuing work in the area.				
MM CR-1	Archaeological Monitoring. For adequate coverage and protection of possibly significant buried resources and tribal cultural resources, a qualified archaeologist shall be retained by the applicant to monitor all ground-disturbing construction activities (site preparation, grading, excavation) on a schedule agreed with the applicant. If Native American cultural resources are discovered, work shall cease in the immediate vicinity, a qualified archaeologist meeting Secretary of Interior standards shall assess the find, and affiliated tribes shall be contacted and, if requested, consulted in good faith on disposition (avoidance, preservation, return of artifacts, etc.). If avoidance is not possible, an avoidance plan will be prepared and implemented based on consultation between the archaeologist and tribes.	During all ground-disturbing construction activities	Archaeological monitor submits periodic monitoring logs and, if applicable, a discovery/treatment report documenting tribal consultation and resource disposition.	Applicant; qualified archaeologist	
MM CR-2	Human Remains Discovery Protocol. If evidence of human remains is identified, the County Coroner will be contacted immediately and permitted to inspect the remains, with the County and Applicant informed of the discovery. The Coroner will determine if the remains are historic/archaeological or a modern legal case, and will contact the Native American Heritage Commission (NAHC) if remains are determined to be human and of Native American origin, per Public Resources Code §5097.98. All remains shall be treated with respect and dignity in accordance with California Health & Safety Code §7050.5 and applicable federal law (ARPA, NAGPRA).	Immediately upon discovery of human remains, during any ground-disturbing activity	Coroner's determination and, if applicable, NAHC correspondence and treatment plan retained in the project file; work in the discovery area halted until protocol is complete.	Applicant; County Coroner; NAHC (if Native American origin)	
MM PAL-1	Paleontological Resources. If any suspected paleontological resources or undisturbed potentially	Upon discovery, during any earth-moving	If a discovery occurs, paleontologist's evaluation and any recommended	Applicant; qualified paleontologist	

MM No.	Mitigation Measure	Implementation Timing	Monitoring / Reporting Action	Responsible Party	Verification (Initials / Date)
	fossiliferous soils are discovered during earth-moving operations associated with the project, all work in that area should be halted or diverted until a qualified paleontologist can evaluate the nature and significance of the finds.	operations	treatment/curation are documented and retained in the project file.		

Note: Mitigation measures listed are conditions of project approval and are not self-monitoring. Compliance verification (initials/date) shall be completed by County staff or the assigned monitor prior to close-out of the corresponding permit stage (grading, building, or final).

EXHIBIT E

FINDINGS: TENTATIVE PARCEL MAP. For the proposed Cactus Club Hotel, the Applicant is requesting the approval of Tentative Parcel Map No. 20774 to subdivide 3 parcels totaling 15.0 acres into 4 parcels (Parcel 1: 5.27 acres; Parcel 2: 2.57 acres; Parcel 3: 2.56 acres; and Parcel 4: 2.24 acres) (Project). The following are the required findings per Development Code Section 87.02.060 and supporting facts for approval of Tentative Parcel Map No. 20774:

- 1. The proposed map, subdivision design and improvements are consistent with the Policy Plan, any applicable community plan, and any applicable specific plan.**

The Project to subdivide the subject 15.0 acres into 4 parcels which creates Parcel 1 within the Commercial land use category and Parcels 2, 3, and 4 within the Very Low Density Residential land use category is consistent with the Countywide Policy Plan. The proposed map will implement the Policy Plan goals and policies as discussed in the Project Staff Report which is incorporated herein by reference.

- 2. The site is physically suitable for the type and proposed density of development.**

The proposed Tentative Parcel Map is adequately sized for the proposed subdivision for the development of the Cactus Club Hotel Project. The Project site is consistent with the density requirements of the Commercial (C) and Very Low Density Residential (VLDR) land use category and Neighborhood Commercial (CN) and Multiple Residential (RM) zoning district. The proposed Project also complies with the requirements and standards of the Development Code as summarized in the Project Staff Report and Initial Study/Mitigated Negative Declaration, which are incorporated herein by reference. Parcel 1 of the Tentative Parcel Map contains 5.27 acres which exceeds the required 1.0-acre minimum lot area of the CN zoning district. Parcels 2, 3 and 4 of the Tentative Parcel Map contain 2.57 acres, 2.56 acres and 2.24 acres, respectively, and the minimum lot area for parcels in the RM zoning district in the Desert Region is 10,000 square feet. The subdivision will align the parcels with the existing CN and RM zoning districts and are within the minimum area for the zoning designation. Therefore, the Project site is suitable for the proposed Project.

- 3. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared in accordance with the California Environmental Quality Act (CEQA) for the Project. The IS/MND, together with the Response to Comments and Errata, concludes that the Project will not have a significant effect on the environment with

implementation of the recommended mitigation measures. The Project has also been conditioned to comply with all applicable countywide development standards. Therefore, with the implementation of the mitigation measures and conditions of approval, the subdivision and the proposed improvements for the Project are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The Project's IS/MND and Conditions of Approval are incorporated herein by reference.

4. The design of the subdivision or type of improvements is not likely to cause serious public health or safety problems.

In addition to the implementation of the CEQA mandated mitigation measures, compliance with the conditions of approval will ensure the design of the subdivision and its improvements will not cause serious public health or safety problems.

5. The design of the subdivision or the type of improvement will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

The proposed Tentative Parcel Map has been designed with the required dedications pursuant to the Development Code, as well as the Subdivision Map Act, and has been reviewed and accepted by the County's Land Use Services and Public Works Departments. The Project's access has also been reviewed and accepted by the California Department of Transportation. Therefore, no improvements are required that would conflict with any easements of record.

6. The discharge of sewage from the proposed subdivision into the community sewer system will not result in violation of existing requirements prescribed by the California Regional Water Quality Control Board.

The Project will utilize an on-site wastewater disposal system with 3 chambers consisting of a 4800-gallon capacity. Due to the parcel size, the Project may be required to install an approved backflow device and pay the wastewater capacity fee. Therefore, the Project will not result in violation of existing requirements prescribed by the California Regional Water Quality Control Board.

7. The design of the subdivision provides, to the extent feasible, passive or natural heating and cooling opportunities.

The design of the subdivision allows for future development to be designed in any alignment to take advantage of passive or natural heating and cooling opportunities that exist on the project site.

8. The proposed subdivision, its design, density and type of development and improvements conforms to the regulations of this Development Code and the regulations of any public agency having jurisdiction by law.

The Project's Tentative Parcel Map has been designed in compliance with Development Code with regard to site design, access/circulation, landscaping, and parking, and the Subdivision Map Act. The Tentative Parcel Map has also been reviewed and accepted by the County's Land Use Services and Public Works Departments, as well as the San Bernardino County Fire Protection District. Therefore, the Project conforms to the regulations of the Development Code and the Subdivision Map Act.

FINDINGS: CONDITIONAL USE PERMIT. For the proposed Cactus Club Hotel, the Applicant is requesting the approval of a Conditional Use Permit for the development and operation of a 20-guest-room hotel and associated guest amenities, consisting of a 3,500 square foot restaurant, 3,800 square foot health spa, 3,600 square foot club room, 1,300 square foot restaurant, 1,300 square foot café, 1,800 square foot wine bar, 2,550 square foot lobby/office, and 58 parking spaces on Parcel 1 of Tentative Parcel Map No. 20554 (Project). The following are the required findings per the San Bernardino County Development Code Section 85.06.040 and supporting facts for approval of the Conditional Use Permits:

9. The site for the proposed use is adequate in terms of shape and size to accommodate the proposed use and all landscaping, loading areas, open spaces, parking areas, setbacks, walls and fences, yards, and other required features pertaining to the application.

The Project is adequate in terms of shape and size to accommodate the required landscape standards, structure setbacks, and necessary on-site and off-site improvements. The Project plans have been reviewed and accepted by the Land Use Services Department's Building and Safety, Geology, and Land Development Divisions, and the Environmental Health Services, Fire Protection District, and Public Works (Flood Control, Traffic and Solid Waste Management) Departments. The Preliminary Drainage Study has been approved by the Land Development Division, and the proposed Project has been conditioned to provide adequate provisions to intercept and conduct the tributary off-site and on-site 100-year drainage flows around and through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed. The Project site is also able to accommodate adequate on-site circulation. The submitted Project plans show adequate design, parking, landscaping, circulation, access, and setbacks as shown in Table 2 and 3 of the Staff Report pursuant to the requirement of the San Bernardino County Development Code.

10. The site for the proposed use has adequate access, which means that the site design incorporates appropriate street and highway characteristics to serve the proposed use.

Access to the Project site is provided by two (2) entrances (commercial driveways). One (1) from Twenty-Nine Palms Highway located near the southeasterly corner of the Project site, and one (1) from Miles Square Road located near the southwesterly corner of the Project site. The internal driveway provides looped access to the hotel, hotel amenities, and parking spaces. The proposed driveways and locations have been reviewed and approved by the Department of Public Works. These improvements along with the on-site circulation drive aisles meet the Development Code and County's Land Use Services and Public Works Department's standards, as well as the Fire District standards.

11. The proposed use will not have a substantial adverse effect on abutting properties or the allowed use of the abutting properties, which means that the use will not generate excessive noise, traffic, vibration, lighting, glare, or other disturbance. In addition, the use will not substantially interfere with the present or future ability to use solar energy systems.

The Project has been designed to comply with all applicable requirements of the San Bernardino County Development Code. The Conditions of Approval for the Project will ensure that the use will not become a nuisance or have a substantial adverse effect on abutting properties. Additionally, the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the Project evaluated potential impacts associated with noise, groundborne vibration, and transportation and concluded that such impacts would be less than significant. As detailed in the IS/MND, operational noise would not result in a perceptible increase above existing ambient noise levels; construction noise would be temporary and limited to the hours permitted by the Development Code; and construction-related vibration would remain below applicable perception and structural-damage thresholds. The transportation analysis similarly determined that Project-generated traffic would be below applicable County screening thresholds and would not result in significant transportation, circulation, safety, or emergency-access impacts. Accordingly, the environmental analysis supports a finding that the Project will not result in significant adverse impacts associated with noise, vibration, traffic, or related effects

12. The proposed use and manner of development are consistent with the goals, maps, policies, and standards of the Policy Plan and any applicable community or specific plan.

Based on the evidence contained in the Project's supporting documents, the Conditional Use Permit is internally consistent with and will further the goals and

policies of the Countywide Plan, Policy Plan (General Plan) including, but not limited to, the findings below:

Policy LU-2.1 Compatibility with Existing Uses

We require that new development is located, scaled, buffered, and designed to minimize negative impacts on existing conforming uses and adjacent neighborhoods. We also require that new residential developments are located, scaled, buffered, and designed so as to not hinder the viability and continuity of existing conforming nonresidential development.

Consistency: The site design and development features for the construction and operation of the hotel and guest amenities have been developed to be consistent with the Development Code. Along with implementing the Conditions of Approval, as well as the Mitigation Monitoring and Reporting Program, the Project minimizes potential negative impacts on the surrounding land uses and adjacent neighborhoods. The Project is situated along Twentynine Palms Highway and Mile Square Road, with the development concentrated on the Commercial (C)/Neighborhood Commercial (CN) portion of the property. The proposed buildings are low profile, are set back from the highway and surrounding properties, and are buffered by landscaping, parking areas, and drive aisles. The Project provides approximately 29.4 percent landscaping, including a 30-foot planter along Twentynine Palms Highway, a 15-foot planter along Mile Square Road, and approximately 29,750 square feet of native open space in the eastern portion of the site. The proposed buildings are designed at a scale below the applicable CN maximum building height and the Project otherwise complies with the applicable Development Code development standards

Policy LU-2.4 Land Use Map Consistency.

We consider the proposed development that is consistent with the Land Use Map (i.e., it does not require a change in Land Use Category), to be generally compatible and consistent with surrounding land uses and a community's identity. Additional site, building, and landscape design treatment, per other policies in the Policy Plan and development standards in the Development Code, may be required to maximize compatibility with surrounding land uses and community identity.

Consistency: The development of the Project conforms with the performance standards that are identified in the Development Code. The proposed hotel and guest amenities are allowed uses are located on land designated for Commercial uses and do not require a change to the Land Use Category. The Countywide Plan recognizes that development consistent with the Land Use Map is generally compatible with surrounding land uses and community identity, subject to appropriate site, building, and landscape design. The Project incorporates those treatments through its setbacks, low-profile building design, desert landscaping, preservation of native open space, and compliance with applicable lighting and other development standards.

Policy LU-4.5 Community Identity.

It is required that new development be consistent with and reinforce the physical and historical character and identity of our unincorporated communities, as described in Table LU-3 and in the values section of Community Action Guides. In addition, we consider the aspirations section of Community Action Guides in our review of new development.

Consistency: As detailed in the Planning Commission Staff Report, the objective of the Project is to create compelling and appropriate architecture for the desert setting. The buildings are low profile and set back within the rear portion of the Project site buffered by landscaping, parking areas and drive-aisles so as to minimize the potential visual impact along Twenty-Nine Palms Highway. The buildings are designed to complement the unique character of the Joshua Tree community, and to provide a full-service experience for guests. The architecture is intended to reflect the cultural and natural heritage of the area. As indicated above, the Project site is proposed on a site that is consistent with the existing Commercial Land Use Category designation and therefore is being proposed in an area where the limited commercial development has been planned. The Project site will maintain the rural lifestyle characteristics of the area, while also providing support to the community's local economy and tourists through its various lodging and commercial support uses. The Project also reenforces the values, including, but not limited to, maintaining dark night skies via compliance with the County's Light Trespass Ordinance, protecting natural resources and the natural landscape through conservation and the use of desert landscaping techniques, and contributing to the sense of community by providing local commercial options to a small business that is compatible with the natural environment and surrounding use.

13. There is supporting infrastructure, existing or available, consistent with the intensity of the development, to accommodate the proposed Project without significantly lowering service levels.

Potable water supply will be provided to the Project site by the Joshua Basin Water District. The amount of water projected to be used by the Project is relatively small due to Project operations. Water supplies available through connection to the Joshua Basin Water District are projected to be sufficient to serve the proposed Project and reasonably foreseeable future development.

The Project site is not currently connected to sewer lines nor is it served by a wastewater treatment plant. The proposed Project will utilize an on-site wastewater disposal system with 3 chambers consisting of a 4800-gallon capacity. Due to the parcel size, the Project may be required to install an approved backflow device and pay the wastewater capacity fee.

14. The lawful conditions stated in the approval are deemed reasonable and necessary to protect the public health, safety and general welfare.

The Conditions of Approval ensure the appropriate intended use of the Project, and will ensure that the overall public health, safety, and general welfare are not impacted by the Project.

15. The design of the Project site has considered the potential for the use of solar energy systems and passive or natural heating and cooling opportunities.

The orientation and design of the Project includes adequate building setbacks and the future ability to construct rooftop solar facilities.

ENVIRONMENTAL FINDINGS:

The environmental findings, in accordance with Section 85.03.040 of the San Bernardino County Development Code, are as follows:

Pursuant to the requirements of the California Environmental Quality Act (CEQA), CEQA Guidelines and the San Bernardino County Environmental Review Guidelines, the above-referenced Project has been determined, based on the whole record, to not have a significant adverse impact on the environment with the implementation of all the required mitigation measures. The review authority finds that there is no substantial evidence that the Project, as revised and with mitigation incorporated, will have a significant effect on the environment. To the extent any mitigation measure identified in the circulated IS/MND has been altered or replaced by a revised mitigation measure, the review authority, following consideration of the matter at this public hearing, further finds pursuant to CEQA Guidelines section 15074.1 that the revised measure is equivalent to or more effective than the measure it replaces in avoiding or reducing the applicable potentially significant environmental effect, will reduce that effect to at least the same degree as the original measure, and will not itself cause any potentially significant environmental effect. The revised mitigation measures are incorporated into the Project through the Mitigation Monitoring and Reporting Program and Conditions of Approval. Accordingly, no recirculation is required as a result of such substitutions. A Mitigated Negative Declaration (MND) is adopted and a Notice of Determination will be filed in accordance with CEQA. The MND represents the independent judgment and analysis of the County acting as lead agency for the Project.

END OF FINDINGS

EXHIBIT F



Conditions of Approval

Record:	PROJ-2023-00061	System Date:	10/08/2026
Record Type:	Project Application	Primary APN:	0608051040000
Record Status:	Decision Pending	Application Name:	Cactus Club Hotel - CUP AND TPM
Effective Date:		Expiration Date:	
Description:	A TENTATIVE PARCEL MAP TO SUBDIVIDED 3 PARCELS TOTALING 15.0 ACRES INTO 4 PARCELS (PARCEL 1: 5.27 ACRES; PARCEL 2: 2.57 ACRES; PARCEL 3: 2.56 ACRES; AND PARCEL 4: 2.24 ACRES), AND CONDITIONAL USE PERMIT TO CONSTRUCT AND OPERATE A 20-GUEST-ROOM HOTEL AND ASSOCIATED GUEST AMENITIES, CONSISTING OF A 3,500 SQUARE FOOT RESTAURANT, 3,800 SQUARE FOOT HEALTH SPA, 3,600 SQUARE FOOT CLUB ROOM, 1,300 SQUARE FOOT RESTAURANT, 1,300 SQUARE FOOT CAFÉ, 1,800 SQUARE FOOT WINE BAR, 2,550 SQUARE FOOT LOBBY/OFFICE, AND 58 PARKING SPACES ON PARCEL 1 LOCATED ON THE SOUTHEAST CORNER OF TWENTYNINE PALMS HIGHWAY AND MILE SQUARE ROAD (APN: 0608-051-02, 03, AND 04), WITHIN THE COMMUNITY OF JOSHUA TREE; WITHIN THE COMMERCIAL (C) AND VERY LOW DENSITY RESIDENTIAL (VLDR) LAND USE CATEGORY AND NEIGHBORHOOD COMMERCIAL (CN) AND MEDIUM RESIDENTIAL (RM) ZONING DISTRICT; 3RD SUPERVISORIAL DISTRICT; PROJECT NUMBER PROJ-2023-00061.		

This document does not signify project approval.

If the project has been approved, then an effective date and an expiration date for these conditions can be found below. This content reflects County records as at the System Date and time below.

The following conditions of approval have been imposed for the project identified below. The applicant/developer shall complete all conditions of approval stipulated in the approval letter.

Conditions of Approval are organized by project phase, then by status, and finally by department imposing the condition.

On-going conditions must be complied with at all times. For assistance interpreting the content of this document, please contact the Land Use Services Department Planning Division.

Contact information is provided at the end of this document for follow-up on individual conditions.

ON-GOING

Land Use Services - Planning

1

Project Approval Description (CUP) - Status: Outstanding

This Conditional Use Permit is conditionally approved to construct and operate a 20-guest room hotel and associated guest amenities, consisting of a 3,500 square foot restaurant, 3,800 square foot health spa, 3,600 square foot club room, 1,300 square foot restaurant, 1,300 square foot café, 1,800 square foot wine bar, 2,550 square foot lobby/office, and 80 parking spaces on Parcel 1 (5.28 acres), in compliance with the San Bernardino County Code (SBCC), California Building Codes (CBC), the San Bernardino County Fire Code (SBCFC), the following Conditions of Approval, the approved site plan, and all other required and approved reports and displays (e.g. elevations). The developer shall provide a copy of the approved conditions and the approved site plan to every current and future project tenant, lessee, and property owner to facilitate compliance with these Conditions of Approval and continuous use requirements for the Project.

	Operational Conditions: a. The project site shall be staffed 24 hours/day with approximately 18 employees per shift. b. The restaurant, café and wine bar shall be open from 11:30 a.m. to 10:00 p.m. c. The hotel restaurant shall be open from 11:00 a.m. to 10:00 p.m. d. The health spa from 8:00 a.m. to 4:00 p.m.
2	Project Location - Status: Outstanding The Project site is located on the southeast corner of Twenty-Nine Palms Highway and Mile Square Road.
3	Revisions - Status: Outstanding Any proposed change to the approved Project and/or conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Land Use Services for review and approval.
4	Indemnification - Status: Outstanding In compliance with SBCC §81.01.070, the developer shall agree, to defend, indemnify, and hold harmless the County or its "indemnitees" (herein collectively the County's elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval. Any condition of approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the developer of any claim, action, or proceeding and that the County cooperates fully in the defense. The developer shall reimburse the County and its indemnitees for all expenses resulting from such actions, including any court costs and attorney fees, which the County or its indemnitees may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the developer of their obligations under this condition to reimburse the County or its indemnitees for all such expenses. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The developer's indemnification obligation applies to the indemnitees' "passive" negligence but does not apply to the indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.
5	Additional Permits - Status: Outstanding The developer shall ascertain compliance with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies that may apply for the development and operation of the approved land use. These may include but are not limited to: a. FEDERAL: b. STATE: c. COUNTY: d. LOCAL:
6	Expiration - Status: Outstanding This project permit approval shall expire and become void if it is not "exercised" within three (3) years of the effective date of this approval, unless an extension of time is approved. The permit is deemed "exercised" when either: (a.) The permittee has commenced actual construction or alteration under a validly issued building permit, or (b.) The permittee has substantially commenced the approved land use or activity on the project site, for those portions of the project not requiring a building permit. (SBCC §86.06.060) (c.) Occupancy of approved land use, occupancy of completed structures and operation of the approved and exercised land use remains valid continuously for the life of the project and the approval runs with the land, unless one of the following occurs: - Construction permits for all or part of the project are not issued or the construction permits expire before the structure is completed and the final inspection is approved. - The land use is determined by the County to be abandoned or non-conforming. - The land use is determined by the County to be not operating in compliance with these conditions of approval, the County Code, or other applicable laws, ordinances or regulations. In these cases, the land use may be subject to a revocation hearing and possible termination. PLEASE NOTE: This will be the

	ONLY notice given of this approval's expiration date. The developer is responsible to initiate any Extension of Time application.
7	<u>Continuous Effect/Revocation</u> - Status: Outstanding All of the conditions of this project approval are continuously in effect throughout the operative life of the project for all approved structures and approved land uses/activities. Failure of the property owner or developer to comply with any or all of the conditions at any time may result in a public hearing and possible revocation of the approved land use, provided adequate notice, time and opportunity is provided to the property owner, developer or other interested party to correct the non-complying situation.
8	<u>Extension of Time</u> - Status: Outstanding Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)
9	<u>Project Account</u> - Status: Outstanding The Project account number is PROJ-2023-00061. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works, and County Counsel). Upon notice, the "developer" shall deposit additional funds to maintain or return the account to a positive balance. The "developer" is responsible for all expense charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$1,000.00 must be in the project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use.
10	<u>Development Impact Fees</u> - Status: Outstanding Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances
11	<u>Performance Standards</u> - Status: Outstanding The approved land uses shall operate in compliance with the general performance standards listed in the County Development Code Chapter 83.01, regarding air quality, electrical disturbance, fire hazards (storage of flammable or other hazardous materials), heat, noise, vibration, and the disposal of liquid waste
12	<u>Continuous Maintenance</u> - Status: Outstanding The Project property owner shall continually maintain the property so that it is visually attractive and not dangerous to the health, safety and general welfare of both on-site users (e.g. employees) and surrounding properties. The property owner shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. Among the elements to be maintained, include but are not limited to: a) Annual maintenance and repair: The developer shall conduct inspections for any structures, fencing/walls, driveways, and signs to assure proper structural, electrical, and mechanical safety. b) Graffiti and debris: The developer shall remove graffiti and debris immediately through weekly maintenance. c) Landscaping: The developer shall maintain landscaping in a continual healthy thriving manner at proper height for required screening. Drought-resistant, fire retardant vegetation shall be used where practicable. Where landscaped areas are irrigated it shall be done in a manner designed to conserve water, minimizing aerial spraying. d) Dust control: The developer shall maintain dust control measures on any undeveloped areas where landscaping has not been provided. e) Erosion control: The developer shall maintain erosion control measures to reduce water runoff, siltation, and promote slope stability. f) External Storage: The developer shall maintain external storage, loading,

	recycling and trash storage areas in a neat and orderly manner, and fully screened from public view. Outside storage shall not exceed the height of the screening walls. g) Metal Storage Containers: The developer shall NOT place metal storage containers in loading areas or other areas unless specifically approved by this or subsequent land use approvals. h) Screening: The developer shall maintain screening that is visually attractive. All trash areas, loading areas, mechanical equipment (including roof top) shall be screened from public view. i) Signage: The developer shall maintain all on-site signs, including posted area signs (e.g. "No Trespassing") in a clean readable condition at all times. The developer shall remove all graffiti and repair vandalism on a regular basis. Signs on the site shall be of the size and general location as shown on the approved site plan or subsequently a County-approved sign plan. j) Lighting: The developer shall maintain any lighting so that they operate properly for safety purposes and do not project onto adjoining properties or roadways. Lighting shall adhere to applicable glare and night light rules. k) Parking and on-site circulation: The developer shall maintain all parking and on-site circulation requirements, including surfaces, all markings and traffic/directional signs in an un-faded condition as identified on the approved site plan. Any modification to parking and access layout requires the Planning Division review and approval. The markings and signs shall be clearly defined, un-faded and legible; these include parking spaces, disabled space and access path of travel, directional designations and signs, stop signs, pedestrian crossing, speed humps and "No Parking", "Carpool", and "Fire Lane" designations. l) Fire Lanes: The developer shall clearly define and maintain in good condition at all times all markings required by the Fire Department, including "No Parking" designations and "Fire Lane" designations.
13	<u>Clear Sight Triangle</u> - Status: Outstanding Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90 degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic
14	<u>Lighting</u> - Status: Outstanding Lighting shall comply with Table 83-7 "Shielding Requirements for Outdoor Lighting in the Mountain Region and Desert Region" of the County's Development Code (i.e. "Dark Sky" requirements). All lighting shall be limited to that necessary for maintenance activities and security purposes. This is to allow minimum obstruction of night sky remote area views. No light shall project onto adjacent roadways in a manner that interferes with on-coming traffic. All signs proposed by this project shall only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign, by direct stationary neon lighting or in the case of an approved electronic message center sign, an alternating message no more than once every five seconds.
15	<u>Underground Utilities</u> - Status: Outstanding No new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128, and avoids disturbing any existing/natural vegetation or the site appearance.
16	<u>Construction Hours</u> - Status: Outstanding Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Saturday in accordance with the County of San Bernardino Development Code standards. No construction activities are permitted outside of these hours or on Sundays and Federal holidays.
17	<u>Construction Noise</u> - Status: Outstanding The following measures shall be adhered to during the construction phase of the project: - All construction equipment shall be muffled in accordance with manufacturer's specifications. - All construction staging shall be performed as far as possible from occupied dwellings. The location of staging areas shall be subject to review and approval by the County prior to the issuance of grading and/or building permits. - All stationary construction equipment shall be placed in a manner so that emitted noise is directed away from sensitive receptors (e.g. residences and schools) nearest the project site.

18	<u>Cultural Resources</u> - Status: Outstanding During grading or excavation operations, should any potential paleontological or archaeological artifacts be unearthed or otherwise discovered, the San Bernardino County Museum shall be notified and the uncovered items shall be preserved and curated, as required. For information, contact the County Museum, Community and Cultural Section, telephone (909) 798-8570.
19	<u>GHG - Operational Standards</u> - Status: Outstanding The developer shall implement the following as greenhouse gas (GHG) mitigation during the operation of the approved project: a. Waste Stream Reduction. The "developer" shall provide to all tenants and project employees County-approved informational materials about methods and need to reduce the solid waste stream and listing available recycling services. b. Vehicle Trip Reduction. The "developer" shall provide to all tenants and project employees County-approved informational materials about the need to reduce vehicle trips and the program elements this project is implementing. Such elements may include: participation in established ride-sharing programs, creating a new ride-share employee vanpool, designating preferred parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles with benches in waiting areas, and/or providing a web site or message board for coordinating rides. c. Provide Educational Materials. The developer shall provide to all tenants and staff education materials and other publicity about reducing waste and available recycling services. The education and publicity materials/program shall be submitted to County Planning for review and approval. The developer shall also provide to all tenants and require that the tenants shall display in their stores current transit route information for the project area in a visible and convenient location for employees and customers. d. Landscape Equipment. The developer shall require in the landscape maintenance contract and/or in onsite procedures that a minimum of 20% of the landscape maintenance equipment shall be electric-powered.
	Public Health– Environmental Health Services
20	<u>Noise Levels</u> - Status: Outstanding Noise level shall be maintained at or below County Standards, Development Code Section 83.01.080.
21	<u>OWTS Maintenance</u> - Status: Outstanding The onsite wastewater treatment system shall be maintained so as not to create a public nuisance and shall be serviced by an EHS permitted pumper.
22	<u>Refuse Storage and Disposal</u> - Status: Outstanding All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that environmental public health nuisances are minimized. All refuse not containing garbage shall be removed from the premises at least 1 time per week, or as often as necessary to minimize public health nuisances. Refuse containing garbage shall be removed from the premises at least 2 times per week, or as often if necessary to minimize public health nuisances, by a permitted hauler to an approved solid waste facility in conformance with San Bernardino County Code Chapter 8, Section 33.0830 et. seq.
	Public Works - Traffic
23	<u>Back Out Into Public Roadways</u> - Status: Outstanding Project vehicles shall not back up into the project site nor shall they back out into the public roadway.

INFORMATIONAL

	County Fire - Community Safety
24	F01 Jurisdiction - Status: Outstanding The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein "Fire Department". Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances, and standards of the Fire Department.
25	F03 Fire Condition Letter Expiration - Status: Outstanding Fire Condition Letters shall expire on the date determined by the Planning Division or Building and Safety.
26	F15 Access – 30% slope - Status: Outstanding Where the natural grade between the access road and building is in excess of thirty percent (30%), an access road shall be provided within one hundred and fifty (150) feet of all buildings. Where such access cannot be provided, a fire protection system shall be installed. Plans shall be submitted to and approved by the Fire Department.
27	F17 Access Road Grade - Status: Outstanding Fire access roadways shall not exceed a maximum of twelve (12%) percent grade at any point. Fire access roadways or driveways may be increased to fourteen (14%) percent grade for a distance not to exceed five hundred (500) feet. Fire access roadways providing access to no more than two (2) one or two-family dwellings may be increased to a maximum of sixteen (16%) percent grade not to exceed five hundred (500) feet. Grades across the width of a fire access roadways shall not exceed five (5%) percent. In order to accommodate proper angles of approach and departure, gradient shall not exceed five (5%) percent change along any ten (10) foot section.
28	F20 Access – 150+ feet - Status: Outstanding Roadways exceeding one hundred fifty (150) feet in length shall be approved by the Fire Department. Roadways shall be extended to within one hundred fifty (150) feet of and shall give reasonable access to all portions of the exterior walls of the first story of any building.
29	F36 Sprinkler Installation Letter - Status: Outstanding The applicant shall submit a letter to the Fire Department agreeing and committing to installation of a fire protection system prior to the building inspection for drywall and insulation.
30	F60 Solar Plans - Status: Outstanding Solar/PV Plans shall be submitted to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.
31	F66 Compressed Gasses/Beverage Dispensing - Status: Outstanding A submittal of compressed gasses in storage or use including asphyxiant, irritant, and radioactive gasses complying with the California Fire Code, California Mechanical Code, and NFPA is required. The applicant shall hire a licensed contractor to submit plans for review and approval by the fire department. The required fees shall be paid at the time of plan submittal.
32	F70 Additional Requirements - Status: Outstanding "TRUE GRID" paving alternative will not be approved on this submittal, applicant will be required to submit a separate report for alternative means and methods to the Fire Department for review prior to approving alternative materials for access roadways. This approval for alternative roadways shall be submitted, reviewed and approved prior to building permit issuance.
33	F71 Proposal Changes - Status: Outstanding Any changes to this proposal shall require new Fire Department condition letter.

	Land Use Services - Land Development
34	<u>Natural Drainage</u> - Status: Outstanding The natural drainage courses traversing the site shall not be occupied or obstructed.
35	<u>Tributary Drainage</u> - Status: Outstanding Adequate provisions should be made to intercept and conduct the tributary off-site and on-site 100-year drainage flows around and through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed. The project site shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions.
	Public Works - Solid Waste Management
36	<u>Class "A" Permit Hauler Service Area</u> - Status: Outstanding This project falls within a County Permit Area. If subscribing for the collection and removal of construction and demolition waste from the project site, all developers, contractors, and subcontractors shall be required to receive services through the Class "A" permitted waste hauler in the corresponding Permit Area (Burrtec Waste & Recycling).
37	<u>Demolition Debris</u> - Status: Outstanding San Bernardino County owned and operated sanitary landfills and transfer stations are not permitted to accept asbestos contaminated wastes, therefore any debris generated by the demolition of structures are subject to asbestos clearance prior to disposal at any San Bernardino County disposal sites. Applicants are required to have a Certified Asbestos Consultant perform testing of all materials to be disposed. Upon receipt of the Consultant's report, indicating that the debris is not contaminated, Solid Waste Management Operations Section will provide applicant with disposal authorization. For more information on Certified Asbestos Consultants please visit http://www.dir.ca.gov/databases/doshacru/acruList.asp , or for information on County requirements please contact Solid Waste Operations at 909-386-8701 or solid.wastemail@dpw.sbcounty.gov .
38	<u>Mandatory Commercial Organics Recycling</u> - Status: Outstanding California Assembly Bill (AB) 1826 requires businesses that generate two (2) cubic yards or more of solid waste per week to recycle their organic waste (includes green waste and food waste). A business that is a property owner may require a lessee or tenant of that property to source separate their organic waste to aid in compliance. Additionally, all businesses that contract for gardening or landscaping services must stipulate that the contractor recycle the resulting gardening or landscaping waste. Residential multifamily dwellings of five (5) or more units are required to recycle organics; however, they are not required to arrange for recycling services specifically for food waste. Applicant will be required to report to the County or contract waste hauler on efforts to recycle organics materials once operational.
39	<u>Mandatory Commercial Recycling</u> - Status: Outstanding California Assembly Bill (AB) 341 requires businesses that generate 4 or more cubic yards of solid waste per week or is a multi-family residential dwelling of 5 units or more to arrange for recycling services. The County is required to monitor commercial recycling and will require businesses to provide recycling information. Applicant will be required to report to the County or contract waste hauler on recycling efforts once operational.
40	<u>Recycling and Organic Waste Collection Container Information</u> - Status: Outstanding California Assembly Bill (AB) 827 and Senate Bill (SB) 1383 require businesses that sell products meant for immediate consumption and currently provide trash collection containers for their customers to provide recycling and/or organics collection containers adjacent to trash containers at front-of-house, except in restrooms. Full-service restaurants are exempt from these requirements as long as they provide containers for employees to separate post-consumer recyclables and organic waste purchased on the premise for customers.

41	<u>Recycling Storage Capacity</u> - Status: Outstanding The developer shall provide adequate space and storage bins for both refuse and recycling materials. This requirement is to assist the County in compliance with the recycling requirements of California Assembly Bill (AB) 2176.
PRIOR TO LAND DISTURBANCE	
	Land Use Services - Planning
42	<u>Air Quality</u> - Status: Outstanding Although the Project does not exceed Mojave Desert Air Quality Management District thresholds, the Project proponent is required to comply with all applicable rules and regulations as the Mojave Desert Air Quality Management District is in non-attainment status for ozone and suspended particulates [PM10 and PM2.5 (State)]. To limit dust production, the Project proponent must comply with Rules 402 nuisance and 403 fugitive dust, which require the implementation of Best Available Control Measures for each fugitive dust source. This would include, but not be limited to, the following Best Available Control Measures. Compliance with Rules 402 and 403 are mandatory requirements and thus not considered mitigation measures: a. The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities. 1. The Project proponent shall ensure that watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading. Portions of the site that are actively being graded shall be watered to ensure that a crust is formed on the ground surface, and shall be watered at the end of each workday. 2. The Project proponent shall ensure that all disturbed areas are treated to prevent erosion. 3. The Project proponent shall ensure that all grading activities are suspended when winds exceed 25 miles per hour. b. Exhaust emissions from vehicles and equipment and fugitive dust generated by equipment traveling over exposed surfaces, will increase NOX and PM10 levels in the area. Although the Project will not exceed Mojave Desert Air Quality Management District thresholds during operations, the Project proponent will be required to implement the following requirements: 1. All equipment used for grading and construction must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel. 2. The operator shall maintain and effectively utilize and schedule on-site equipment and on-site and off-site haul trucks in order to minimize exhaust emissions from truck idling.
43	<u>Diesel Regulations</u> - Status: Outstanding The operator shall comply with all existing and future California Air Resources Board and Mojave Desert Air Quality Management District regulations related to diesel-fueled trucks, which among others may include: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment. Mojave Desert Air Quality Management District rules for diesel emissions from equipment and trucks are embedded in the compliance for all diesel fueled engines, trucks, and equipment with the statewide California Air Resources Board Diesel Reduction Plan. These measures will be implemented by the California Air Resources Board in phases with new rules imposed on existing and new diesel-fueled engines.
44	<u>GHG - Construction Standards</u> - Status: Outstanding The developer shall submit for review and obtain approval from County Planning of a signed letter agreeing to include as a condition of all construction contracts/subcontracts requirements to reduce GHG emissions and submitting documentation of compliance. The developer/construction contractors shall do the following: a) Implement the approved Coating Restriction Plans. b) Select construction equipment based on low GHG emissions factors and high-energy efficiency. All diesel/gasoline-powered construction equipment shall be replaced, where possible, with equivalent electric or CNG equipment. c) Grading contractor shall provide and implement the following when possible: - training operators to use equipment more efficiently. - identifying the proper size equipment for a task can also provide fuel savings and associated reductions in GHG emissions. - replacing older, less fuel-efficient equipment with newer models. - use GPS for grading to maximize efficiency. d) Grading plans shall include the following statements: - "All construction equipment engines shall be properly tuned and maintained in accordance with the manufacturers specifications prior to arriving on site and throughout

	construction duration." - "All construction equipment (including electric generators) shall be shut off by work crews when not in use and shall not idle for more than 5 minutes." e) Schedule construction traffic ingress/egress to not interfere with peak-hour traffic and to minimize traffic obstructions. Queuing of trucks on and off site shall be firmly discouraged and not scheduled. A flagperson shall be retained to maintain efficient traffic flow and safety adjacent to existing roadways. f) Recycle and reuse construction and demolition waste (e.g. soil, vegetation, concrete, lumber, metal, and cardboard) per County Solid Waste procedures. g) The construction contractor shall support and encourage ridesharing and transit incentives for the construction crew and educate all construction workers about the required waste reduction and the availability of recycling services.
45	<u>Mitigation Measures</u> - Status: Outstanding Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to grading permit issuance.
46	<u>Joshua Tree Relocation Plan</u> - Status: Outstanding The developer shall submit and have approved by the Planning Division a relocation plan for Joshua Trees within the developed site area. The relocation plan shall be accompanied with certification from a certified arborist, registered professional forester or a Desert Native Plant Expert that the proposed tree removal, replacement, or revegetation activities are appropriate, supportive of a healthy environment, and are in compliance with Chapter 88.01 of the San Bernardino County Development Code. The certification shall include the information in compliance with Department procedures. Transplantation onsite shall be the primary method of addressing a Joshua Tree removals from the subject property
	Land Use Services - Building and Safety
47	<u>Geotechnical Report</u> - Status: Outstanding A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to issuance of grading permits or land disturbance.
48	<u>Wall Plans</u> - Status: Outstanding Submit plans and obtain separate building permits for any required retaining walls.
	Land Use Services - Land Development
49	<u>Drainage Improvements</u> - Status: Outstanding A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site 100-year drainage flows around and through the site in a safe manner that will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. An \$810 deposit for drainage study review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule.
50	<u>Erosion Control Installation.</u> - Status: Outstanding Erosion control devices must be installed and maintained at all perimeter openings and slopes throughout the construction of the project. No sediment is to leave the job site.
51	<u>FEMA Flood Zone.</u> - Status: Outstanding FEMA Flood Zone. The project is located within Flood Zone X-Unshaded according to FEMA Panel Number 06071C8175H dated 08/28/2008. However, the site is located within a flood hazard area for the 100-year floodplain shown on the Awareness Maps prepared by the California Department of Water Resources (DWR). Awareness floodplains identify the 100-year flood hazard areas using approximate assessment procedures. These floodplains will be shown simply as flood prone areas without specific depths and other flood hazard data. The requirements may change based on the recommendations of a drainage study accepted by the Land Development Division and the most current Flood Map prior to issuance of grading permit.

52	<u>Grading Plans</u> - Status: Outstanding Grading and erosion control plans shall be prepared in accordance with the County's guidance documents (which can be found here: https://lus.sbcounty.gov/land-development-home/grading-and-erosion-control/) and submitted for review with approval obtained prior to construction. All drainage improvements shall be shown on the grading plans according to the approved final drainage study. Fees for grading plans will be collected upon submittal to the Land Development Division and are determined based on the amounts of cubic yards of cut and fill. Fee amounts are subject to change in accordance with the latest approved fee schedule.
53	<u>Joshua Trees.</u> - Status: Outstanding The property associated with this application has been identified as potential Western Joshua Tree habitat. Effective July 2023, California state law prohibits the removal, relocation, or disturbance of any Western Joshua Tree without state authorization. The County cannot issue a permit to remove or transplant any Western Joshua Tree. Any application for parcels that may potentially have a Western Joshua Tree must contact the California Department of Fish and Wildlife Region 6 office for site verification and approval. For more information, please refer to the Western Joshua Tree Quick Reference Guide located at https://lus.sbcounty.gov/building-safety-home/guidance-and-technical-handouts/
54	<u>On-site Flows</u> - Status: Outstanding On-site flows need to be directed to the nearest County maintained road or drainage facilities unless a drainage acceptance letter is secured from the adjacent property owners and provided to Land Development.
55	<u>State Construction Stormwater General Permit:</u> - Status: Outstanding Notice of Intent (NOI) and WDID # are required on all land disturbance of one (1) acre or more prior to issuance of a grading/construction permit. For questions regarding the State Construction Stormwater General Permit, please contact: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html
56	<u>Streambed Alteration Agreement</u> - Status: Outstanding California Department of Fish and Wildlife (CDFW) must be notified per Fish and Game Code (FGC) §1602. A streambed alteration agreement shall be provided prior to Grading permit issuance. Link to CDFW website at: https://www.wildlife.ca.gov/Conservation/LSA.
Public Health– Environmental Health Services	
57	<u>Vector Control Requirement</u> - Status: Outstanding The project area has a high probability of containing vectors. A vector survey shall be conducted to determine the need for any required control programs. A vector clearance application shall be submitted to the appropriate Mosquito & Vector Control Program. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.
Public Works - Surveyor	
58	<u>Corner Records Required Before Grading</u> - Status: Outstanding Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances: a. Monuments set to mark property lines or corners; b. Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel; c. Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey.

59	<u>Monument Disturbed by Grading</u> - Status: Outstanding If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.
PRIOR TO BUILDING PERMIT ISSUANCE	
	Land Use Services - Planning
60	<u>Architecture</u> - Status: Outstanding Architectural elevations are considered conceptual. Final details with colors and material samples shall be submitted to the Planning Division for approval prior to building plan check submittal.
61	<u>Landscape and Irrigation Plan</u> - Status: Outstanding Landscape and Irrigation Plans shall be prepared in conformance with Chapter 83.10, Landscaping Standards, of the County Development Code. The developer shall submit four copies of a landscape and irrigation plan to County Planning.
62	<u>Lighting Plans</u> - Status: Outstanding The developer shall submit for review and approval to County Planning a photometric study demonstrating that the project light does not spill onto the adjacent properties, or public streets. Lighting fixtures shall be oriented and focused to the onsite location intended for illumination (e.g. walkways). Lighting shall be shielded away from adjacent sensitive uses, including the adjacent residential development, to minimize light spillover. The glare from any luminous source, including on-site lighting, shall not exceed 0.5 foot-candle at the property line. This shall be done to the satisfaction of County Planning, in coordination with County Building and Safety.
	County Fire - Community Safety
63	<u>F02 Fire Fee</u> - Status: Outstanding The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division.
64	<u>F09 Building Plans</u> - Status: Outstanding Building Plans shall be submitted to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.
65	<u>F10 Combustible Protection</u> - Status: Outstanding Prior to combustibles being placed on the project site an approved all-weather fire apparatus access surface and operable fire hydrants with acceptable fire flow shall be installed. The topcoat of asphalt does not have to be installed until final inspection and occupancy.
66	<u>F19 Surface</u> - Status: Outstanding Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. Road surface shall meet the approval of the Fire Chief prior to installation. All roads shall be designed to 85% compaction and/or paving and hold the weight of Fire Apparatus at a minimum of 80K pounds.
67	<u>F22 Primary Access Paved</u> - Status: Outstanding Prior to building permits being issued to any new structure, the primary access road shall be paved or an all-weather surface and shall be installed as specified in the General Requirement conditions including width, vertical clearance and turnouts.

68	<u>F23 Secondary Access Paved</u> - Status: Outstanding Prior to building permits being issued to any new structure, the secondary access road shall be paved or an all-weather surface and shall be installed as specified in the General Requirement conditions including width, vertical clearance and turnouts.
69	<u>F26 Fire Flow Test</u> - Status: Outstanding Please provide a fire flow test report from your water purveyor that has been completed in the last six months demonstrating that the fire flow demand is satisfied.
70	<u>F27 Water System</u> - Status: Outstanding Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using California Fire Code. The Fire Flow for this project shall be: 1,500 GPM for a TWO hour duration at 20 psi residual operating pressure. Fire Flow is based on a 3,500 sq.ft. structure.
71	<u>F28 Water System Commercial</u> - Status: Outstanding A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. Fire hydrants shall be spaced no more than three hundred (300) feet apart (as measured along vehicular travel-ways) and no more than three hundred (300) feet from any portion of a structure.
72	<u>F33 Water System Certification</u> - Status: Outstanding The applicant shall provide the Fire Department with a letter from the serving water company, certifying that the required water improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the job site
73	<u>F69 Haz-Mat Approval</u> - Status: Outstanding The applicant shall contact the San Bernardino County Fire Department/Hazardous Materials Division (909) 386-8401 for review and approval of building plans, where the planned use of such buildings will or may use hazardous materials or generate hazardous waste materials.
Land Use Services - Building and Safety	
74	<u>Construction Plans</u> - Status: Outstanding Any building, sign, or structure to be added to, altered (including change of occupancy/use), constructed, or located on site, will require professionally prepared plans based on the most current adopted County and California Building Codes, submitted for review and approval by the Building and Safety Division.
75	<u>Temporary Use Permit</u> - Status: Outstanding A Temporary Structures (TS) permit for non-residential structures for use as office, retail, meeting, assembly, wholesale, manufacturing, and/ or storage space will be required. A Temporary Use Permit (PTUP) for the proposed structure by the Planning Division must be approved prior to the TS Permit approval. A TS permit is renewed annually and is only valid for a maximum of five (5) years.
Land Use Services - Land Development	
76	<u>Caltrans Review</u> - Status: Outstanding Obtain comments, approval, and any necessary permits from Caltrans for access requirements and working within their right-of-way. The Caltrans Local Development Review (LDR) Branch can be reached at LDR-D8@dot.ca.gov

77	<u>Construction Permits</u> - Status: Outstanding Prior to installation of road and drainage improvements, a construction permit is required from the County Department of Public Works, Permits/Operations Support Division, Transportation Permits Section (909) 387-1863 as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.
78	<u>Road Dedication/Improvements</u> - Status: Outstanding The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements, designed by a Registered Civil Engineer (RCE) licensed in the State of California: Mile Square Road (Local – 60 feet) • Road Dedication. A 50-foot return radius grant of easement is required at the intersection of Mile Square Road and Twenty-Nine Palms Highway. • Street Improvements. Design match up paving 18 feet from centerline with a minimum 26-foot paved section within a 70-foot right-of-way designed to County Standard 114a. • Driveway Approach. Design driveway approach per County Standard 129C and located per County Standard 130. Twenty-Nine Palms Highway (Caltrans) • Caltrans Review. Obtain comments, approval, and any necessary permits from Caltrans for access requirements and working within their right-of-way. The Caltrans Local Development Review (LDR) Branch can be reached at LDR-D8@dot.ca.gov
79	<u>Road Standards and Design</u> - Status: Outstanding All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. Road sections shall be designed to Valley Mountain Desert Road Standards of San Bernardino County and to the policies and requirements of the County Department of Public Works and in accordance with the General Plan, Circulation Element.
80	<u>Slope Tests</u> - Status: Outstanding Slope stability tests are required for road cuts or road fills per recommendations of the Geotechnical Engineer to the satisfaction of the County Department of Public Works.
81	<u>Soils Testing</u> - Status: Outstanding Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to the County and a written report shall be submitted to the Permits/Operations Support Division, Transportation Permits Section of the County Department of Public Works prior to any placement of base materials and/or paving.
82	<u>Street Gradients</u> - Status: Outstanding Road profile grades shall not be less than 0.5% unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of the County Department of Public Works confirming the adequacy of the grade.
83	<u>Transitional Improvements</u> - Status: Outstanding Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing sections shall be required as necessary.
84	<u>Utilities.</u> - Status: Outstanding Final plans and profiles shall indicate the location of any existing utility facility or utility pole which would affect construction, and any such utility shall be relocated as necessary without cost to the County.

	Public Health– Environmental Health Services
85	<u>California Regional Water Quality Control Board Clearance</u> - Status: Outstanding Written clearance shall be obtained from the designated California Regional Water Quality Control Board (listed below) and a copy forwarded to the Division of Environmental Health Services for projects with design flows greater than 10,000 gallons per day. Colorado River Basin Region, 73-720 Fred Waring Dr., Suite 100, Palm Desert, CA 92260, 760-346-7491.
86	<u>Demolition Inspection Required</u> - Status: Outstanding All demolition of structures shall have a vector inspection prior to the issuance of any permits pertaining to demolition or destruction of any premises. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.
87	<u>Existing OWTS</u> - Status: Outstanding Existing onsite wastewater treatment system can be used if applicant provides an EHS approved certification that indicates the system functions properly, meets code, has the capacity required for the proposed project, and meets LAMP requirements.
88	<u>Existing Wells</u> - Status: Outstanding If wells are found on-site, evidence shall be provided that all wells are: (1) properly destroyed, by an approved C57 contractor and under permit from the County OR (2) constructed to EHS standards, properly sealed and certified as inactive OR (3) constructed to EHS standards and meet the quality standards for the proposed use of the water (industrial and/or domestic). Evidence, such as a well certification, shall be submitted to EHS for approval.
89	<u>Food Establishment Plan Check Required</u> - Status: Outstanding Plans for food establishments shall be reviewed and approved by EHS. For information, call EHS Plan Check at: (800) 442-2283.
90	<u>Minimum Lot Size Requirements for Parcel Maps and Tracts</u> - Status: Outstanding For subdivisions utilizing Onsite Wastewater Treatment Systems, each newly created lot shall have a minimum area of 0.5 acres. For subdivisions relying on both Onsite Wastewater Treatment Systems and individual wells, each newly created lot shall have a minimum area of 2.5 acres.
91	<u>New OWTS</u> - Status: Outstanding If sewer connection and/or service are unavailable, onsite wastewater treatment system(s) may then be allowed under the following conditions: a. A soil percolation report shall be submitted to EHS for review and approval. For information, please contact the Wastewater Section at (800) 442-2283. b. An Alternative Treatment System, if applicable, shall be required.
92	<u>Sewage Disposal</u> - Status: Outstanding Method of sewage disposal shall be sewer service provided by an EHS approved onsite wastewater treatment system (OWTS) that conforms to the Local Agency Management Program (LAMP).
93	<u>Swimming Pool Plan Check Required</u> - Status: Outstanding Plans for swimming pools and associated restroom facilities shall be reviewed and approved by EHS. For information, call EHS Plan Check at: (800) 442-2283.
94	<u>Water Purveyor</u> - Status: Outstanding Water purveyor shall be Joshua Basin CWD or EHS approved.

95	<u>Water Service Verification Letter</u> - Status: Outstanding Applicant shall procure a verification letter from the water service provider. This letter shall state whether or not water connection and service shall be made available to the project by the water provider. This letter shall reference the File Index Number and Assessor's Parcel Number(s). For projects with current active water connections, a copy of water bill with project address may suffice.
	Public Works - Solid Waste Management
96	<u>Construction Waste Management Plan (CWMP) Part 1</u> - Status: Outstanding The developer shall prepare, submit, and obtain approval from SWMD of a CDWMP Part 1 for each phase of the project. The CWMP shall list the types and weights of solid waste materials expected to be generated from construction. The CWMP shall include options to divert waste materials from landfill disposal, materials for reuse or recycling by a minimum of 65% of total weight or volume. More information can be found on the San Bernardino County Solid Waste Management Division (SWMD) website at https://dpw.sbcounty.gov/solid-waste-management/construction-waste-management/ . An approved CDWMP Part 1 is required before a permit can be issued. There is a one-time fee of \$150.00 for residential projects/\$530.00 for commercial/non-residential projects
	Public Works - Surveyor
97	<u>Corner Records Required Before Building</u> - Status: Outstanding Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances: a. Monuments set to mark property lines or corners; b. Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel; c. Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey.
98	<u>Monument Disturbed by Building</u> - Status: Outstanding If any activity on this project will disturb any land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying prior to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.
PRIOR TO OCCUPANCY	
	Land Use Services - Planning
99	<u>Fees Paid</u> - Status: Outstanding Prior to final inspection by Building and Safety Division and/or issuance of a Certificate of Conditional Use by the Planning Division, the applicant shall pay in full all fees required under actual cost job number PROJ-2023-00061.
100	<u>Installation of Improvements</u> - Status: Outstanding All required on-site improvements shall be installed per approved plans.
101	<u>Landscaping/Irrigation</u> - Status: Outstanding All landscaping, dust control measures, all fences, etc. as delineated on the approved Landscape Plan shall be installed. The developer shall submit the Landscape Certificate of Completion verification as required in SBCC Section 83.10.100. Supplemental verification should include photographs of the site and installed landscaping.
102	<u>Mitigation Measures</u> - Status: Outstanding Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to occupancy permit issuance

103	<u>Screen Rooftop</u> - Status: Outstanding All roof top mechanical equipment is to be screened from ground vistas.
104	<u>Shield Lights</u> - Status: Outstanding Any lights used to illuminate the site shall include appropriate fixture lamp types as listed in SBCC Table 83-7 and be hooded and designed so as to reflect away from adjoining properties and public thoroughfares and in compliance with SBCC Chapter 83.07, "Glare and Outdoor Lighting" (i.e. "Dark Sky Ordinance).
105	<u>Condition Compliance</u> - Status: Outstanding Prior to occupancy/use, all conditions shall be completed to the satisfaction of County Planning with appropriate authorizing approvals from each reviewing agency.
106	<u>GHG - Installation/Implementation Standards</u> - Status: Outstanding The developer shall submit for review and obtain approval from County Planning of evidence that all applicable GHG performance standards have been installed, implemented properly and that specified performance objectives are being met to the satisfaction of County Planning and County Building and Safety. These installations/procedures include the following: a) Design features and/or equipment that cumulatively increases the overall compliance of the project to exceed Title 24 minimum standards by five percent. b) All interior building lighting shall support the use of fluorescent light bulbs or equivalent energy-efficient lighting. c) Installation of both the identified mandatory and optional design features or equipment that have been constructed and incorporated into the facility/structure.
County Fire - Community Safety	
107	<u>F06 Inspection by Fire Department</u> - Status: Outstanding Permission to occupy or use the building/facility (Certification of Occupancy or Shell Release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".
County Fire - Hazardous Materials	
108	<u>Permit Required</u> - Status: Outstanding Prior to occupancy, a business or facility that handles hazardous materials in quantities at or exceeding 55 gallons, 500 pounds, or 200 cubic feet (compressed gas) at any one time or generates any amount of hazardous waste shall obtain hazardous material permits from this department. Prior to occupancy, the business operator shall apply for permits (Hazardous Material Handler Permit, Hazardous Waste Generator Permit, Aboveground Petroleum Storage Tank Permit, Underground Storage Tank Permit, or other applicable permits) by submitting a complete hazardous materials business plan using the California Environmental Reporting System (CERS) at http://cers.calepa.ca.gov/ or apply for exemption from permitting requirements. Contact the Office of the Fire Marshal, Hazardous Materials Section at (909) 386-8401 or visit https://sbcfire.org/hazmatcupa/ for more information.
Land Use Services - Building and Safety	
109	<u>Condition Compliance Release Form Sign-off</u> - Status: Outstanding Prior to occupancy all Department/Division requirements and sign-offs shall be completed.
Land Use Services - Land Development	
110	<u>Drainage Improvements</u> - Status: Outstanding All required drainage improvements shall be completed by the applicant. The private Registered Civil Engineer (RCE) shall inspect improvements outside the County right-of-way and certify that these improvements have been completed according to the approved plans. Certification letter shall be submitted to Land Development.
111	<u>Caltrans Approval</u> - Status: Outstanding Obtain comments, approval, and any necessary permits from Caltrans for access requirements and working within their right-of-way. The Caltrans Local Development Review (LDR) Branch can be reached at LDR-D8@dot.ca.gov

112	<u>LDD Requirements</u> - Status: Outstanding All LDD requirements shall be completed by the applicant prior to occupancy.
113	<u>Road Improvements</u> - Status: Outstanding All required on-site and off-site improvements shall be completed by the applicant and inspected/approved by the County Department of Public Works.
114	<u>Structural Section Testing for non-CMRS roads connecting to CMRS road</u> - Status: Outstanding Prior to occupancy, a thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer shall be submitted to the County Department of Public Works for _____ only. Structural section for the private roads shall be submitted to Land Development.
Public Health– Environmental Health Services	
115	<u>Hotel/Motel/Apartment Certificate of Use Request</u> - Status: Outstanding Prior to occupancy of a newly constructed or remodeled apartment complex, hotel, motel, resort, pursuant to San Bernardino County Code 33.101 et. seq., a Certificate of Use request shall be submitted to EHS. For information, call EHS at: (800) 442-2283.
116	<u>New Recreational Health Permit</u> - Status: Outstanding A Recreational Health annual permit for public swimming pool, spa or bathing place shall be required. For information, contact EHS at: (800) 442-2283.
117	<u>New Retail Food Facility Permit</u> - Status: Outstanding A Retail Food Facility annual permit for food facility shall be required. For information, contact EHS at: (800) 442-2283.
Public Works - Solid Waste Management	
118	<u>Construction Waste Management Plan (CDWMP) Part 2</u> - Status: Outstanding The developer shall complete SWMD's CDWMP Part 2 for construction and demolition. The CDWMP Part 2 shall provide evidence to the satisfaction of SWMD that demonstrates that the project has diverted from landfill disposal, material for reuse or recycling by a minimum of 65% of total weight or volume of all construction waste. The developer MUST provide ALL receipts and/or backup documentation for actual disposal/diversion of project waste. More information can be found on the San Bernardino County Solid Waste Management Division (SWMD) website at https://dpw.sbcounty.gov/solid-waste-management/construction-waste-management/ .
Public Works - Traffic	
119	<u>Improvements</u> - Status: Outstanding The applicant shall construct, at 100% cost to the applicant all roadway improvements as shown on their approved street improvement plans. This shall include any software and/or hardware to implement the approved signal coordination plan.
PRIOR TO RECORDATION	
County Fire - Community Safety	
120	<u>F16 Access</u> - Status: Outstanding The development shall have a minimum of TWO points of vehicular access. These are for fire/emergency equipment access and for evacuation routes. a. Single Story Road Access Width. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty-six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. b. Multi-Story Road Access Width. Fire apparatus access roadways serving buildings that are three (3) or more stories or thirty (30) feet or more in height shall be a minimum of thirty (30) feet in unobstructed width and vertically to fourteen (14) feet six (6) inches in height.

	Land Use Services - Building and Safety
121	<u>Composite Development Plan (CDP) Note Requirements</u> - Status: Outstanding The following Composite Development Plan (CDP) Requirements shall be placed on the CDP submitted as a requirement for Recordation of the final map. Wall Plans: Submit plans and obtain separate permits for any required retaining walls. Geotechnical (Soil) Report: A geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to issuance of grading and/or building permits. Construction Plans: Any building, sign, or structure to be constructed or located on site, will require professionally prepared plans based on the most current County and California Building Codes, submitted for review and approval by the Building and Safety Division. Temporary Use Permit: A Temporary Structures (TS) permit for non-residential structures for use as office, retail, meeting, assembly, wholesale, manufacturing, and/ or storage space will be required. A Temporary Use Permit (PTUP) for the proposed structure by the Planning Division must be approved prior to the TS Permit approval. A TS permit is renewed annually and is only valid for a maximum of five (5) years.
	Land Use Services - Land Development
122	<u>CDP-Delineated Floodplain</u> - Status: Outstanding A Composite Development Plan (CDP) is required and the following shall be delineated or noted on the CDP with confirmation and approval obtained from the LDD, prior to recordation of the Parcel Map (Statements in quotations shall be verbatim): "Land Use Services Department – Land Development Division – Drainage Section (909) 387-8311" "Delineated Floodplain. 100-year floodplains delineated on the parcel map must be kept free of all buildings and obstructions. Any fencing shall be of a "rail" type. Chain-link fencing shall not be allowed."
123	<u>CDP-Streambed Alteration Agreement</u> - Status: Outstanding A Composite Development Plan (CDP) is required and the following shall be delineated or noted on the CDP with confirmation and approval obtained from the LDD, prior to recordation of the Parcel Map (Statements in quotations shall be verbatim): "Land Use Services Department – Land Development Division – Drainage Section (909) 387-8311" "Streambed Alteration Agreement. California Department of Fish and Wildlife (CDFW) must be notified per Fish and Game Code (FGC) §1602. A streambed alteration agreement shall be provided prior to grading permit issuance. Link to CDFW website at https://www.wildlife.ca.gov/Conservation/LSA."
124	<u>Additional Drainage Requirements.</u> - Status: Outstanding In addition to drainage requirements stated herein, other "on-site" and/or "off-site" improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.
125	<u>Drainage Improvements</u> - Status: Outstanding A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site 100-year drainage flows around and through the site in a safe manner that will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. An \$810 deposit for drainage study review will be collected upon submittal to the Land Development Division. Deposit amounts are subject to change in accordance with the latest approved fee schedule.
126	<u>Erosion Control Installation.</u> - Status: Outstanding Erosion control devices must be installed and maintained at all perimeter openings and slopes throughout the construction of the project. No sediment is to leave the job site.

127	<u>FEMA Flood Zone.</u> - Status: Outstanding The project is located within Flood Zone X-Unshaded according to FEMA Panel Number 06071C8175H dated 08/28/2008. However, the site is located within a flood hazard area for the 100-year floodplain shown on the Awareness Maps prepared by the California Department of Water Resources (DWR). Awareness floodplains identify the 100-year flood hazard areas using approximate assessment procedures. These floodplains will be shown simply as flood prone areas without specific depths and other flood hazard data. The requirements may change based on the recommendations of a drainage study accepted by the Land Development Division and the most current Flood Map prior to issuance of grading permit.
128	<u>Grading Plans</u> - Status: Outstanding Grading and erosion control plans shall be prepared in accordance with the County's guidance documents (which can be found here: https://lus.sbcounty.gov/land-development-home/grading-and-erosion-control/) and submitted for review with approval obtained prior to construction. All drainage improvements shall be shown on the grading plans according to the approved final drainage study reports. Fees for grading plans will be collected upon submittal to the Land Development Division and are determined based on the amounts of cubic yards of cut and fill. Fee amounts are subject to change in accordance with the latest approved fee schedule.
129	<u>Joshua Trees.</u> - Status: Outstanding The property associated with this application has been identified as potential Western Joshua Tree habitat. Effective July 2023, California state law prohibits the removal, relocation, or disturbance of any Western Joshua Tree without state authorization. The County cannot issue a permit to remove or transplant any Western Joshua Tree. Any application for parcels that may potentially have a Western Joshua Tree must contact the California Department of Fish and Wildlife Region 6 office for site verification and approval. For more information, please refer to the Western Joshua Tree Quick Reference Guide located at https://lus.sbcounty.gov/building-safety-home/guidance-and-technical-handouts/
130	<u>State Construction Stormwater General Permit:</u> - Status: Outstanding Notice of Intent (NOI) and WDID # are required on all land disturbance of one (1) acre or more prior to issuance of a grading/construction permit. For questions regarding the State Construction Stormwater General Permit, please contact: https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html
131	<u>Streambed Alteration Agreement.</u> - Status: Outstanding California Department of Fish and Wildlife (CDFW) must be notified per Fish and Game Code (FGC) §1602. A streambed alteration agreement shall be provided prior to Grading permit issuance. Link to CDFW website at: https://www.wildlife.ca.gov/Conservation/LSA.
132	<u>Caltrans Approval</u> - Status: Outstanding Obtain comments, approval, and any necessary permits from Caltrans for access requirements and working within their right-of-way. The Caltrans Local Development Review (LDR) Branch can be reached at LDR-D8@dot.ca.gov
133	<u>Construction Permits</u> - Status: Outstanding Prior to installation of road and drainage improvements, a construction permit is required from the County Department of Public Works, Permits/Operations Support Division, Transportation Permits Section (909) 387-1863 as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.
134	<u>Improvement Securities</u> - Status: Outstanding Any required public road, drainage, WQMP, and/or utility improvements for subdivisions shall be bonded in accordance with County Development Code unless constructed and approved prior to recordation. All necessary fees shall be provided in accordance with the latest fee schedule.

135	<u>Maintenance Bond</u> - Status: Outstanding Once all required public road, drainage, WQMP, and/or utility improvements have been completed and accepted, then a maintenance bond for a period of one year shall be required to insure satisfactory condition of all improvements. Submit necessary fees, per the latest fee schedule, for new securities.
136	<u>Road Dedication/Improvements</u> - Status: Outstanding The developer shall submit for review and obtain approval from the Land Use Services Department the following dedications and plans for the listed required improvements designed by a Registered Civil Engineer (RCE) licensed in the State of California: Mile Square Road (Local – 60 feet) • Road Dedication. A 50-foot return radius return grant of easement is required at the intersection of Mile Square Road and Twenty-Nine Palms Highway • Street Improvements. Design with match up paving 18 feet from centerline with a minimum 26-foot paved section within a 70-foot right-of-way designed to County Standard 114a. Cactus Road (Local – 60 feet) • Road Dedication. A 35-foot return radius return grant of easement is required at the intersection of Mile Square Road and Cactus Road. • Paved Access Road. This project is required to have a minimum 26-foot wide paved access road within 60 feet of right-of-way and are designed to County Standard modified 114a (providing for graded shoulders) that ties into a maintained paved public road. Twenty-Nine Palms Highway (Caltrans) • Caltrans Review. Obtain comments from Caltrans for access requirements and working within their right-of-way.
137	<u>Road Standards and Design</u> - Status: Outstanding All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans. Road sections shall be designed to Valley Mountain Desert Road Standards of San Bernardino County and to the policies and requirements of the County Department of Public Works and in accordance with the General Plan, Circulation Element.
138	<u>Soils Testing</u> - Status: Outstanding Any grading within the road right-of-way prior to the signing of the improvement plans shall be accomplished under the direction of a soils testing engineer. Compaction tests of embankment construction, trench back fill, and all sub-grades shall be performed at no cost to the County and a written report shall be submitted to the Permits/Operations Support Division, Transportation Permits Section of the County Department of Public Works prior to any placement of base materials and/or paving.
139	<u>Street Gradients</u> - Status: Outstanding Road profile grades shall not be less than 0.5% unless the engineer at the time of submittal of the improvement plans provides justification to the satisfaction of the County Department of Public Works confirming the adequacy of the grade.
140	<u>Transitional Improvements</u> - Status: Outstanding Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing sections shall be required as necessary.
141	<u>Utilities.</u> - Status: Outstanding Final plans and profiles shall indicate the location of any existing utility facility or utility pole which would affect construction. Any such utility shall be relocated as necessary without cost to the County.
	Public Works - Surveyor
142	<u>Easements</u> - Status: Outstanding Easements within the reminder portion of the map are to be dedicated by separate document.
143	<u>Easements of Record</u> - Status: Outstanding Easements of record not shown on the tentative map shall be relinquished or relocated. Lots affected by proposed easements or easement of record, which cannot be relinquished or relocated, shall be redesigned.

144	Final Map Review - Status: Outstanding Review of the Parcel Map by our office is based on actual cost, and requires an initial \$3,000.00 deposit. Prior to recordation of the map all fees due to our office for the project shall be paid in full.
145	Final Map Signatures - Status: Outstanding Final Parcel map notarized signatures by the Owner (and Beneficiaries if applicable), County Auditor, Land Surveyor or Engineer of Record.
146	Non-Interference Letter - Status: Outstanding Subdivider shall present evidence to the County Surveyor's Office that he has tried to obtain a non-interference letter from any utility company that may have rights of easement within the property boundaries.
147	Parcel Map Required - Status: Outstanding A Parcel Map is required in compliance with the Subdivision Map Act and the San Bernardino County Development Code.
148	Title Report - Status: Outstanding A current Title Report prepared for subdivision purposes is required at the time the map is submitted to our office for review.
	Public Works - Traffic
149	Street Name Review - Status: Outstanding Prior to recordation of the subdivision map, all street names shall be reviewed and approved by the Department of Public Works, Traffic Division pursuant to 87.06.050(j) of the Development Code.
PRIOR TO FINAL INSPECTION	
	County Fire - Community Safety
150	F11 Combustible Vegetation - Status: Outstanding Combustible vegetation shall be removed as follows: a. Where the average slope of the site is less than 15% - Combustible vegetation shall be removed a minimum distance of thirty (30) feet from all structures or to the property line, whichever is less. b. Where the average slope of the site is 15% or greater - Combustible vegetation shall be removed a minimum one hundred (100) feet from all structures or to the property line, whichever is less. County Ordinance #3586
151	F24 Fire Lanes - Status: Outstanding The applicant shall submit a fire lane plan with the building construction plans to the Fire Department for review and approval. Fire lane curbs shall be painted red. "No Parking, Fire Lane" signs shall be installed on public/private roads in accordance with the approved plan.
152	F25 Street Sign - Status: Outstanding This project is required to have an approved street sign (temporary or permanent). The street sign shall be installed on the nearest street corner to the project. Installation of the temporary sign shall be prior any combustible material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed.
153	F35 Hydrant Marking - Status: Outstanding Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs, or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road.

154	<u>F37 Fire Sprinkler-NFPA #13</u> - Status: Outstanding An automatic fire sprinkler system complying with NFPA Pamphlet #13 and Fire Department standards is required. The applicant shall hire a licensed fire sprinkler contractor. The fire sprinkler contractor shall submit plans with hydraulic calculations, manufacturers specification sheets and a letter from a licensed structural (or truss) engineer with a stamp verifying the roof is capable of accepting the point loads imposed on the building by the fire sprinkler system design to the Fire Department for approval. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal.
155	<u>F40 Roof Certification</u> - Status: Outstanding A letter from a licensed structural (or truss) engineer shall be submitted with an original wet stamp at time of fire sprinkler plan review, verifying the roof is capable of accepting the point loads imposed on the building by the fire sprinkler system design.
156	<u>F41 Fire Alarm</u> - Status: Outstanding A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a licensed fire alarm contractor. The fire alarm contractor shall submit detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.
157	<u>F45 Fire Extinguishers</u> - Status: Outstanding Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.
158	<u>F46 Hood and Duct Suppression</u> - Status: Outstanding An automatic hood and duct fire extinguishing system is required. The applicant shall hire a licensed fire protection contractor to submit detailed plans with manufactures' specification sheets to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.
159	<u>F47 Above Ground Storage Tank</u> - Status: Outstanding Above Ground Storage Tank plans shall be submitted to the San Bernardino County Fire Department for review and approval prior to any installation on-site. The required Fees shall be paid at time of plan submittal.
160	<u>F48 Material Identification Placards</u> - Status: Outstanding The applicant shall install Fire Department approved material identification placards on the outside of all buildings and/or storage tanks that store or plan to store hazardous or flammable materials in all locations deemed appropriate by the Fire Department. Additional placards shall be required inside the buildings when chemicals are segregated into separate areas. Any business with an N.F.P.A. 704 rating of 2-3-3 or above shall be required to install an approved key box vault on the premises, which shall contain business access keys and a business plan.
161	<u>F51 Commercial Addressing</u> - Status: Outstanding Commercial and industrial developments of 100,000 sq. ft or less shall have the street address installed on the building with numbers that are a minimum eight (8) inches in height and with a one (1) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated address identification shall be displayed on a monument, sign or other approved means with numbers that are a minimum of six (6) inches in height and three-quarter (¾) inch stroke.
162	<u>F55 Key Box</u> - Status: Outstanding An approved Fire Department key box is required. In commercial, industrial and multi-family complexes, all swing gates shall have an approved fire department Lock (Knox ®).

163	F56 Override Switch - Status: Outstanding Where an automatic electric security gate is used, an approved Fire Department override switch (Knox ®) is required.

If you would like additional information regarding any of the conditions in this document, please contact the department responsible for applying the condition and be prepared to provide the Record number above for reference. Department contact information has been provided below.

Department/Agency	Office/Division	Phone Number
Land Use Services Dept.	San Bernardino Govt. Center	(909) 387-8311
(All Divisions)	High Desert Govt. Center	(760) 995-8140
Web Site	https://lus.sbcounty.gov/	
County Fire	San Bernardino Govt. Center	(909) 387-8400
(Community Safety)	High Desert Govt. Center	(760) 995-8190
Web Site	https://www.sbcfire.org/	
County Fire	Hazardous Materials	(909) 386-8401
	Flood Control	(909) 387-7995
Dept. of Public Works	Solid Waste Management	(909) 386-8701
	Surveyor	(909) 387-8149
	Traffic	(909) 387-8186
Web Site	https://dpw.sbcounty.gov/	
Dept. of Public Health	Environmental Health Services	(800) 442-2283
Web Site	https://ehs.sbcounty.gov	
Local Agency Formation Commission (LAFCO)		(909) 388-0480
Web Site	http://www.sbclafco.org/	
	Water and Sanitation	(760) 955-9885
	Administration,	
	Park and Recreation,	
Special Districts	Roads, Streetlights,	(909) 386-8800
	Television Districts, and Other	
External Agencies (Caltrans, U.S. Army, etc.)		See condition text for contact information...

EXHIBIT G

TENTATIVE PARCEL MAP NO. 20774
IN THE COUNTY OF SAN BERNARDINO, CALIFORNIA

APPLICANT / OWNER / DEVELOPER

Yucca Trail 11 LLC
6 VIA PERGOLA,
RANCHO PALO VERDES, CA. 90275
PHONE 760-880-6436

BASIS OF BEARING

BASIS OF BEARINGS THE BEARING OF N89°50'00"W
BEING THE CENTER LINE OF TWENTY NINE PALMS
HIGHWAY AS PER TRACT MAP NO. 3979 BOOK 52
PAGE 53.

LEGAL DESCRIPTION

LOTS 2, 3 AND 4 OF TRACT 3979, IN THE COUNTY OF SAN
BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN
BOOK 52, PAGE 35 OF MAPS, IN THE OFFICE OF THE COUNTY
RECORDER OF SAID COUNTY.

ASSESSOR'S PARCEL NUMBER

LOT 2-APN: 0608-051-02-000
LOT 3-APN: 0608-051-03-000
LOT 4-APN: 0608-051-03-000

ZONING ORDINANCE

COMMERCIAL NEIGHBORHOOD (CN) AND
RESIDENTIAL (RM)

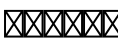
FLOOD ZONE:

PROPERTY IS LOCATED IN HAZARD OR WITH RISK
OF FLOODING AREA, FEMA
ZONE: A, MAP No. 060270



VICINITY MAP

N.T.S.



TRACT BOUNDARY	TRACT BOUNDARY
CENTER LINE	CENTER LINE
EASEMENT LINE	EASEMENT LINE
EXIST. CONTOUR	EXIST. CONTOUR
TC	TOP OF CURB
HP	HIGH POINT
FG	FINISHED GRADE
FL	FLOW LINE
FS	FINISHED SURFACE
FF	FINISHED FLOOR
PAD	PAD ELEVATION
R/W	RIGHT OF WAY
P.L.	PROPERTY LINE
TW	TOP OF WALL
TF	TOP OF FOOTING
N.A.P.	NOT A PART
EX	EXISTING
HT	WALL HIGH
GB	GRADE BREAK
CB	CATCH BASIN
PUE	PUBLIC UTILITY EASEMENT

PROPERTY AREAS

	NET AREA	GROSS AREA
TOTAL	12.629 AC	15.001 AC

PARCEL DATA

PROPOSED PARCELS	NET AREA	GROSS AREA	USE
PARCEL 1	229,639.10 SF 5.272 AC	289,531.68 SF 6.647 AC	COMMERCIAL
PARCEL 2	111,738.23 SF 2.565 AC	121,629.91 SF 2.793 AC	RESIDENTIAL
PARCEL 3	111,382.46 SF 2.557 AC	121,307.66 SF 2.785 AC	RESIDENTIAL
PARCEL 4	97,363.25 SF 2.235 AC	120,960.54 SF 2.777 AC	RESIDENTIAL

UTILITY COMPANIES:

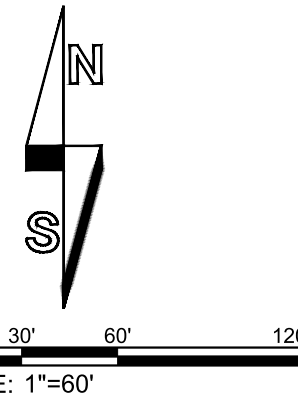
ELECTRICITY
SOCAL EDISON
PHONE 800-655-4555

WATER
JOSHUA BASIN WATER DISTRICT
PHONE 760-366-8438

CABLE TV
FRONTIER CABLE
PHONE 760-921-8101

TRASH
BURRTEC
PHONE 760-365-2015

UNDERGROUND UTILITIES
UNDERGROUND SERVICE ALERT
PHONE 800 227-2600

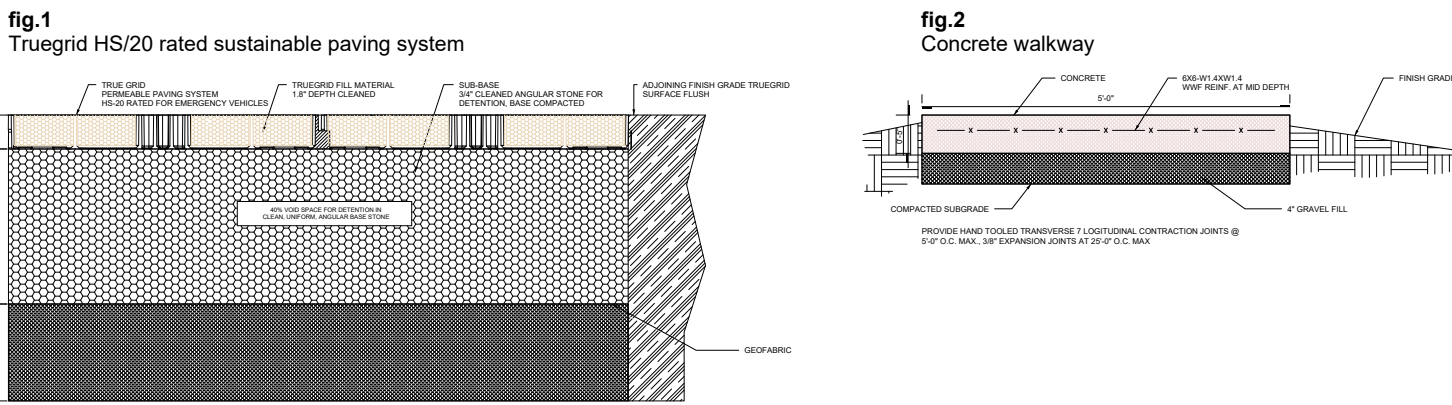
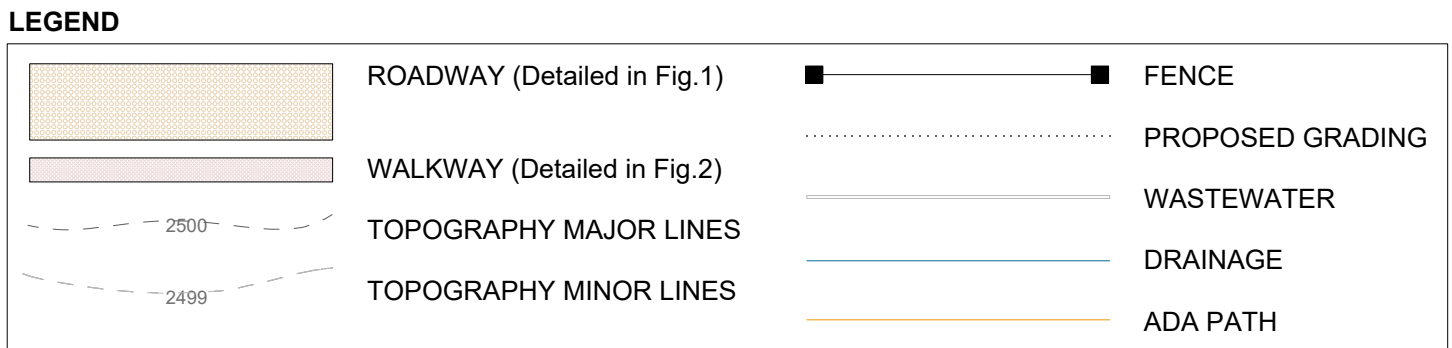
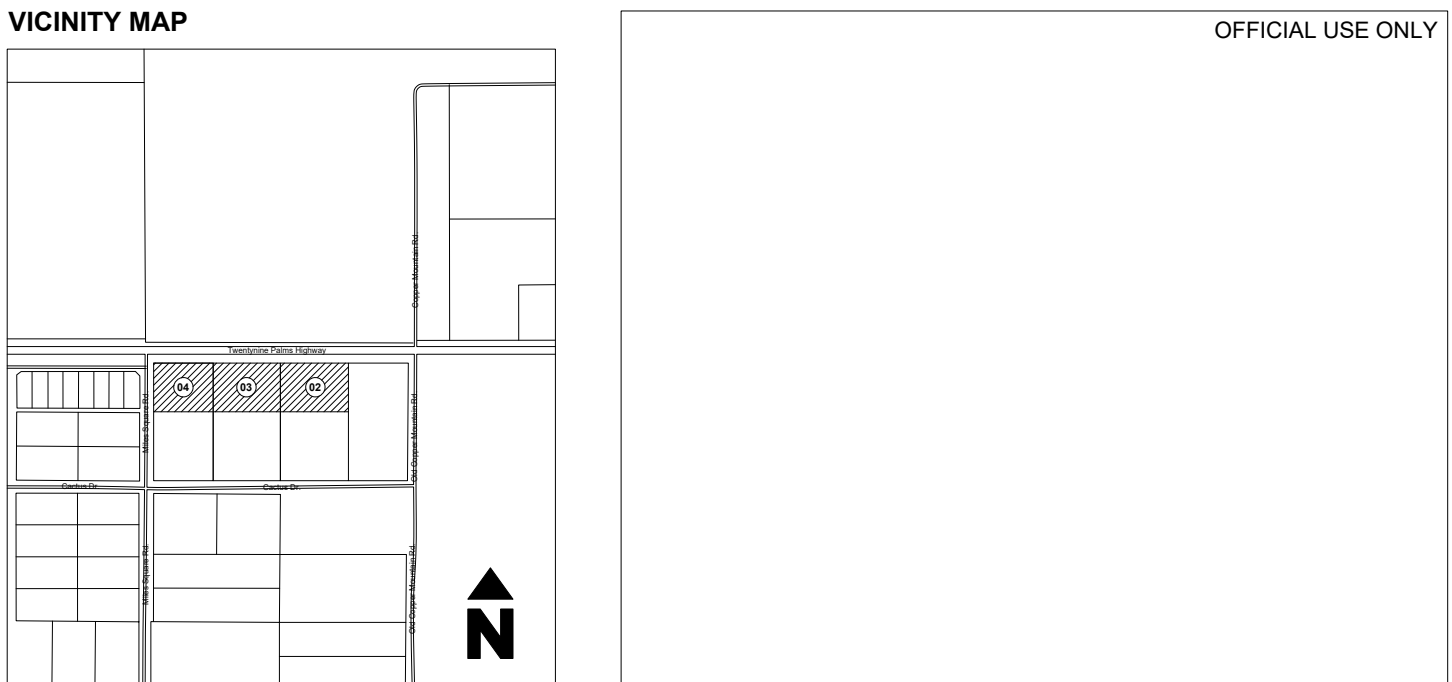
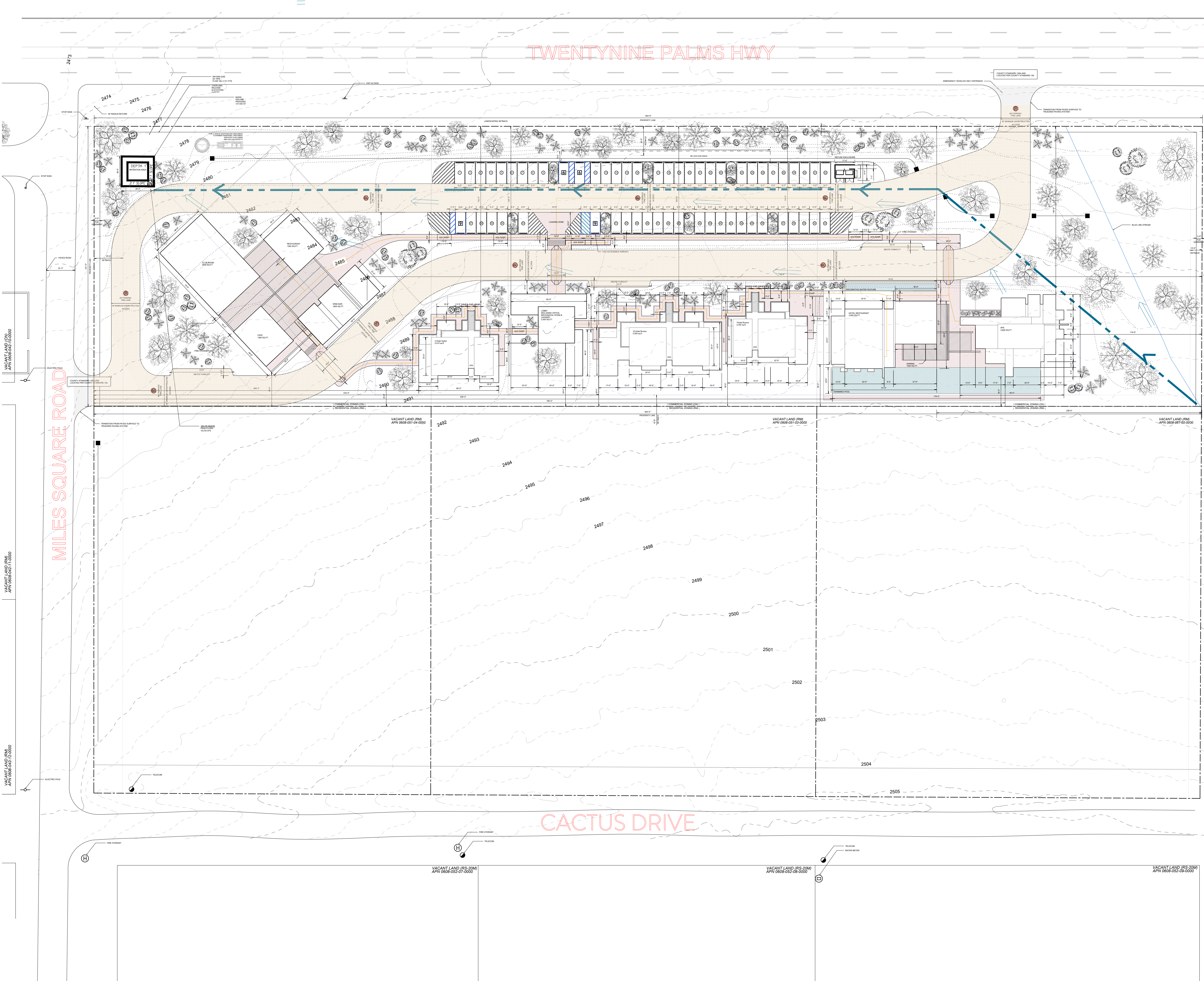


PREPARE BY:

DRP ENTERPRISES LLC
Daniel Patneade
MAILING ADDRESS:
PO Box 4428
Palm Springs, CA 92263
206-734-7765
Joanne C. Singer RCE 26900
760-625-7426



EXHIBIT H



PROJECT SCOPE
CONDITIONAL USE PERMIT

Application for a permit to construct a hotel with accompanying facilities on our property, as described in CHAPTER 810.01 DEFINITIONS of the San Bernardino County code.

Our proposed hotel will consist of a lobby, 17 hotel rooms, and 3 hotel suites. The hotel will also feature a hotel restaurant, meeting facility, fine dining restaurant, wine bar and cafe. Cactus Club is an all inclusive experience and all facilities are exclusively available to guest members of Cactus Club Hotel. All the uses we propose for our hotel are permitted within the zoning of the commercial section of the property per the definition of a hotel.

In exceeding the 10,000 sq.ft. development standard for site plan permit we are applying for a Conditional Use Permit as per the relevant guidelines outlined by San Bernardino County Land Use Services.

In keeping with the intention of California Assembly Bill 661, which seeks to promote sustainable practices in construction and infrastructure development, internal circulation roads and parking will be paved with TrueGrid Plus paving technology. TrueGrid Plus is a sustainable alternative to traditional paving that offers benefits, including improved site drainage, recyclability, and H20/HS20 rating for emergency vehicles. The grid structure of the pavers allows water to permeate through the surface and infiltrate the ground below reducing the risk of flooding and erosion and allowing water to replenish aquifers and support vegetation growth. The pavers are made from 100% post-consumer recycled HDPE plastic. This reduces waste and the need for additional resources to be extracted from the environment.

All walkways will be concrete and will adhere to current ADA standards, allowing full circulation of the property for disabled patrons. Our walkways will follow the same standards set by our neighbor, Copper Mountain college, which provides accessibility via walkway from the parking area to all structures.

LOCATION
ACCESSORS MAP BK. 0608
LOT 04 APN 0608-051-04-0000
LOT 03 APN 0608-051-03-0000
LOT 02 APN 0608-051-02-0000
SAN BERNARDINO COUNTY, CA

ZONING - COMMERCIAL NEIGHBORHOOD
CROSS STREETS - HWY 62 IS ON NORTH BOUNDARY,
CACTUS DRIVE IS ON SOUTH BOUNDARY

LOT AREA - 190,930 SQ. FT.
LAND USE - CN
ZONING - CN

DESIGN AND DRAWINGS
MATTHEW ARCHER STEPHENSON
archer@lamalkal.com
442-205-7932

PROPERTY OWNER - SULLIVAN 80 LLC
ADDRESS: 6 VIA PERGOLA, RANCHO PALO VERDES, CA 90275

UTILITIES
SOCAL EDISON
JOSHUA BASIN WATER DISTRICT
FRONTIER CABLE
BURRTEC

ELECTRIC
WATER
CABLE
TRASH

1 (800) 655-4555
1 (760) 366-8438
1 (800) 921-8101
1 (760)-365-2015

ANALYSIS
Parking Analysis
All on site facilities are for guest use only.

Land Use Requirements	Parking Rate	Bldg.Size/Rate	Required	Provided
Hotel	1/room (20)	-	20	20 (4 ADA)
Hotel Restaurant	8 employees	-	-	8
Hotel Spa	1 employee	-	-	1
Club room	No employees	-	-	-
Wine Bar	2 employees	-	-	2
Cafe	2 employees	-	-	2
Restaurant	5 employees	-	-	5
Guests	-	-	-	20
TOTAL			20	58

Lot Coverage/FAR Analysis				
Land Use Zoning	Proposed Lot Coverage	Lot Size	Max Coverage	Total Coverage
Commercial Neighborhood	26,500 sq.ft.	230,203 sq.ft.	80%	26,500/230,203 =0.16

Floor Are Ratio Analysis				
Land Use Zoning	Floor Area Ratio	Total Building Area	Total Lot Area	Total Coverage
Commercial Neighborhood	25:1	26,500 sq.ft.	230,203 sq.ft.	0.11

NO JOSHUA TREES PRESENT
LANDSCAPED AREA: 35%
68,700 SQ.FT. OF EXISTING PLANTS AND NEW NATIVE VEGETATION

EXHIBIT I



CALIFORNIA HIGHWAY PATROL

601 N 7th St, Sacramento, CA 95811 | 800-735-2929 (TT/TDD) | 800-735-2922 (Voice)

GAVIN NEWSOM, GOVERNOR

CALIFORNIA STATE TRANSPORTATION AGENCY

CHP – Morongo Basin Area
63683 Twentynine Palms Highway
Joshua Tree, CA 92252
(760) 366-3707

October 8, 2025

File No.: 870.16640.16200

San Bernardino County
385 N. Arrowhead Avenue
San Bernardino, Ca 92415

Subject: SCH# 2025090539

The Morongo Basin Area of the California Highway Patrol received the "Notice of Completion and Environmental Document Transmittal," of the environmental document for the proposed Cactus Club Hotel.

The Department's concerns with the potential impact of this project could include; increased traffic congestion, additional enforcement demands, and increased incidents requiring emergency response. This project could have a negative impact on our operations due to the increased traffic congestion, which would necessitate the need for additional traffic control measures to mitigate the potential increase in traffic crashes. We are hopeful construction site operators will diligently establish, monitor, and enforce construction site rules related to vehicle safety as CHP personnel work to ensure compliance with the California Vehicle Code provisions.

If you have any questions regarding these concerns, please contact me at the California Highway Patrol Morongo Basin Area office at (760) 366-3707.

Sincerely,

T. SKINNER, Lieutenant
Commander
Morongo Basin Area

Safety, Service, and Security

CHP 49 (Rev. 2-24) OPI 076

AN INTERNATIONALLY
ACCREDITED AGENCY



EXHIBIT J



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 6, 2025
Sent via email.

Oliver Mujica
Contract Planner III
San Bernardino County
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415
Oliver.Mujica@lus.sbcounty.gov

Dear Oliver Mujica:

CACTUS CLUB HOTEL (PROJECT)
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND)
SCH# 2025090539

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an IS/MND from San Bernardino County for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the state. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Oliver Mujica, Contract Planner III
San Bernardino County
October 6, 2025
Page 2

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Evoque Modern LLC

Objective: The Project will combine three parcels (see 'Location' below for parcels) to create 4 new parcels (Parcel 1, 5.28 acres; Parcel 2, 2.57 acres; Parcel 3, 2.56 acres; and Parcel 4, 2.24 acres) and proposes the development and operation of a two-story hotel with 20 rooms and associated infrastructure on Parcel 1. Parcels 2 and 3 will remain vacant.

Location: The Project is located within the unincorporated community of Joshua Tree at 66121 Twentynine Palms Highway, County Bernardino County, State of California; Assessor's Parcel Number's 0608-051-12, 0608-051-03, 0608-051-04.

Timeframe: Not Specified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist San Bernardino County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

COMMENT #1: Nesting Birds

CDFW appreciates that the MND included a measure for a pre-construction survey for nesting birds (i.e., BIO-2). However, BIO-2 limits pre-construction surveys for nesting birds to the typical bird nesting season (i.e., February to August). CDFW recommends that disturbance to occupied nests of non-migratory passerine birds, migratory birds, and raptors within the Project site and surrounding area be avoided *any time* birds are nesting onsite. This is in consideration that studies have shown that migratory bird species arrive earlier in the season partially in response to higher temperatures influenced by climate change (Usui et. al. 2016). In addition, in response to warming, birds have been reported to breed earlier and CDFW staff have observed that climate

Oliver Mujica, Contract Planner III
 San Bernardino County
 October 6, 2025
 Page 3

change conditions may result in nesting bird season occurring earlier and later in the year than historical nesting season dates.

Further, Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.). Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. As such, CDFW recommends the following revisions (additions are in **bold** and deletions are in ~~strikethrough~~) to BIO-2 for incorporation in the final MND:

Mitigation Measure BIO-2: Nesting Bird Pre-Construction Surveys (Revised)

~~Nesting bird nesting season generally extends from February 1 through September 15 in southern California and specifically, March 15 through August 31 for migratory passerine birds.~~ To avoid impacts to nesting birds (common and special status) ~~during the nesting season,~~ a qualified Avian Biologist will conduct pre-construction Nesting Bird Surveys (NBS) **within 3 days** prior to project-related disturbance ~~to nestable vegetation to identify any active nests.~~ **Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures Surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior (e.g., copulation, carrying of food or nest materials, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction displays, or other behaviors).** If no active nests are found, no further action will be required. If an active nest is found, the biologist will set appropriate no-work buffers around the nest which will be based upon the nesting species, its sensitivity to disturbance, nesting stage, and expected types, intensity, and duration of the disturbance. The nests and buffer zones shall be field-checked ~~weekly~~ **daily** by a qualified biological monitor **and shall not risk failure of the nest to determine the exact location or status and shall make every effort to limit the nest to potential predation as a result of the survey/monitoring efforts (e.g., limit number of surveyors, limit time spent at/near the nest, scan the site for potential nest predators before approaching, immediately depart nest area if indicators of stress or agitation are displayed).** The biologist may choose to **adjust the buffer based on site characteristics, stage of reproduction, and types of Project activities proposed at/near that location.** The approved no-work buffer zone shall be clearly marked in the field, within which no disturbance activity shall commence until the qualified biologist has determined the young birds have successfully fledged and the nest is inactive.

Oliver Mujica, Contract Planner III
 San Bernardino County
 October 6, 2025
 Page 4

COMMENT #2: Fish and Game Code Section 1602 Resources

The MND states that the Project area was surveyed with 100 percent visual coverage and no definable bed and bank was observed on the Project area. CDFW appreciates that the MND surveyed for potential Fish and Game Code section 1602 resources; however, according to the California Natural Diversity Database (CNDDDB) a mapped blue line stream flows through the Project area and several smaller potential Fish and Game Code section 1602 resources are present throughout the Project area that may be impacted by Project activities, such as grading and filling. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. A Lake and Streambed Alteration Agreement is required when a project activity may substantially adversely affect fish and wildlife resources. CDFW strongly recommends the Project Proponent notify CDFW for a Lake or Streambed Alteration Agreement. Thus, CDFW recommends adoption of BIO-4 below in the final MND:

Mitigation Measure BIO-4: Fish and Game Code Section 1602 Resources (New)

Prior to any ground disturbing Project activities, the Project proponent shall notify CDFW pursuant to Fish and Game Code section 1602. If CDFW determines that the Project may substantially affect fish and wildlife resources, then CDFW shall issue a Lake or Streambed Alteration Agreement (Agreement). The Agreement shall include measures to avoid, minimize, and mitigate impacts to Fish and Game Code section 1602 resources.

COMMENT #3: Burrowing Owl (*Athene cunicularia*)

The MND states that the Project area was surveyed on February 2, 2023, and no burrows or suitable habitat was observed on the Project site. The MND's Biological Resource Assessment specifically states, "Based on the February 2023 field survey, the site does not contain suitable habitat for this species. No burrowing owls were observed during the site visit. No portion of the project site showed any evidence of past or present BUOW activity. No suitable burrows, feathers, whitewash, or castings were found. Additionally, the site does not contain a suitable burrow surrogate species (i.e., California ground squirrel (*Otospermophilus beecheyi*)). Consequently, the MND did not propose pre-construction surveys for burrowing owl.

According to CNDDDB, the Project area is within the predicted habitat for burrowing owls. Furthermore, CNDDDB recorded burrowing owl occurrences within 2 miles of the Project

Oliver Mujica, Contract Planner III
 San Bernardino County
 October 6, 2025
 Page 5

area. Since the 2023 biological survey, burrowing owl may have moved into the Project area and impacts to burrowing owl may be significant if full avoidance is not achieved. Impacts to burrowing owl may be significant if burrowing owl and their sign are not properly identified through protocol level surveys prior to construction. Burrowing owls have a high potential to move into suitable habitat prior to and during Project activities.

Burrowing owl is a protected species under CESA. The Project, as described, may result in injury, direct mortality, indirect mortality, disruption of breeding behavior, and/or may reduce reproductive capacity of the species, if it establishes onsite. CDFW considers the direct and indirect take of burrowing owl, and the loss of the species' habitat as a significant impact, unless mitigated to a level of less than significant and in compliance with State (*i.e.*, Fish and Game Code sections 3503.5, *etc.*) and Federal laws (*i.e.*, Migratory Bird Treaty Act). If Project activities could result in take (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill".), appropriate CESA authorization (*i.e.*, Incidental Take Permit under Fish and Game Code section 2081) should be obtained prior to commencement of Project activities. In conclusion, CDFW recommends adoption of BIO-5 below in the final MND to avoid and minimize impacts to burrowing owl that may be present at the time of construction:

Mitigation Measure BIO-5: Burrowing Owl Pre-Construction Surveys (New)

Prior to the initiation of any ground disturbing activity on the Project site, two pre-construction avoidance surveys shall be performed to confirm presence/absence of burrowing owl consistent with the 2012 Staff Report on Burrowing Owl Mitigation². An initial avoidance survey no less than 14 days prior to commencing ground-disturbance activities and a final survey carried out within 24 hours prior to ground disturbance shall be conducted by a qualified Avian Biologist. Should the species be identified on the site through any of the surveys, the Project Proponent shall immediately contact CDFW and fully avoid impacts to burrowing owls. If impacts to burrowing owl cannot be fully avoided, the Project Proponent should obtain a California Endangered Species Act incidental take permit pursuant to Fish and Game Code section 2080.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted

² California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation.

Oliver Mujica, Contract Planner III
San Bernardino County
October 6, 2025
Page 6

online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the draft IS/MND to assist San Bernardino County in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed Emily Leon, Environmental Scientist, at Emily.Leon@wildlife.ca.gov or at (760) 644-5976.

Sincerely,

DocuSigned by:

84FBB8273E4C480...

Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@lci.ca.gov

Gene Jennings, Jennings Environmental LLC
Gene@jennings-environmental.com

Archer Stephenson, Evoque Modern LLC
Cultstudiosla@gmail.com

ATTACHMENT

A. Mitigation and Monitoring Reporting Plan

Oliver Mujica, Contract Planner III
San Bernardino County
October 6, 2025
Page 7

REFERENCES

California Department of Fish and Wildlife (CDFW). 2012. Staff Report on Burrowing Owl Mitigation.

Usui, T., Butchart, S.H.M., and Philmore A.B., (2016). Temporal Shifts and Temperature Sensitivity of Avian Spring Migratory Phenology: A Phylogenetic Meta-analysis. *Journal of Animal Ecology* 86(2): 250-261.

Oliver Mujica, Contract Planner III
 San Bernardino County
 October 6, 2025
 Page 8

Attachment A
Mitigation Monitoring and Reporting Plan

Measure Number	Biological (BIO) Mitigation Measure	Implementation Schedule	Responsible Party
BIO-2	To avoid impacts to nesting birds (common and special status), a qualified Avian Biologist will conduct pre-construction Nesting Bird Surveys (NBS) within 3 days prior to project-related disturbance. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior (e.g., copulation, carrying of food or nest materials, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction displays, or other behaviors). If no active nests are found, no further action will be required. If an active nest is found, the biologist will set appropriate no-work buffers around the nest which will be based upon the nesting species, its sensitivity to disturbance, nesting stage, and expected types, intensity, and duration of the disturbance. The nests and buffer zones shall be field-checked daily by a qualified biological monitor and shall not risk failure of the nest to determine the exact location or status and shall make every effort to limit the nest to potential predation as a result of the survey/monitoring efforts (e.g., limit number of surveyors, limit time spent at/near the nest, scan the site for potential nest predators before approaching, immediately depart nest area if indicators of stress or agitation	Within 3 days of initiation of Project activities	Project Proponent and Qualified Avian Biologist

Oliver Mujica, Contract Planner III
San Bernardino County
October 6, 2025
Page 9

	are displayed). The biologist may choose to adjust the buffer based on site characteristics, stage of reproduction, and types of Project activities proposed at/near that location. The approved no-work buffer zone shall be clearly marked in the field, within which no disturbance activity shall commence until the qualified biologist has determined the young birds have successfully fledged and the nest is inactive.		
BIO-4 (NEW)	Prior to any ground disturbing Project activities, the Project proponent shall notify CDFW pursuant to Fish and Game Code section 1602. If CDFW determines that the Project may substantially affect fish and wildlife resources, then CDFW shall issue a Lake or Streambed Alteration Agreement (Agreement). The Agreement shall include measures to avoid, minimize, and mitigate impacts to Fish and Game Code section 1602 resources.	Prior to the initiation of any ground disturbing activity	Project Proponent
BIO-5 (New)	Prior to the initiation of any ground disturbing activity on the Project site, two pre-construction avoidance surveys shall be performed to confirm presence/absence of burrowing owl consistent with the <i>2012 Staff Report on Burrowing Owl Mitigation</i> . An initial avoidance survey no less than 14 days prior to commencing ground-disturbance activities and a final survey carried out within 24 hours prior to ground disturbance shall be conducted by a qualified Avian Biologist. Should the species be identified on the site through any of the surveys, the Project Proponent shall immediately contact CDFW and fully avoid impacts to burrowing owls. If impacts to burrowing	Prior to the initiation of any ground disturbing activity	Project Proponent and Qualified Avian Biologist

Oliver Mujica, Contract Planner III
San Bernardino County
October 6, 2025
Page 10

	owl cannot be fully avoided, the Project Proponent should obtain a California Endangered Species Act incidental take permit pursuant to Fish and Game Code section 2080.		
--	--	--	--

EXHIBIT K



October 6, 2025

Sent via email

Oliver Mujica, Contract Planner III
County of San Bernardino
Land Use Services Department, Planning Division
385 N. Arrowhead Ave First Floor
San Bernardino, CA 92415-0187
Oliver.Mujica@lus.sbcounty.gov

Re: Comments on Cactus Club Hotel (Project No. PROJ-2023-00061)

Dear Mr. Mujica:

These comments are submitted on behalf of the Center for Biological Diversity (the “Center”) regarding the Cactus Club Hotel (the “Project”). The Center reviewed the Initial Study/Mitigated Negative Declaration (“IS/MND”) and is concerned the IS/MND fails to properly disclose, analyze, and mitigate potentially significant environmental impacts to biological resources, noise, air, traffic, and water quality among other effects. Because the Project may have a significant environmental impact, the Center urges the County to prepare an Environmental Impact Report (“EIR”) to fully analyze and mitigate the Project’s impacts to the County’s water, air, and biological resources. Alternatively, a mitigated negative declaration would only be proper if the initial study is substantially revised to properly disclose, analyze, and mitigate all potentially significant impacts and then recirculated for public comment.

I. The County Must Prepare an Environmental Impact Report.

CEQA was enacted for the state to “take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state” and to “[e]nsure that the long-term protection of the environment . . . shall be the guiding criterion in public decisions.” (Pub. Res. Code § 21001.) The CEQA Guidelines state that “CEQA was intended to be interpreted in such a manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language,” and that “[t]he purpose of CEQA is . . . to compel government at all levels to make decisions with environmental consequences in mind.” (CEQA Guidelines § 15003.) CEQA is an information document and, as such, “requires full environmental

disclosure.” (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 89.)

Only when “there is no substantial evidence in light of the whole record before the public agency that the project . . . may have a significant effect on the environment” may an agency prepare a negative declaration or mitigated negative declaration instead of an EIR. (Pub. Res. Code § 21064.5; *see also id.* §§ 21064, 21080(c).) A mitigated negative declaration is prepared “when the initial study has identified potentially significant effects on the environment, but . . . revisions in the project plans or proposals . . . would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur,” and there is no substantial evidence the project may have a significant effect on the environment. (*Id.* § 21064.5.) If there is substantial evidence that a project may have a significant effect on the environment, the agency must prepare an EIR. (*Id.* § 21080(d).)

If an agency is presented with so much as “a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect.” (CEQA Guidelines § 15064(f)(1); *see also No Oil, Inc. v. Los Angeles* (1974) 13 Cal.3d 68, 75.) The CEQA Guidelines provide guidance for determining if a project’s effects are significant. Such a determination “calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data” and a “consider[ation of] the views held by members of the public in all areas affected.” (CEQA Guidelines § 15064(b)-(c).) The lead agency must consider both direct and indirect physical changes in the environment caused by the project. (*Id.* § 15064(d).)

CEQA also requires consideration of cumulative impacts. An EIR is required “if the cumulative impact may be significant and the project’s incremental effect, though individually limited, is cumulatively considerable . . . when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” (*Id.* § 15064(h)(1).) Cumulatively considerable environmental effects require a mandatory finding of significance. (*Id.* § 15065(a)(3).)

CEQA also has a substantive mandate and requires effective mitigation. “[P]ublic agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” (Pub. Res. Code § 21002.) CEQA requires mitigation measures to be “fully enforceable through permit conditions, agreements, or other measures.” (*See id.* § 21081.6(b); CEQA Guidelines § 15126.4(a)(2).) “Formulation of mitigation measures should not be deferred until some future time.” (See CEQA Guidelines § 15126.4(a)(1)(B).)

When an IS/MND undergoes substantial revisions, it must be recirculated and opened for public comment. (14 Cal. Code Regs §15073.5(a).) A substantial revision occurs in two situations. First, when a new, avoidable significant effect is identified, requiring mitigation measures or project revisions to minimize the potential effects to less than significant. (14 Cal. Code Regs §15073.5(b)(1).) Second, when the lead agency determines proposed mitigation measures or revisions will not reduce potential effects to less than significance, and new measures are required. (14 Cal. Code Regs §15073.5(b)(2).) However, recirculating a MND is not a substitute for preparing an EIR. The California Code of Regulations, section 1573.5(d) makes clear: “If during the negative declaration process there is substantial evidence in light of the whole record, before the lead agency that the project, as revised, may have a significant effect on the environment which cannot be mitigated or avoided, the lead agency shall prepare a draft EIR and certify a final EIR prior to approving the project.” Because there is substantial evidence the project will have a significant effect on numerous environmental resources, preparing an EIR is the appropriate step.

While the Project necessitates preparation of an EIR, in the event the County wants to proceed with a MND, recirculation is required. Because the IS/MND does not address several significant effects and new mitigation measures are required to mitigate these impacts (e.g., vehicle collisions with wildlife, increasing raven populations, creating an artificial water source, among others), the County must at the very least substantially revise the IS/MND. This triggers a requirement for recirculation. (14 Cal. Code Regs §15073.5(a)–(b).)

The Project’s significant impacts on biological resources, water quality, air quality, and traffic are readily apparent given the information in the MND. Any one of these factors alone is sufficient to warrant preparation of an EIR.

II. The IS/MND’s Project Description Is Inadequate.

An accurate, stable, and finite project description remains the *sine qua non* of an informative and legally sufficient EIR. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) MND’s must, at the very least, provide adequate detail “needed for evaluation and review of the environment impact.” (CEQA Guidelines, § 15124). “When an agency fails to provide an accurate project description, the environmental review process is tainted by that informational defect and the adoption of a negative declaration in those circumstances is inappropriate.” (*Tulare Lake Canal Co. v. Stratford Public Utility Dist.* (2023) 92 Cal.App.5th 380, 402.)

Here, the project description lacks clarity and falls fatally short of accurately describing the Project area’s proposed uses for at least three reasons. First, the IS/MND does not provide any estimate of the project’s maximum occupancy. It states the proposed hotel includes twenty

rooms. This provides no insight into the number of guests those rooms can accommodate and what, therefore, the maximum occupancy of the hotel will be.

Second, the IS/MND does not provide any information regarding the anticipated number of employees to be hired once the hotel is operational. Given the hotel's numerous amenities that require staffing, including a laundry, café, restaurant, club room, wine bar, and spa, the number of employees travelling to and using the property could result in a significant environmental impact.

Third, the IS/MND fails to adequately disclose the anticipated number of parking spaces on the property. The project description merely describes a parking lot that will include ADA compliant parking spaces. (IS/MND at 2.) The site plan map appears to show at least 80 parking spaces as well as additional ADA parking spaces. However, this is contradicted by the Appendix E Noise Impact Study, which states the Project will include "36 surrounding parking spaces." (At 1.) As a result, the IS/MND fails to effectively disclose the anticipated number of parking spaces on the project site.

An IS/MND analysis failing to consider maximum occupancy, anticipated parking spaces, and number of employees at a hotel is meaningless since it lacks the necessary data to estimate the daily vehicle trips generated by the hotel and number of people present on the property. Noise, traffic, and emission impacts of the project turns, in large part, on the number of daily guests and employees commuting to the site. Of course, if the Project limited occupancy to one guest per cabin, these impacts would be much less than if the Project allowed six guests per cabin, impacting conclusions regarding noise levels, traffic congestion, and GHG emissions, among others. Further, without this information, analyzing the increased likelihood of vehicle and wildlife collisions on the Twentynine Palms Highway is similarly frustrated. Adding to the informational defects, based on the site map (*see* IS/MND at 11) vehicles entering the project site will enter or exit directly onto the Twentynine Palms Highway, creating a safety hazard for the public and wildlife. The inadequate project description in the IS/MND leaves these potentially significant environmental impacts undisclosed, analyzed, or mitigated.

Thus, the project description critically failed to include key points of information. Because the IS/MND omits this fundamental information, the County cannot adequately assess the Project's impacts on biological resources, noise, traffic, emissions, vehicular collisions, and highway safety in violation of CEQA. Such information is essential to, and improperly precluded, informed decision-making about the Project's effects and concomitant consideration of mitigation measures. (*See Cleveland National Forest Found. v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 515) ("An adequate description of adverse environmental effects is necessary to inform the critical discussion of mitigation measures[.]").) Collectively, the failure to include these three key points of information in the project description

fundamentally obscures the anticipated vehicular and foot traffic into and on the property. Without this information, it is impossible to render a meaningful analysis of the concomitant and potentially significant environmental impacts of the project. These informational defects undermine the environmental review process and render the MND inappropriate. (*Tulare Lake, supra*, 92 Cal.App.5th at 402.)

III. The County May Not Segment the Environmental Impacts of the Project.

The CEQA Guidelines define a “project” as “the *whole of an action*, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (Cal. Code Regs. 14 § 15378(a) (emphasis added).) Importantly, the term refers to the activity for which approval is sought—not to each discrete governmental approval that may be required for that activity along the way. (*Id.* § 15378(c).)

In assessing whether a project may have a significant effect on the environment, an initial study must consider all phases of project planning, implementation, and operation. (Cal. Code Regs. 14 § 15063(a)(1).) A lead agency may not limit environmental review by ignoring the development or other activity that will ultimately result from an initial approval. (*See City of Antioch v. City Council* (1986) 187 CA3d 1325.) An initial study that fails to accurately describe the full scope of the project—including foreseeable outcomes stemming from initial discretionary actions—is legally deficient. As courts have emphasized, “[a] correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA.” (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267.)

Case law unequivocally holds that “CEQA forbids ‘piecemeal’ review of the significant environmental impacts of a project.” (*Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm’rs* (2001) 91 Cal. App. 4th 1344, 1358; *see also* Cal. Pub. Res. Code § 21002.1(d) (requiring the lead agency to consider “the effects, both individual and collective, of all activities involved in a project”).) Thus, “CEQA mandates that environmental considerations do not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences.” (*Communities for a Better Env’t v. City of Richmond* (2010) 184 Cal. App. 4th 70, 98; *see also* *Ass’n for a Cleaner Env’t v. Yosemite Cmty. Coll. Dist.* (2004) 116 Cal. App. 4th 629, 638 (“the requirements of CEQA cannot be avoided by chopping up proposed projects into bite-sized pieces which, when taken individually, may have no significant adverse effect on the environment” (cleaned up)).) This is consistent with CEQA Guidelines, which adopts a broad definition of the term “project” to include “the whole of an action” (Cal. Code Regs. 14 § 15378.)

Impermissible “segmenting” or “piecemealing” occurs when: (1) the second activity is a reasonably foreseeable consequence of the first activity; (2) the second activity is a future expansion of the first activity that will change the scope of the first activity’s impacts; or (3) both activities are integral parts of the same project. (*Sierra Club v. West Side Irrigation Dist.* (2005) 128 Cal.App.4th 690, 698–699.)

Here, the project description notes that three existing parcels would be combined to create four new parcels (Parcel 1, 5.28 acres; Parcel 2, 2.57 acres; Parcel 3, 2.56 acres; and Parcel 4, 2.24 acres) totaling 12.65 acres. (IS/MND at 1.) Notably, all the disclosed development would take place exclusively on Parcel 1, with the remaining Parcels 2, 3, and 4, totaling 7.37 acres, to “remain vacant.” (IS/MND at 2.) It is unclear why these Parcels are left vacant and if they are to remain vacant indefinitely. This information is vital to determine whether the Project is improperly segmenting environmental review, resulting in a minimized and ineffectual analysis of the Project’s environmental impacts. Any anticipated use or development of the Parcels, including the creation of walking paths for guests, further parking spaces, or expanded hotel operations, would need to be disclosed and analyzed under CEQA since it falls under the definition of “Project.” (*See* Cal. Code Regs. 14 §15378.) If these impacts are found to be significant, they must be mitigated to the extent feasible. (*See* Pub. Res. Code § 21002.)

Therefore, a CEQA compliant disclosure and analysis of the environmental impacts of the Project turns on the anticipated uses of Parcels 2, 3, and 4. These Parcels constitute more than half of the total acreage on the property and their uses in connection with the disclosed plans for development fall into the definition of a “project.” (Cal. Code Regs. 14 §15378.) Further, their modification could have a significant environmental impact, especially when considered in conjunction with the environmental impacts of the disclosed plans for development. Accordingly, more information regarding their future uses must be shared with the public.

IV. The IS/MND Failed to Adequately Assess & Mitigate Numerous Impacts.

The IS/MND lacks adequate detail in the description and analysis of the Project’s myriad impacts. Pursuant to CEQA Guidelines section 15063(c), the purpose of an Initial Study is to provide a preliminary analysis of a proposed action to determine whether to prepare a Negative Declaration or an EIR. The Initial Study provides a factual basis for the Negative Declaration or serves to focus an EIR on the significant effects of a project. (*See* Guidelines §§ 15063, 15070; *see also Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270.) Courts have consistently held that when an agency fails “to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate.” (*Nelson, supra*, 190 Cal.App.4th at 270.) “The scope of the environmental review conducted for the initial study must include the entire project.” (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1222.)

The subsequent sections highlight the MND's shortcomings, supporting a fair argument that the Project may significantly affect the environment. Accordingly, the County must prepare an EIR. (CEQA Guidelines § 15064(f)(1); *see also No Oil, Inc. v. Los Angeles* (1974) 13 Cal.3d 68, 75.)

A. The IS/MND Lacks Adequate Analysis of & Mitigation for the Project's Impacts to Biological Resources.

The IS/MND lacks adequate detail in the description and analysis of special-status species that occur, have the potential to occur, or have historically occurred in and near the Project area. As the following examples demonstrate, there is ample information supporting a fair argument that the project may have significant effects on the environment. Accordingly, the County must prepare an EIR. (CEQA Guidelines § 15064(f)(1); *see also No Oil, Inc. v. Los Angeles* (1974) 13 Cal.3d 68, 75.)

1. The IS/MND Makes Contradictory Statements Regarding Biological Resource Impacts.

The IS/MND fails to provide an adequate factual basis for concluding that no significant adverse impacts to biological resources are identified or anticipated with the implementation of mitigation measures. This is partially due to several, significant contradictions contained within IS/MND.

First, the IS/MND minimizes the Site's suitability for special status species. This is most glaring in the IS/MND's analysis of possible impacts to desert tortoises. Despite acknowledging that the species "is typically found in creosote bush scrub" and "on level or sloped ground where the substrate is firm but not too rocky" and including site photographs that clearly show all these features are present (creosote bush scrub, level ground that is firm and not very rocky), the IS/MND inexplicably concludes the site is only "marginally suitable" for the species. (IS/MND at 31–32.)

Second, the IS/MND erroneously states "the site does not contain any burrows for any small mammals." (IS/MND, Appendix B: Biological Resources Assessment, at 10.) Yet, a small mammal burrow is observable in the lower left corner of Site Photo 3. (IS/MND Appendix B: Biological Resources Assessment at 10.) Additionally, rodent burrows are clearly observable on the Project site from the road. (*See Exhibit 1.*) The IS/MND's error is even more inexplicable given the ubiquitousness of burrowing rodents across almost all sections of the high desert. This oversight is particularly significant because the presence of small mammals, such as rodents, tends to show the Project site is suitable not only for them, but also species that prey on small

mammals like burrowing owls, desert kit foxes, and American badgers, among others. It further calls into question the credibility of the entire biological reconnaissance survey with many of its conclusions based on the alleged absence of animal burrows.

Third, the IS/MND makes contradicting statements about the presence of Joshua Trees on the Project site. The Paleontological Assessment states: “The existing vegetation on the property includes creosote bush, *Joshua tree*, foxtail, several varieties of chollas, and other small desert grasses and shrubs.” (IS/MND Appendix F: Paleontological Assessment at 8 (*emphasis added*).) Yet, the Biological Assessment makes no mention of Joshua Trees. This contradiction is significant because Western Joshua Trees are protected under the Western Joshua Tree Conservation Act, with interim protections under the California Endangered Species Act, and would therefore result in a potentially significant environmental impact if affected.

Relatedly, the limited biological survey conducted for the initial study is inadequate to disclose possible environmental impacts to biological resources, and therefore makes analysis and mitigation an impossibility under the current IS/MND. The fact that evidence of special status species was not directly observed on the site is hardly surprising given that the reconnaissance survey was conducted during a single morning in February 2023. That survey covered 5.28 acres of land, or approximately four football fields, in a mere one-hour and thirty-five minutes. This superficial snapshot of the Project Site could not possibly account for shy, seasonal, and nocturnal animals, let alone provide ample opportunity to observe the numerous species that transiently move through or use the property for hunting, shelter, or forage.

To illustrate, the IS/MND explicitly states that the burrowing owl is typically observed in twilight or the early morning. (IS/MND at 31.) This makes their observation highly unlikely during the narrow window between 09:55 and 11:30, when the biological survey was conducted. Further, given that Mohave desert tortoises hibernate throughout most the year and emerge only in March or later, and usually after rains, their observation during a dry, February morning was similarly unlikely. (*See San Bernadino County, 2025.*) With readily available technology such as trap cameras, there is no justifiable reason for the IS/MND’s omission of more thorough biological data.

Both the contradictions within the IS/MND and the limited survey the Biological Assessment is based on makes proper disclosure, analysis, and mitigation as required under CEQA impossible.

2. The IS/MND & Biological Resource Assessment Lacks Adequate Descriptions of Potentially Present Special-Status Species in or Near the Project Site.

Beyond contradicting itself, the IS/MND and biological resources assessment gloss over potential impacts to special-status species in and around the Project site. CEQA Guidelines plainly state that a Project can be expected to have significant impacts to biological resources if the Project has a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. (CEQA Guidelines, Appendix G, subd. IV(a); *see also* CEQA Guidelines § 15065(a)(1) (when performing an initial study, agencies shall make a mandatory finding of significance where a proposed project has the potential to substantially reduce the number or restrict the range of a listed species), California Fish and Game Code § 2085 (CESA candidate species treated like threatened or endangered species).) As demonstrated below, there are multiple deficiencies with the MND’s analysis of the many special-status species that may occur on or utilize the Project area.

a. Mojave Desert Tortoise

i. Desert Tortoises Face Significant Threats to Their Survival.

The Mojave Desert Tortoise is listed as threatened under the Endangered Species Act and Endangered under California Endangered Species Act (“CESA”). (55 Fed. Reg. 12178 12191, 14 CCR § 670.5.) Importantly, on June 13, 2025, the California Fish and Game Commission proposed changing the regulatory language implementing CESA to uplist the Mojave Desert Tortoise from threatened to endangered. (CFGC, 2025.) The tortoise has been the official State Reptile since 1972. (Assembly Bill 1089, Chapter 683, 1972.) Consequently, the Project’s impacts to desert tortoises must be considered significant, fully evaluated, and disclosed to the public. (*Nelson v. Cnty. of Kern* (2010) 190 Cal.App.4th 252, 284 (information before County showing that mining exploration project could significantly impact plant and animal life in the area meets the fair argument test to require preparation of an EIR).)

Desert tortoises face numerous threats to their continued existence, as evidenced by the California Fish and Game Commission’s decision to uplist the species to endangered earlier this year. (CFGC, 2025.) This decision noted that survival of the species is threatened by habitat destruction, predation, climate change, vehicle strikes, fencing, fire, as well as impacts from other species. (CFGC, 2025, 5–6.) Raven predation, habitat destruction, reduced habitat connectivity, and vehicle strikes are particularly relevant to the likely environmental impacts of the Project.

Raven populations dramatically increased in the desert over the last 25 years due to anthropogenic subsidization, resulting in increasingly disproportionate juvenile tortoise predation. (USFWS, 2022, at 22.) During the first 5–7 years of life, a tortoise’s shell is soft and easy to puncture due to incomplete ossification. This makes juvenile tortoises vulnerable to

predation by ravens. (Boarman, 2002, at 51.) Studies show that ravens actively prey on, rather than merely scavenge, juvenile tortoises throughout the Mojave Desert. (Boarman, 2002, at 52–53.) Indeed, recordings of intense predation incidents “suggest predation comes to the forefront as a management concern, especially where landscapes have been altered and intensive human use occurs or in times of extreme drought.” (USFWS, 2022, at 22.) Ordinarily, predation by native species alone would not threaten the species’ survival. However, “predation pressure by ravens is increased through elevated raven populations as a result of resource subsidies associated with human activities” such as trash, artificial water sources, and nesting opportunities from human made structures. (USFWS, 2011, at 17.) The consequences are significant with raven populations increasing by 1,500% in the Mojave Desert over just two decades. (U.C. Davis Wildlife Health Center, 2005, at 105.) Even temporary construction activities increase raven density through augmented food and water. (Boarman, 2002, at 13.) Research shows no increase in the proportion of juveniles in any turtle conservation area, even with steep declines in adult numbers. (Allison & McLuckie, 2018, at 443.) This is likely due to intense raven predation. Thus, development in desert tortoise habitat with the potential to increase raven predation would need to be full discussed in an EIR, and mitigated where feasible, due to its potential impacts on desert tortoise recovery.

Additionally, habitat destruction and reduced habitat connectivity is one of the greatest threats facing the desert tortoise. Desert tortoises “do not coexist well with human development and disturbances.” (USFWS, 2022.) Many of the activities first identified as destroying desert tortoise habitat have continued to impact the species. (*Id.*) In addition, energy development projects have increased. (*Id.*) This further causes habitat loss, fragmentation of populations, and damage to soil and vegetation. (*Id.*)

Fatal vehicle collisions are another significant cause of death for desert tortoises. One study reported a total of 115 tortoise carcasses along less than 29km of highway in the West Mohave. (Boarman, 2002, at 54.) While trafficked roads directly cause desert tortoise mortalities through collisions, they also indirectly impact the long-term persistence of local populations by fragmenting populations farther away from roads. (Averill-Murray et al., 2021, at 2.)

Many of these threats will be exacerbated by the Project, negatively impacting the survival of desert tortoises. Numerous individuals are recorded in the vicinity of the project site, demonstrating the Project has strong likelihood of impacting the species. (iNaturalist 2017; iNaturalist 2019; iNaturalist 2022; iNaturalist 2024.) These impacts must be disclosed and analyzed in an EIR. Once properly analyzed, if the impacts are found to be significant, they must be mitigated to the extent feasible.

ii. The Analysis of the Project’s Potential Impacts to Desert Tortoises & Proposed Mitigation Measures are Wholly Inadequate.

There is ample evidence suggesting desert tortoise use habitat immediately adjacent to all sides of the project area. According to iNaturalist, hundreds of research grade observations have been made in the area with multiple recorded within two miles of the Project site (iNaturalist 2017; iNaturalist 2019; iNaturalist 2022; iNaturalist 2024.) Since the Project occurs within the range of desert tortoises, and multiple research grade sightings are recorded near the site, the Project will likely directly and indirectly impact tortoises. (See iNaturalist 2017; iNaturalist 2019; iNaturalist 2022; iNaturalist 2024.) Yet, despite the overwhelming peril facing desert tortoises, the strong likelihood individuals use or transit through the Project site, and the numerous impacts the Project could have on the species, the IS/MND fails to identify the potential impacts and propose appropriate mitigation measures.

The sole mitigation measure included in the IS/MND describes the site as only “marginally suitable” for the species and simply proposes pre-construction surveys as a suitable mitigation measure. (IS/MND at 31.) This is inadequate. As previously discussed, sightings on iNaturalist show desert tortoises use the land on all sides of the project site, however, a short survey conducted does not provide the opportunity necessary to observe how the species uses the site. The MM BIO-1 proceeds to say such surveys “*should* be conducted by a qualified biologist and at an appropriate time of day/year to observe signs of desert tortoise using the 2018 Desert Tortoise Survey Protocol from the USFWS.” (IS/MND, 31 (*emphasis added*).) At a bare minimum, the mitigation measure must *require*, not suggest this. Thus, the language “*should* be conducted” requires changing to “*must* be conducted by a qualified biologist and at an appropriate time of day/year to observe signs of desert tortoise using the 2018 Desert Tortoise Survey Protocol from the USFWS.” This ensures a protocol level survey, and is necessary to establish an adequate baseline. More detail is also required to address what will happen if a tortoise or burrow is observed on site to ensure the mitigation measures fully address this likely disturbance to the species.

The IS/MND also fails to address and mitigate several substantial impacts to desert tortoises. Significantly, the Project could augment food and water sources for ravens, increasing raven populations and tortoise predation. This constitutes a significant environmental impact. (CEQA Guidelines, Appendix G, subd. IV(a); see also CEQA Guidelines § 15065(a)(1) (when performing an initial study, agencies shall make a mandatory finding of significance where a proposed project has the potential to substantially reduce the number or restrict the range of a listed species).) Several sources of food opportunity will be created by the development. For example, the Project proposes a trash enclosure, but there is no discussion or information about whether this trash area will be raven proof. (See IS/MND Figure 3 – Site Plan at 11.)

Additionally, guests, by purchasing food on Site or bringing their own food onto the Site, will likely create scavaging opportunities for ravens. No measures regarding the operation of the café and restaurant or litter policies for guests are discussed in the IS/MND to ensure the Project

doesn't provide resource subsidies to ravens. Indeed, ravens and their possible impacts on wildlife and the ecosystem are wholly omitted from the IS. The increased traffic from future hotel occupants or residents may also increase road-killed carcasses, which further attracts predators known to kill tortoises and allows predator populations to flourish. (CDFW, 2024.) Finally, as discussed more in depth below, an onsite retention basin is proposed to mitigate additional runoff created by the project. (See IS/MND at 57; Retention Basin proposed Appendix D – Drainage Study at 6.) Such basins, when filled, are exactly the kind of artificial water sources facilitating the raven population explosion in the desert, with disastrous consequences for desert tortoises. (See USFW, 2022, at 22.) Yet discussions of these environmental impacts are absent from the IS/MND.

The IS/MND does not clarify whether the property will be fenced. This is particularly problematic because both fencing the area and failing to fence the area could result in environmental impacts which must be mitigated where feasible. If the area is fenced, desert tortoises that would have otherwise browsed and moved through the Project Site will be forced by a manmade barrier to circumvent the hotel. This will force them onto the Twentynine Palms Highway or Cactus Drive, increasing the chances of vehicle collisions. Without a fence in place, tortoises that wander onto the property may be unlawfully handled, or taken captive by hotel occupants. (See Boarman, 2002, at 21.) Relatedly, the increased human presence on the Project site could repel desert tortoises from the habitat, risking further habitat fragmentation.

Because the project will alter desert tortoise habitat, increase risks of vehicle collisions, and possibly impede movement of tortoises, the Project's impacts must be thoroughly analyzed and mitigated where feasible. Proper assessment and mitigation are especially crucial, considering the Project borders the Western Mojave Recovery Unit and Colorado Desert Recovery Unit populations, where populations declined by 17% and 54% respectively between 2001 to 2020. (CDFW, 2024)

Due to this alarming and rapid population decrease, particular effort must be taken to fully analyze and mitigate any potential impacts to this highly sensitive species.

b. Burrowing Owl

i. Western Burrowing Owls Face Significant Threats to Their Long-Term Survival in the Mojave Desert Region.

The Project site is located within the range of the Western Burrowing Owl, a small ground-nesting bird of prairie and grassland habitats, with interim protections as a candidate species under CESA. (CFGC, 2024.) Historically, the species was found broadly across California in wide lowland valley bottoms, flat coastal lowlands, and interior deserts. However, burrowing owls have been eliminated or nearly wiped out as a breeding species from about one-third of their former California range (DeSante & Ruhlen, 1995; Barclay, 1999; Center for

Biological Diversity, et al. Listing Petition, 2024), currently remaining most abundant in the Imperial Valley and parts of the Central Valley. (DeSante & Ruhlen, 1995.) On October 10, 2024, CDFW advanced the western burrowing owl to candidacy under CESA, protecting these owls from harm during the ongoing review process. (CFGC, 2024.) Consequently, the Project's impacts to western burrowing owls must be considered significant, fully evaluated, and disclosed to the public.

The factors affecting California's burrowing owls today include loss of nesting and foraging habitat to urbanization; nest destruction during urban development and agricultural activities by surface disturbances such as disking, blading, grading, and over covering. (Rosenberg et al., 1998a; Desmond et al., 2000; Haug and Oliphant, 1987; Haug et al., 1993); pesticide use (Rosenberg and Haley, 2003; James et al., 1990; Baril, 1993; Hjertaas, 1997; Sheffield, 1997b); burrowing rodent elimination (Anderson et al., 2001; Gordon, 1996); attempted relocation to accommodate urban development, which rarely results in successful breeding and forces remaining owls onto smaller patches of habitat (Trulio, 1997; Delevoryas, 1997; Harris, 1987); predation of young birds by non-native species (Green & Anthony, 1989); and mortality due to vehicle collisions and other anthropogenic causes. Protecting burrowing owls and their habitat from continued destruction and habitat loss is therefore of utmost importance to the species' persistence in California.

Unlike other areas of the species' range, breeding burrowing owls were historically uncommon in the southern desert ranges. Today relatively large populations nest in agricultural areas in the Palo Verde Valley and Mojave Desert. However, these populations are now threatened by expanding urban development and large-scale solar development. (Center for Biological Diversity et al., Listing Petition, 2024.) Burrowing owl habitat is shrinking at an alarming rate as the communities surrounding the Project area, including Twentynine Palms, Joshua Tree, and Yucca Valley intensify development. This proposed Project will continue to degrade and eliminate habitat for the burrowing owl in this region.

ii. Analysis of the Project's Potential Impacts to Burrowing Owls & Proposed Mitigation Measures Are Wholly Inadequate.

The IS/MND failed to properly analyze the potential impacts to burrowing owls by relying on a facially flawed biological survey of the Project site. The biological survey cannot support a CEQA compliant disclosure and mitigation analysis for possible effects to burrowing owls because the data set is fatally small, defies logic, and is plainly inaccurate. The IS states that the Project Site "does not contain suitable habitat for this species," noting that no evidence of burrowing owls was observed (including burrows and feathers) and that the site does not contain a suitable burrow surrogate species such as ground squirrels. (IS/MND at 32.) It concludes that

burrowing owls are “considered absent from the Project site and no further surveys are required.” (IS/MND at 32.)

However, as previously noted, the biological survey was conducted during a single morning over two years ago, lasting one hour and fifty-five minutes. Moreover, this window occurred between 9:55 and 11:00am, a time which by the initial study’s own admission is when burrowing owls are least likely to be directly observed on the project site. (*See* IS/MND at 31 (noting that burrowing owls are typically observed in twilight or the early morning).) Over five acres was examined in less than two hours, likely leading to oversights of past and present burrowing owl activity. For example, the failure to identify a rodent burrow visible in one of the site photographs reiterates the unreliability of the survey.

Additionally, a sighting of a burrowing owl approximately five and a half miles from the Project Site demonstrates its suitability for the species, contrary to the IS’s assertion. In July, a research grade observation of a burrowing owl was made on Indian Cove Road. (iNaturalist 2025.) This observation shows a burrowing owl in a landscape with virtually identical features to that of the Project site, which is unsurprising given its proximity. (iNaturalist 2025.) This underscores the need for an adequate biological survey with a reliable data set and accurate observations to properly understand the potential environmental impacts the Project will have on burrowing owls.

c. Desert Kit Foxes

The desert kit fox is designated as a species of local concern by Los Angeles County. (IS/MND at 32.) Desert kit foxes are threatened by habitat loss, habitat fragmentation, rodenticides, disease, and competition from coyotes, bobcats, and domestic dogs. (CDFW 2025.) The species inhabits arid desert habitats including creosote scrub, preying on rodents, rabbits, insects, reptiles, and birds. (IS/MND at 32.) Desert kit foxes shelter and pup in sandy or loamy soil burrows. (IS/MND at 32.) Despite the apparent suitable habitat on the Project Site, including creosote scrub, sandy soil, and evidence of rodent populations, the IS/MND concludes that “the site is not suitable for this species.” (IS/MND at 32.) This conclusion is based on observations in the biological resources survey which, for reasons previously noted, is inadequate. Additionally, a 2024 research grade desert kit fox sighting in the area further underscores the suitability of habitat on the Project Site. (iNaturalist, 2024.) The brief survey conducted over two years ago does not credibly address the likelihood of impacts to desert foxes and a more thorough survey must be conducted to analyze and mitigate any likely impacts to the species.

Numerous significant effects from the project will likely impact desert kit foxes. The project not only degrades and fragments habitat by developing and paving over creosote scrub and rodent burrows, but also increases the chance of human wildlife conflict. The California

Department of Fish and Wildlife notes that because of their intelligence and curiosity, kit foxes are at risk of food conditioning and habituation. (CDFW 2025.) All trash must be stored in wildlife resistant bins to prevent this. (CDFW 2025.) Although the Project will store all trash on site, whether or how these facilities will be made wildlife proof is not addressed in a mitigation measure. (IS/MND at 11.) The IS/MND also does not discuss other feasible mitigation measures, such as hotel policies that strictly prohibit guests from feeding wildlife. Relatedly, desert kit foxes will be attracted to the retention basin when it fills with water. The California Department of Fish and Wildlife recommends retrofitting ponds with escape ramps to prevent foxes from getting trapped. (CDFW 2025; *see also* iNaturalist 2024 (showing a kit fox located at an artificial watering site).) Yet, the environmental impacts of a retention basin, let alone mitigation measures, are wholly omitted from the IS/MND. Finally, since the Site has evidence of rodent burrows, any population of rodents will likely increase with development and associated food opportunities. If any rodenticides are used, this would certainly result in knock-on environmental impacts for predators like kit foxes. (Nogerie et al. 2015.) These potential effects are significant and must be analyzed and, where feasible, mitigated in an EIR.

d. American Badger

American badgers are designated as a Species of Special Concern by the California Department of Fish and Wildlife. Consequently, the Project's potential impacts to American badgers must be properly disclosed and analyzed. The IS/MND fails to do so.

The Project is located in suitable habitat for the species. Badgers eat fossorial rodents, select reptiles, insects, worms, eggs, and carrion. (CDFW 1990.) They live in burrows, preferring friable soil, and may reuse old burrows or dig new dens each night. (CDFW 1990.) Since the Project site has evidence of fossorial rodents which the IS/MND failed to notice, and given the dry soil on the site is amenable to badger burrows, a new biological survey must be conducted to create an adequate baseline for analyzing the Project's possible impact to this species. Additionally, a research grade badger sighting was observed less than four miles away from the Project site in 2023, illustrating the suitability of habitat for American badgers. (iNaturalist 2023.) Yet, the IS/MND once again concludes "[t]he site is not suitable for this species" because it was not directly observed and no evidence of the species was observed during the biological survey. (IS/MND at 32–33.) However, for the reasons already stated, the brief, two-year-old biological survey does not provide adequate data for assessing the likely occurrence of American badgers on the Project Site. This is particularly true because American badgers can dig dens each night, and therefore even if they were absent on the morning of the biological survey, they easily could have since moved onto the site in search of prey. (See CDFW 1990.)

d. Migratory Birds

The IS/MND also fails to adequately assess and mitigate the Project's impacts on migratory birds, which face numerous threats. Collisions with buildings are one of the primary sources of mortality for birds. (Basilio et al., 2020; Klem, 2009.) Recent studies show birds are experiencing significant declines, with estimates indicating losses of up to three billion birds in the past half-century. (Rosenberg et al., 2019.)

The IS/MND recognizes habitat within and around the Project site is suitable for nesting birds. MM BIO-2 attempts to mitigate the Project's impacts by proposing a qualified Avian Biologist conduct pre-construction surveys and create no work buffers around any active nests. (IS/MND at 33.) However, this fails to disclose, analyze, and mitigate numerous other impacts to migratory birds. For example, whether the multiple proposed buildings on the Project Site will increase bird collisions with buildings, or whether any likely species of nesting birds are particularly sensitive to sound disturbances. The no work buffer zones will do nothing to mitigate these potentially significant impacts to migratory birds and further analysis is required.

e. Joshua Trees

Western Joshua trees are an iconic symbol of the desert that hold immense ecological and cultural significance. Increasing development, climate change, drought, wildfires, invasive species, and other threats are causing ongoing reductions in western Joshua trees and western Joshua tree habitat range wide. (DeFalco et al., 2010; Harrower & Gilbert, 2018.) Climate change represents the single greatest threat to the continued existence of western Joshua trees. Even under the most optimistic climate scenarios, western Joshua trees will be eliminated from significant portions of their range by the end of the century. (Dole et al., 2003; Cole et al., 2011; Sweet et al., 2019.)

The species became formally protected with the enactment of the 2023 Western Joshua Tree Conservation Act. (Cal. Fish & Game Code § 1927 *et seq.*) The Act prohibits the import, export, take, possession, purchase, or sale of any Western Joshua tree in California. (Cal. Fish & Game Code § 1927.2.) Additionally, Western Joshua Trees are protected as a candidate species under the California Endangered Species Act. (*See* CFGC (2020); Cal. Fish & Game Code § 2068.) Any take of Western Joshua trees must comply with the permitting scheme established by the California Fish and Game Code. (*See* Cal. Fish & Game Code § 1927.3(a).)

Because the IS/MND inexplicably contradicts itself regarding whether Joshua Trees are present on site and no mitigation measures for possible take of the species is discussed, further biological surveys are required. (*Compare* IS/MND Appendix F: Paleontological Assessment *with* Appendix B: Biological Resources Assessment.) If any Joshua Tree is present on the Project site, the County must analyze potential impacts to the Western Joshua tree, its habitat, including habitat connectivity, and develop plans to avoid and minimize impacts to each potentially

impacted western Joshua tree “to the maximum extent practicable.” (See Cal. Fish & Game Code § 1927.3(a)(2).)

3. The IS/MND Fails to Adequately Assess the Project’s Impacts on Wildlife Connectivity.

The IS/MND dismisses and downplays the Project’s potential impacts on wildlife connectivity. It notes that the Project Site is not highlighted as an area under the California Essential Habitat Connectivity Project or within a Habitat Conservation Plan, and on this basis dismisses any potential impacts to “current wildlife corridors or habitat conservation plans.” (IS/MND at 34.) This misconstrues the analysis required for Biological Resources under CEQA. Instead, the IS must analyze whether the Project will “[i]nterfere 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.” (*Id.* (emphasis added).) The fact the site is not located in a designated area for wildlife movement does not permit the wholesale disregard of the Project’s impacts to wildlife connectivity. Indeed, the California Essential Habitat Connectivity Project map explicitly states:

The purpose of the map is to focus attention on large areas important to maintaining ecological integrity at the broadest scale. *Natural areas excluded from this broad-brush Essential Connectivity Network can therefore not be “written off” as unimportant to connectivity conservation* or to sustaining Californias natural heritage. (CDFW Open Data Portal (emphasis added).)

Moreover, according to the map, the Project Site is located directly in the middle of the largest Essential Connectivity Areas identified in the State of California. (CDFW Open Data Portal.) Naturally, inhibiting wildlife movement between these all-important areas constitutes a significant impact on wildlife connectivity.

The observation that the Project is not in a wildlife corridor or habitat conservation plan is therefore only the beginning of the required analysis, not the end. Writing off the Project Site’s impacts to connectivity simply because it is not designated as a special area for connectivity goes directly against the information included in the California Essential Habitat Connectivity Project. The Project’s potential impacts to wildlife connectivity must be properly disclosed and analyzed on the basis of a thorough biological survey that accounts for the various species moving through the project site. If the Project will have a significant impact on these species, feasible mitigation measures must be adopted to minimize impact.

4. The IS/MND Fails to Analyze, Disclose, & Mitigate the Project’s Noise Impacts on Wildlife.

The IS/MND entirely fails to consider the effects of noise from the Project and its associated construction on wildlife. Many studies demonstrate that high levels of anthropogenic noise harm wildlife and plants across diverse taxa. For example, field observations and controlled laboratory experiments show traffic noise can significantly degrade habitat value for migrating songbirds. (Ware et al., 2015.) Subjects exposed to 55 and 61 dBA (simulated traffic noise) exhibited decreased feeding behavior and duration, as well as increased vigilance behavior. (Ware et al. 2015.) Such behavioral shifts increase the risk of starvation, thus decreasing survival rates. Another study found a 28% decrease in bird abundance in areas when traffic noise was present compared to when there was no traffic noise. (McClure et al., 2013.) Another study found noise pollution above 58 dBA resulted in reduced foraging efficiency in pallid bats likely because noise disrupted their hearing while they were hunting. (Bunkley & Barber, 2015.)

Chronic or long-term noise pollution can also impair foraging and anti-predator behavior, reproductive success, density, and community structure across diverse taxa. (Barber et al., 2010; Francis & Barber, 2013; Habib et al., 2007.) Even plants can be impacted by chronic noise pollution. In a study conducted in New Mexico, continuous noise from natural gas wells was found to reduce tree seedling recruitment and evenness, likely due to noise altering the movement and behavior of seed-dispersing and pollinating wildlife. (Phillips et al., 2021.)

Despite this, the Project's numerous functions that will increase noise generation in the area is left undisclosed, analyzed, or mitigated. For example, guest activity and sounds from the Project's proposed restaurant, coffee shop, club room, wine bar, spa, among other facilities will likely generate substantial noise. (*See IS/MND at 2.*) Information regarding any imposed quiet hours for parts of the day and night as well as the closing times of the various guest facilities are imperative pieces of information to determine whether the Project's noise generation will have an impact on wildlife. Additionally, as previously noted, the noise study inexplicably is based on a lower number of parking spaces than what appears on the Site Plan, inaccurately minimizing the vehicle noise that will be present on site.

Thus, the noise generated by construction and operation of the proposed Project could have significant adverse impacts on special-status and sensitive species in and near the Project area. The County must consider and, where feasible, mitigate this impact in a full EIR.

5. Light Pollution & Other Edge Effects of Development Will Negatively Impact Wildlife.

The IS/MND also fails to adequately assess the impacts of light pollution on biological resources through overlooking interior lighting and increased traffic. Light pollution affects

many nocturnal species, including bats, insects, and terrestrial mammals, among others. Impacts of light pollution are varied, and different species respond to artificial light at night in different ways. Individual impacts of light pollution include numerous physiological (e.g. hormone levels) and behavioral changes (e.g. shifts in activity patterns) that can impact an animal's ability to survive and thrive in its environment. (Aulsebrook et al., 2020; Dominoni, 2015; Gaston et al., 2014; Kempenaers et al., 2010.) These individual impacts cascade into ecological changes such as phenological mismatches and shifts in predation patterns that can disrupt population and ecosystem-level dynamics, including mortality, fecundity, and community productivity, among others. (Ditmer et al., 2021; Gaston et al., 2013; Sanders et al., 2020.) The County must provide a full analysis of light pollution in an EIR and mitigate accordingly.

The IS/MND's Aesthetics analysis section states that the Project will create new long-term sources of light and glare from interior and exterior buildings, safety and security lighting, landscape lighting, and vehicles. (IS/MND at 19.) It further states that by adhering to the Municipal Code design standards, the Project's light and glare impacts will be less than significant. (*Id.*) However, the impact of this new light pollution on wildlife is addressed nowhere despite the significant effects light can have on essential wildlife behaviors.

B. The IS/MND Fails to Adequately Analyze, Disclose, and Mitigate the Project's Significant Adverse Aesthetic Impacts.

The IS/MND's discussion of aesthetic impacts and failure to make Appendix H available to the public falls short of meeting CEQA's requirements for disclosure and analysis of the Project's effects on scenic vistas and visual character. CEQA requires meaningful evaluation of whether a project may result in significant aesthetic impacts, particularly when, as here, the Project is located near a significant resource—a scenic highway route—and mountain landscapes. (IS/MND at 18.) The Project site itself is an undeveloped parcel with unobstructed views of surrounding mountain ranges and desert vistas—conditions that make it uniquely visually sensitive. Despite the sensitivity of the location, the Visual Impact Study included in Appendix H is inaccessible to the public. Due to apparent file corruption, the Visual Impact Study cannot be downloaded and reviewed from the San Bernadino County Website, hampering the public's understanding of how the project will affect the aesthetics of the area.

Even without being able to review the full Visual Impact Study, the IS/MND appears to overlook a crucial aesthetic impact: the view *from* Joshua Tree National Park and its foothills, which the Project's multiple buildings will undoubtedly impact. Instead, the IS/MND considers only the view *of* the desert landscape and scenic vistas from the Project site and scenic highway. (See IS/MND at 17–19.) This paints only a partial picture, and more is required from CEQA. Relatedly, when analyzing impacts from the Project's light pollution, the IS/MND fails to consider the Project's proximity to Joshua Tree National Park, which is recognized as an

International Dark Sky Park. (NPS 2024.) This further underscores the importance of assessing the visibility of the Project and its associated light pollution from the National Park and the reasonable possibility that the Project may have significant effects on aesthetic resources.

For these reasons, the Visual Impact Study must be made available to the public and the Project's potential impacts to Aesthetics fully addressed in an EIR.

C. The IS/MND Fails to Adequately Analyze, Disclose, & Mitigate the Project's Significant Adverse Air Quality Impacts.

The IS/MND's evaluation of the Project's air quality impacts is flawed. It fails to disclose and study the Project's full suite of air quality impacts and fails to adopt all feasible mitigation measures to mitigate those impacts. The County must require an EIR to adequately analyze the Project's air quality impacts, acknowledge their significance, and consider feasible mitigation measures to reduce those impacts.

1. This Project Would Add Development to a Region Already Suffering From Poor Air Quality.

Degraded air quality from the proposed Project poses considerable environmental and public health concerns. Southern California already contains some of the nation's most polluted counties with San Bernadino County topping the list for several pollutants. (ALA 2025.) Air pollution often impacts the most vulnerable populations in these counties, including young children, the elderly, pregnant women, and those with heart and lung disease. People living in poverty also remain more susceptible to air pollution, as they cannot easily relocate to less polluted areas, and their homes and places of work are more likely to be located near sources of pollution, such as freeways or ports. (BAAQMD 2016; ALA 2025.) In urban areas, transportation presents one of the most significant sources of pollution, where large population segments are constantly exposed to traffic. (BAAQMD 2016.)

In Southern California's urban areas, Ozone and Fine Particulate Matter pose the greatest risks. Experts link these air pollutants to increased risk of cancer, birth defects, low birth weights, and premature death, in addition to a variety of cardiac and lung diseases such as asthma, COPD, stroke, and heart attack. (Laurent 2016; ALA 2025.) Although invisible, ozone poses considerable health risks, prompting the EPA to strengthen its National Ambient Air Quality Standard for Ozone in 2015. (ALA 2016.) Additionally, Particulate Matter can easily escape the body's natural defenses and enter the blood stream, impacting human health.

The project would affect an area already in violation of the Clean Air Act's National Ambient Air Quality Standards (NAAQS), supporting an argument that the Project's air quality impacts are significant.

2. The IS/MND Underestimates the Project's Air Quality Impacts.

The Project impacts one of the most heavily polluted areas in the country. San Bernadino County ranks first among the nation's worst in ozone pollution and seventh worst for PM pollution. (ALA 2025.) A comprehensive analysis of air quality impacts is acutely important where, as here, the project is in an area already experiencing adverse air quality. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 723–24.) The IS/MND explicitly acknowledges the Project area is out of attainment for both ozone and particular matter, and the activities of cumulative projects will further degrade the air quality of the Mojave Desert Air Basin. (IS/MND at 27.) It concludes that because the Project does not exceed MDAQMD criteria, it does not result in a significant impact and will not add to the overall cumulative impact. However, the Project's air quality impacts are underestimated and not properly disclosed, analyzed, and mitigated due to the omission of key points of information in the IS/MND.

The IS/MND does not include any information about maximum occupancy, anticipated number of employees, and size of car parking facilities. Without these crucial details, it is impossible to accurately determine the vehicle miles travelled to the site, number of daily trips, and resulting air pollution from vehicles. Accordingly, the IS/MND's conclusion the Project will have less than a significant impact is unsubstantiated and more informational disclosures and analysis is required.

D. The IS/MND Fails to Adequately Disclose, Analyze, & Mitigate the Project's Adverse Traffic Impacts.

The IS/MND's evaluation of the Project's traffic impacts is similarly flawed. As noted above, the IS/MND lacks key information necessary to accurately disclose and analyze traffic impacts, for example maximum occupancy of the hotel, the number of anticipated employees, and availability of parking. Additionally, it is unclear if the IS/MND takes into account the vendor trucks that will supply the Project's numerous guest facilities, including the café, restaurant, wine bar, club room, and spa. The Project will have trucks moving in and out to provide supplies for these services, as well as general products for the hotel. (*See* IS/MND at 2.) Trucks serving facilities also often idle on public streets and clog local roads, creating traffic congestion and hazards to local drivers who depend on these roads. This information is far more likely to produce an accurate estimate of vehicle miles travelled or daily trips generated than merely relying on the number of hotel room units.

Further, the City's IS/MND fails to assess how traffic increases associated with this project will affect the species in the surrounding area. Traffic congestion degrades air quality and harms habitat through generating waste, which stormwater runoff carries into waterways. (Kim et al., 2023; Nixon & Saphores.) With sensitive species like the desert tortoise inhabiting the area, any increase in traffic increases the risks of fatal road collisions with tortoises—a significant cause of mortality for the species. The City must carefully consider potential harms of increased runoff, as well as mitigation measures, in a full EIR.

Because the IS lacks key information that will likely show a possibility of significant traffic impacts, the County must require an EIR to adequately disclose and analyze the Project's traffic impacts, acknowledge their significance, and consider and adopt feasible mitigation to reduce those impacts.

E. The IS/MND Fails to Adequately Assess, Disclose, & Mitigate Impacts on Water Quality.

The IS/MND also fails to adequately evaluate the Project's impacts on water quality and adopt mitigation measures to mitigate those impacts.

There is virtually no analysis of the potential impacts to surface or groundwater quality. Instead, the IS simply concludes that because the Project's water plan will require review and approval from the County's Environmental Health Services Division, and is subject to the National Pollutant Discharge Elimination System permitting requirements, "there is a less than a significant impact to water quality." (IS/MND at 57.) However, there is no explanation as to why complying with these requirements ensures the Project will not "substantially degrade surface or ground water quality" as required in the initial study. (IS/MND at 57.) Ensuring no significant environmental impact requires more than mere compliance with regulatory processes. By creating an onsite wastewater treatment system, including a septic tank and leach field, flash flooding or defects could easily result in released pollutants or contaminated runoff. Further disclosure and analysis of the Project's potential impacts to surface and groundwater quality is needed.

The mitigation measures for the Project's drainage systems are similarly unclear and inadequate. The IS/MND and hydrology report mention numerous times that to mitigate the additional runoff, "a retention basin and Truegrid sustainable paving system are proposed." (IS/MND at 57.) However, these are not formally included as a mitigation measure in the IS. Thus, the environmental impacts from the additional runoff are unmitigated and must be analyzed in an EIR. Additionally, if the retention basin is included in the proposed project, the environmental impacts of this retentional basin must also be disclosed, analyzed, and mitigated.

(See *Cleveland Nat'l Forest Found. v. San Diego Assn. of Govs* (App. 4 Dist. 2017) 225 Cal.Rptr.3d 591 (“If inclusion of a mitigation measure in an environmental impact report (EIR) would itself create new significant effects; these must be discussed”).) Analysis of these impacts is particularly salient because when filled, the basin will create an attractive nuisance for wildlife in the area. Animals, including sensitive species like the desert tortoise, could become fatally trapped in the pond (notably, there is no discussion about the likely depth or maximum depth of the basin that ensures animal drownings will not occur). Moreover, as mentioned, the basin could create a refuge for ravens, increasing predation of juvenile desert tortoises and other animals in the area. Because of the likelihood a retention basin will impact sensitive species, it must be discussed, with consideration of feasible mitigation measures, in an EIR.

F. The IS/MND Fails to Adequately Assess, Disclose, & Mitigate the Project's Greenhouse Gas Emissions.

The MND's analysis of the Project's GHG emissions falls short of CEQA's requirements. The Project will inevitably result in an increase of GHG emissions during construction and operation. But the IS/MND fails to adequately assess all emissions sources, as well as require adequate mitigation.

1. Climate Change Is a Catastrophic & Pressing Threat to California.

A strong, international scientific consensus leaves no doubt that human-caused climate change continues to pose an increasingly dire threat to human society and natural systems. The Intergovernmental Panel on Climate Change (IPCC), the leading international scientific body for climate change assessment, concluded in its 2014 Fifth Assessment Report that: “[w]arming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen,” and further that “[r]ecent climate changes have had widespread impacts on human and natural systems.” (IPCC 2014.) The United States echoed these findings in its own 2014 Third National Climate Assessment and 2017 Climate Science Special Report, prepared by scientific experts and reviewed by the National Academy of Sciences and multiple federal agencies. The Third National Climate Assessment concluded that “[m]ultiple lines of independent evidence confirm that human activities are the primary cause of the global warming of the past 50 years” and “[i]mpacts related to climate change are already evident in many regions and are expected to become increasingly disruptive across the nation throughout this century and beyond.” (Melillo 2014.) The 2017 Climate Science Special Report similarly concluded:

[B]ased on extensive evidence, it is extremely likely that human activities, especially emissions of greenhouse gases, are the dominant cause of the observed

warming since the mid-20th century. For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence.

The U.S. National Research Council also concluded that “[c]limate change is occurring, is caused largely by human activities, and poses significant risks for—and in many cases is already affecting—a broad range of human and natural systems.” (NRC 2010.) And based on observed and expected harms from climate change, in 2009 the U.S. Environmental Protection Agency found that greenhouse gas pollution endangers the health and welfare of current and future generations. (74 Fed. Reg. 66496 (Dec. 15, 2009) [U.S. EPA, Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule].)

These authoritative climate assessments decisively recognize the dominant role of greenhouse gases in driving climate change. As stated by the Third National Climate Assessment: “observations unequivocally show that climate is changing and that the warming of the past 50 years is primarily due to human-induced emissions of heat-trapping gases.” (Mellilo 2014.) The Assessment makes plain that “reduc[ing] the risks of some of the worst impacts of climate change” will require “aggressive and sustained greenhouse gas emission reductions” over the course of this century. (Melillo 2014 at 13, 14, & 649.)

Humans and wildlife have already begun feeling climate change impacts. Human-induced climate change has caused widespread adverse impacts and related losses and damages to nature and people. (IPCC 2022.) This rise in weather and climate extremes has led to some irreversible impacts, as natural and human systems are pushed beyond their ability to adapt. (IPCC 2022.) Climate change increasingly places stress on species and ecosystems—causing changes in distribution, phenology, physiology, vital rates, genetics, ecosystem structure and processes—in addition to increasing species extinction risk. (Warren 2008.) Climate-change-related local extinctions are already widespread and have occurred in hundreds of species. (Wiens 2016.) Catastrophic levels of species extinctions are projected throughout this century if climate change continues unabated. (Thomas 2004; Maclean 2011; Urban 2015.) In California, climate change will transform our climate, resulting in increased temperatures and wildfires, as well as reduced snowpack, lower precipitation levels, and less water availability.

The United States has contributed more to climate change than any other country. Specifically, the U.S. is responsible for 27 percent of cumulative global CO₂ emissions since 1850, and it remains the world’s second highest emitter on an annual and per capita basis. (World Resources Institute 2020.) Nonetheless, U.S. climate policy is wholly inadequate to meet the international climate target to avoid the worst climate impacts by holding global average temperature rise to well below 2°C above pre-industrial levels. An international team of climate

policy experts and scientists have even ranked U.S. climate policy as “critically insufficient,” concluding that the US’ recent policy changes “fundamentally obstructs progress towards reducing emissions in the US and seriously threatens global efforts towards phasing out fossil fuels.” (Climate Action Tracker 2025.)

The IPCC’s most recent report, entitled *Climate Change 2022: Impacts, Adaptation and Vulnerability*, found that warming is proceeding even faster than anticipated, and the best-case scenario for climate change is slipping out of reach. (IPCC 2022.) The report now estimates that, over the next 20 years, the world will cross the global warming threshold of 1.5°C. And unless immediate, rapid and large-scale reductions in greenhouse gas emissions occur, limiting warming to close to 1.5°C—or even 2°C—will be beyond reach. The United Nations Secretary General described the report’s forecasts as an “atlas of human suffering.” (Borenstein 2022.)

Although some sources of GHG emissions may seem insignificant, climate change is a problem with cumulative impacts and effects. (*Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Admin.* (9th Cir. 2008) 538 F.3d 1172, 1217 (“[T]he impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis” that agencies must conduct).) One source or one small project may not appear to significantly contribute to climate change, but the combined impacts of many sources can drastically damage California’s climate as a whole. Therefore, project-specific GHG emission disclosure, analysis, and mitigation remains vital to California meeting its climate goals and maintaining our climate.

Given the increasingly urgent need for drastic action to reduce GHG emissions, the MND’s failure to fully disclose, analyze, or mitigate the Project’s climate change effects is all the more alarming.

2. The IS/MND Fails to Adequately Disclose the Project’s GHG Impacts.

Here, the County failed to gather adequate information on the Project’s GHG impacts, offering the public little information to understand Project activities that will generate GHG emissions. As previously discussed, the IS/MND does not include the maximum occupancy of the hotel, the anticipated number of employees travelling to and from the Site, or clearly state how many parking spaces will be available on site. Given the significant, cumulative GHG impact of vehicle emissions, this information is vital for accurately disclosing, analyzing, and mitigating the Project’s GHG impacts.

The IS/MND further overlooks the GHG impact of destroying native creosote bush and other native plants on the land to construct hotel facilities. As detailed in a 2023 Center Report, “Hidden in Plain Sight: California’s Native Habitats are Valuable Carbon Sinks” (Yap et al., 2023), diverse native California habitats are important carbon sinks that should be included in

carbon calculations. In the Project area, the desert landscape consists of creosote bush scrub. Although the carbon storage and sequestration potential of such habitats are often overlooked, carbon in these systems is stored in the form of soil organic carbon (e.g., extensive root networks, soil microbial communities, mycorrhizae), soil inorganic carbon (e.g., calcite/caliche), and above-ground vegetation (Janzen, 2004; Meyer, 2012; Mi et al., 2008; Thomey et al., 2014; Wang et al., 2010; Zamanian et al., 2016.) These impacts must be addressed in an EIR.

V. The IS/MND Fails to Adequately Disclose and Assess the Wastewater Treatment Plant's Impacts.

The MND also fails to disclose and assess impacts of the Project's on-site wastewater treatment plant. The Project proposes an on-site wastewater treatment system that funnels runoff and wastewater into a treatment basin which eventually percolates back into the ground. (IS/MND at 57.) However, its impacts are only addressed in the broadest terms.

Wastewater treatment plants emit substantial amounts of methane, which went unmentioned in the IS/MND's GHG emissions assessment. (Poore, 2023.) Additionally, wastewater treatment produces substantial noise pollution, which will impact nearby residents and wildlife, also unmentioned in the IS/MND. (Amor, 2022.) This is inadequate under CEQA, as "[t]he scope of the environmental review conducted for the initial study must include the entire project," not only the hotel. (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1222.) Accordingly, the Project's wastewater treatment plan should be disclosed and, if the impacts are found to be significant, mitigated in an EIR.

VI. CONCLUSION

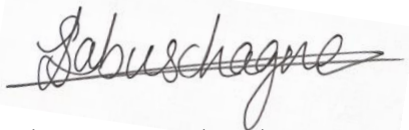
Given the possibility that the Center will be required to pursue appropriate legal remedies in order to ensure enforcement of CEQA, we would like to remind the County of its duty to maintain and preserve all documents and communications that may constitute part of the "administrative record." The administrative record encompasses any and all documents and communications which relate to any and all actions taken by the County with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA" (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further contains all correspondence, emails, and text messages sent to or received by the County's representatives or employees, which relate to the Project, including any correspondence, emails, and text messages sent between the County's representatives or employees and the project proponent's representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the County

(1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

Thank you for the opportunity to submit comments on the IS/MND for the Cactus Club Hotel Project. The IS/MND has not adequately disclosed, analyzed, or mitigated impacts to biological resources, scenic vistas, air, traffic, or water resources. The County must prepare and circulate an EIR for the Project prior to taking any further action on the Project application.

Please include the contact listed below on the County's notice list for all future updates, notices, and materials associated with the Project and its environmental review. Do not hesitate to contact the Center with any questions at the email or address listed below. We look forward to working with all parties involved in this matter to achieve a mutually agreeable outcome.

Sincerely,

A handwritten signature in dark ink, reading "Labuschagne", with a stylized flourish extending from the end of the name.

Shannon E. Labuschagne
Center *for* Biological Diversity
2100 Franklin St., Suite 375
Oakland, CA 94612
slabuschagne@biologicaldiversity.org

REFERENCES

All references cited in this document are available for download via OneDrive: [CCH References](#)

Allison, L.J. & MckLuckie, A.M. (2018). Population Trends on Mojave Desert Tortoises (*Gopherus Agassizii*). *Herpetological Conservation and Biology*, 433–452.

American Lung Association (ALA), State of the Air 2025.

Amor, M., et al. (2022). Tools for evaluation and prediction of industrial noise sources. Application to a wastewater treatment plant. Available at:
<https://www.sciencedirect.com/science/article/pii/S0301479722012981>

Anderson, S. H., L. W. Ayers, J. A. Dechant, M. T. Green, W. H. Howe, S. L. Jones, D. S. Klute, D. K. Rosenberg, S. R. Sheffield, and T. S. Zimmermann. (2001). Draft status assessment and conservation plan for the western burrowing owl in the United States. Administrative Report. U. S. Department of the Interior, Fish and Wildlife Service, Denver, Colorado.

Aulsebrook, A. E., Connelly, F., Johnsson, R. D., Jones, T. M., Mulder, R. A., Hall, M. L., Vyssotski, A. L., & Lesku, J. A. (2020). White and Amber Light at Night Disrupt Sleep Physiology in Birds. *Current Biology*, 30(18), 3657-3663.e5.
<https://doi.org/10.1016/j.cub.2020.06.085>.

Averill-Murray, R.C., Esque, T.C., Allison, L.J., Bassett, S., Carter, S.K., Dutcher, K.E., Hromada, S.J., Nussear, K.E., Shoemaker, K. (2021). Connectivity of Mojave Desert Tortoise Populations: Management Implications for Maintaining a Viable Recovery Network. *U.S. Geological Survey*.

BAAQMD. (2016). *Planning Healthy Places*.

Barber, J. R., Crooks, K. R., & Fristrup, K. M. (2010). The costs of chronic noise exposure for terrestrial organisms. *Trends in Ecology and Evolution*, 25(3), 180–189.

Baril, A. 1993. Pesticides and wildlife in the prairies: current regulatory issues. Pages 44-48 in G. L. Holyrod, H. L. Dickson, M. Regnier, and H. C. Smith (editors). Proceedings of the third endangered species and prairie conservation workshop. Natural History Occasional Paper 19. Provincial Museum of Alberta, Edmonton, Alberta.

Basilio, Lay G., Moreno, Daniele, J., & Piratelli, Augusto J. (2020). Main causes of bird-window collisions: a review, *Anais da Academia Brasileira de Ciências*, 92.

Boarman, W. I. (2002). Threats to Desert Tortoise Populations: A Critical Review of the Literature. *United States Geological Survey Western Ecological Research Center*.

Borenstein, S. (2022, February 28). UN climate report: ‘Atlas of human suffering’ worse, bigger. AP News. Available at: <https://apnews.com/article/climate-science-europe-united-nations-weather-8d5e277660f7125ffdab7a833d9856a3>

Bunkley, J. P., & Barber, J. R. (2015). Noise Reduces Foraging Efficiency in Pallid Bats (*Antrozous pallidus*). *Ethology*, 121(11), 1116–1121.

California Department of Fish and Wildlife: California Interagency Wildlife Task Group. (1990). California Wildlife Habitat Relationships System: American Badger.

California Department of Fish and Wildlife. Human-Wildlife Conflicts: Foxes. Available at: <https://wildlife.ca.gov/HWC/Foxes#586923626-kit-fox> (last accessed Sep. 30, 2025)

California Department of Fish and Wildlife Open Data Portal. Essential Connectivity Areas – California Essential Habitat Connectivity. Available at: <https://data-cdfw.opendata.arcgis.com/maps/CDFW::essential-connectivity-areas-california-essential-habitat-connectivity-cehc-ds620/explore?location=34.674393%2C-116.205872%2C8>

California Department of Fish and Wildlife. 2024. Status Review for Mojave Desert Tortoise (*Gopherus agassizii*). Report to California Fish and Game Commission. California Department of Fish and Wildlife, 715 P Street, Sacramento, CA 95814. 228 pp. with appendices.

California Fish and Game Commission. 2024. Notice of Findings, Western Burrowing Owl. Dated October 15, 2024.

California Fish and Game Commission. 2025. Notice of Findings for Mojave Desert Tortoise (*Gopherus agassizii*). Dated June 13, 2025.

California Fish and Game Commission. 2020. Notice of Findings for Western Joshua Tree (*Yucca brevifolia*). Dated September 22, 2020.

Center for Biological Diversity, Defenders of Wildlife, Burrowing Owl Preservation Society, Santa Clara Valley Audubon Society, Urban Bird Foundation, Central Valley Bird Club, San Bernardino Valley Audubon Society. (2024). *Petition Before the California Fish and Game Commission To List California Populations of the Western Burrowing Owl (Athene cunicularia*

hypugaea) as *Endangered or Threatened Under the California Endangered Species Act*. Dated March 5, 2024.

Cole, K.L., K. Ironside, J. Eischeid, G. Garfin, P.B. Duffy, and C. Toney. 2011. Past and ongoing shifts in Joshua tree distribution support future modeled range contraction. *Ecological Applications* 21(1):137–149.

Climate Action Tracker. 2025. Countries: USA Country Summary. Available at: <https://climateactiontracker.org/countries/usa/>

DeFalco, L.A., T.C. Esque, S.J. Scoles-Sciulla, and J. Rodgers. 2010. Desert wildfire and severe drought diminish survivorship of the long-lived Joshua tree (*Yucca brevifolia*; Agavaceae). *American Journal of Botany* 97(2):243–250.

Delevoryas, P. 1997. Relocation of burrowing owls during courtship period. Pages 138-144 in Lincer, J. L. and K. Steenhof (editors). 1997. *The Burrowing Owl, Its Biology and Management; Including the Proceedings of the First International Burrowing Owl Symposium*. Raptor Research Report Number 9.

Desante, D.F. and E. Ruhlen. 1995. A census of burrowing owls in California, 1991- 1993. Institute for Bird Populations, Point Reyes Station, CA.

Desmond, M. J., J. A. Savidge, and K. M. Eskridge. 2000. Correlations between burrowing owl and prairie dog declines: a 7-year analysis. *Journal of Wildlife Management* 64: 1067-1075.

Ditmer, M. A., Stoner, D. C., Francis, C. D., Barber, J. R., Forester, J. D., Choate, D. M., Ironside, K. E., Longshore, K. M., Hersey, K. R., Larsen, R. T., McMillan, B. R., Olson, D. D., Andreasen, A. M., Beckmann, J. P., Holton, P. B., Messmer, T. A., & Carter, N. H. (2021). Artificial nightlight alters the predator–prey dynamics of an apex carnivore. *Ecography*, 44(2), 149–161. <https://doi.org/10.1111/ecog.05251>

Dole, K.P., M.E. Loik, and L.C. Sloan. 2003. The relative importance of climate change and the physiological effects of CO₂ on freezing tolerance for the future distribution of *Yucca brevifolia*. *Global and Planetary Change* 36:137– 146.

Dominoni, D. M. (2015). The effects of light pollution on biological rhythms of birds: An integrated, mechanistic perspective. *Journal of Ornithology*, 156(S1), 409–418. <https://doi.org/10.1007/s10336-015-1196-3>.

Francis, C. D., & Barber, J. R. (2013). A framework for understanding noise impacts on wildlife: An urgent conservation priority. *Frontiers in Ecology and the Environment*, 11(6), 305–313.

Gaston, K. J., Bennie, J., Davies, T. W., & Hopkins, J. (2013). The ecological impacts of nighttime light pollution: A mechanistic appraisal. *Biological Reviews*, 88(4), 912–927.
<https://doi.org/10.1111/brv.12036>

Gaston, K. J., Duffy, J. P., Gaston, S., Bennie, J., & Davies, T. W. (2014). Human alteration of natural light cycles: Causes and ecological consequences. *Oecologia*, 176(4), 917–931.
<https://doi.org/10.1007/s00442-014-3088-2>

Green, G. A. and R. G. Anthony. 1989. Nesting success and habitat relationships of burrowing owls in the Columbia Basin, Oregon. *Condor* 91: 347–354.

Habib, L., Bayne, E. M., & Boutin, S. (2007). Chronic industrial noise affects pairing success and age structure of ovenbirds *Seiurus aurocapilla*. *Journal of Applied Ecology*, 44(1), 176–184.
<https://doi.org/10.1111/j.1365-2664.2006.01234.x>

Harrower, J. and G. S. Gilbert. 2018. Context-dependent mutualisms in the Joshua tree–yucca moth system shift along a climate gradient. *Ecosphere* 9(9).

Haug, E. A., B. A. Millsap, and M. S. Martell. 1993. The burrowing owl (*Speotyto cunicularia*). In Poole, A. and F. Gill (editors). *The birds of North America*, No. 61. Philadelphia: The Academy of Natural Sciences; Washington, D. C. The American Ornithologists' Union.

Haug, E. A. and L. W. Oliphant. 1987. Breeding biology of burrowing owls in Saskatchewan. Pp. 269- 271 In Holroyd, G. L., W. B. McGillivray, P. H. R. Stepney, D. M. Ealey, G. C. Trottier, and K. E. Eberhart (editors). *Endangered species in the Prairie Provinces*. Provincial Museum of Alberta Occasional Paper, No. 9.

Hjertaas, D. G. 1997. Recovery plan for the burrowing owl in Canada. Pages 107-111 in J. L.

Kim, L., Kim, H., Lee, T.-Y., & An, Y.-J. (2023). Chemical toxicity screening of tire particle leachates from vehicles and their effects on organisms across three trophic levels. *Marine Pollution Bulletin*, 192, 114999. Available at: <https://doi.org/10.1016/j.marpolbul.2023.114999>.

Laurent, Oliver, et al. (2016). Low birth weight and air pollution in California: Which sources and components drive the risk? *Environment International*, 92–93, 471–77.

Lincer and K. Steenhoff (editors). The burrowing owl: its biology and management. Raptor Research Report Number 9.

James P. C., G. A. Fox, and T. J. Ethier. 1990. Is the operational use of strychnine to control ground squirrels detrimental to burrowing owls? *Journal of Raptor Research* 24(4): 120–23.

Janzen, H. H. (2004). Carbon cycling in earth systems—A soil science perspective. *Agriculture, Ecosystems and Environment*, 104, 399–417.

iNaturalist (2017). Mojave Desert Tortoise. Available at:
<https://www.inaturalist.org/observations/8230414>

iNaturalist (2019). Mojave Desert Tortoise. Available at:
<https://www.inaturalist.org/observations/22378132>

iNaturalist (2022). Mojave Desert Tortoise. Available at:
<https://www.inaturalist.org/observations/110438478>

iNaturalist (2022). American Badger. Available at:
<https://www.inaturalist.org/observations/192847316>

iNaturalist (2024). Desert Kit Fox. Available at:
<https://www.inaturalist.org/observations/233521177>

iNaturalist (2024). Mojave Desert Tortoise. Available at:
<https://www.inaturalist.org/observations/208138428>

iNaturalist (2025). Burrowing Owl. Available at:
<https://www.inaturalist.org/observations/295297947>

IPCC, Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, [Core Writing Team, R.K. Pachauri & L.A. Meyer (eds.)], IPCC, Geneva, Switzerland (2014),
http://www.ipcc.ch/pdf/assessment-report/ar5/syr/SYR_AR5_FINAL_full_wcover.pdf

IPCC, Hicke, J.A., S. Lucatello, L.D., Mortsch, J. Dawson, M. Domínguez Aguilar, C.A.F. Enquist, E.A. Gilmore, D.S. Gutzler, S. Harper, K. Holsman, E.B. Jewett, T.A. Kohler, and K.A. Miller. (2022). North America. In: *Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental*

Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V.

Kempenaers, B., Borgström, P., Loës, P., Schlicht, E., & Valcu, M. (2010). Artificial Night Lighting Affects Dawn Song, Extra-Pair Siring Success, and Lay Date in Songbirds. *Current Biology*, 20(19), 1735–1739. <https://doi.org/10.1016/j.cub.2010.08.028>.

Klem, D. (2009). Avian Mortality at Windows: The Second Largest Source of Bird Mortality on Earth. *Proceedings of the Fourth International Partners in Flight Conference: Tundra to Tropics*, 244–251.

Maclean, I. M. D., & Wilson, Robert. J. (2011). Recent ecological responses to climate change support predictions of high extinction risk. *Proceedings of the National Academy of Sciences*, 108(30), 12337–12342.

McClure, C. J. W., Ware, H. E., Carlisle, J., Kaltenecker, G., & Barber, J. R. (2013). An experimental investigation into the effects of traffic noise on distributions of birds: Avoiding the phantom road. *Proceedings of the Royal Society B: Biological Sciences*, 280.

Melillo, Jerry M, Terese (T.C.) Richmond & Gary W. Yohe (eds.), Climate Change Impacts in the United States: The Third National Climate Assessment, U.S. Global Change Research Program (2014). Available at: <https://www.nrc.gov/docs/ML1412/ML14129A233.pdf>

Meyer, S. E. (2012). Restoring and managing cold desert shrublands for climate change mitigation. In D. M. Finch (Ed.), *Climate Change in grasslands, shrublands, and deserts of the interior American West: A review and needs assessment. General Technical Report RMRS-GTR-285* (pp. 21–34). USDA Forest Service.

Mi, N., Wang, S., Liu, J., Yu, G., Zhang, W., & Jobbágy, E. (2008). Soil inorganic carbon storage pattern in China. *Global Change Biology*, 14, 2380–2387.

National Park Service. Joshua Tree National Park – Stargazing, National Park Service (last visited September 28, 2025). Available at: <https://www.nps.gov/thingstodo/stargazing-at-joshua-tree.htm>.

Nogueira, T. M., Lawler, J. J., Schumaker, N. H., Cypher, B. L., Phillips, P. E. 2015. Land Use as a Driver of Patterns of Rodenticide Exposure in Modeled Kit Fox Populations. *PLOS ONE*.

Nixon, H. & Saphores, J. (2007). Impacts of Motor Vehicle Operation on Water Quality in the United States - Clean-up Costs and Policies. Transportation Research Part D: Transport and

Environment. Available at:

<https://www.sciencedirect.com/science/article/abs/pii/S1361920907000892>

Phillips, J. N., Termondt, S. E., & Francis, C. D. (2021). Long-term noise pollution affects seedling recruitment and community composition, with negative effects persisting after removal. *Proceedings of the Royal Society B*, 288, 20202906–20202906

Poore, C. (2023). Wastewater sector emits nearly twice as much methane as previously thought. Princeton Engineering. Available at:

<https://engineering.princeton.edu/news/2023/02/28/wastewater-sector-emits-nearly-twice-much-methane-previously-thought>

Rosenberg, D. K., J. A. Gervais, H. Ober, and D. F. DeSante. 1998a. An adaptive management plan for the burrowing owl population at NAS Lemoore. The Institute for Bird Populations. Point Reyes Station, California. Publication No. 95.

Rosenberg, D. K., and K. L. Haley. 2003. The ecology of burrowing owls in the agroecosystem of the Imperial Valley, California. *Studies in Avian Biology*.

Rosenberg, K. V., Dokter, A. M., Blancher, P. J., Sauer, J. R., Smith, A. C., Smith, P. A., Stanton, J. C., Panjabi, A., Helft, L., Parr, M., & Marra, P. P. (2019). Decline of the North American avifauna. *Science*, 366 (6461), 120–124.

San Bernadino County: Public Works, Desert Tortoise (*Gopherus agassizii*) (last accessed Oct. 3, 2025). Available online: <https://dpw.sbcounty.gov/especies/desert-tortoise/#:~:text=To%20escape%20the%20heat%20of,mate%20and%20forage%20for%20food.>

Sanders, D., Frago, E., Kehoe, R., Patterson, C., & Gaston, K. J. (2020). A meta-analysis of biological impacts of artificial light at night. *Nature Ecology & Evolution*, 5(1), 74–81. <https://doi.org/10.1038/s41559-020-01322-x>

Sheffield, S. R. 1997b. Owls as biomonitors of environmental contamination. Pages 383-398 in J. R. Duncan, D. H. Johnson, and T. H. Nichols (editors). *Biology and conservation of owls of the Northern Hemisphere*. U.S.D.A. Forest Service, General Technical Report NC-190. North Central Forest Experiment Station, St. Paul, Minnesota.

Sweet, L.C., T. Green, J.G.C. Heintz, N. Frakes, N. Graver, J.S. Rangitsch, J.E. Rodgers, S. Heacox, and C.W. Barrows. 2019. Congruence between future distribution models and empirical data for an iconic species at Joshua Tree National Park. *Ecosphere* 10(6).

Thomas, Chris. D. et al., Extinction risk from climate change, 427 Nature 145 (2004).

Trulio, L. A. 1997. Strategies for protecting western burrowing owls (*Speotyto cunicularia hypugaea*) from human activities. Pp. 461-465 in Duncan, J. R., D. H. Johnson, and T. H. Nicholls (editors). Biology and conservation of owls of the northern hemisphere. USDA Forest Service General Technical Report NC-190. St. Paul, Minnesota.

U.C. Davis Wildlife Health Center (2005). California Wildlife Conservation Challenges: California's Wildlife Action Plan.

United States Fish & Wildlife Service: Region 8, Pacific Southwest Region. (2011). Revised Recovery Plan for the Mojave Population of the Desert Tortoise (*Gopherus Agassizii*). Dated May 6, 2011.

United States Fish & Wildlife Service: Desert Tortoise Recovery Office Southern Nevada Fish and Wildlife Service. (2022). Mojave Desert Tortoise (*Gopherus agassizii*) 5-Year Review: Summary and Evaluation.

Urban, Mark C., Accelerating extinction risk from climate change, 348 Science 571 (2015).

Ware, H. E., McClure, C. J. W., Carlisle, J. D., & Barber, J. R. (2015). A phantom road experiment reveals traffic noise is an invisible source of habitat degradation. *Proceedings of the National Academy of Sciences*, 112(39), 12105–12109.

Warren, R., Price, J., Fischlin, A., de la Nava Santos, S., & Midgley, G. (2011). Increasing impacts of climate change upon ecosystems with increasing global mean temperature rise. *Climatic Change*, 106(2), 141–177.

Wiens, J. J. (2016). Climate-related local extinctions are already widespread among plant and animal species. *PLoS Biology*, 14(12), 1–18.

World Resources Institute, This Interactive Chart Shows Changes in the World's Top 10 Emitters (December 10, 2020). Available at: <https://www.wri.org/insights/interactive-chart-shows-changes-worlds-top-10-emitters/>.

Yap, T. A., Prabhala, A., & Anderson, I. (2023). *Hidden in Plain Sight: California's Native Habitats are Valuable Carbon Sinks*. Center for Biological Diversity.

Zamanian, K., Pustovoytov, K., & Kuzyakov, Y. (2016). Pedogenic carbonates: Forms and formation processes. *Earth-Science Reviews*, 157, 1–17.

EXHIBIT 1



EXHIBIT 1:

One of dozens of rodent holes visible on the Project site.

Photo Credit: Photo taken by Brendan Cummings from public road adjacent to Project Site on 09/26/25.

EXHIBIT L



DESERT TORTOISE COUNCIL

3807 Sierra Highway #6-4514

Acton, CA 93510

www.deserttortoise.org

eac@deserttortoise.org

Via email only

October 6, 2025

Oliver Mujica, Contract Planner III
County of San Bernardino
Land Use Services Department, Planning Division
385 N. Arrowhead Ave First Floor
San Bernardino, CA 92415-0187
Oliver.Mujica@lus.sbcounty.gov

RE: Proposed Cactus Club Hotel (PROJ-2023-00061; APN: 0608-051-02, 03, and 04)

Dear Mr. Mujica,

The Desert Tortoise Council (Council) is a non-profit organization comprising hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and northern Mexico, the Council routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

Both our physical and email addresses are provided above in our letterhead for your use when providing future correspondence to us. When given a choice, we prefer to receive emails for future correspondence, as mail delivered via the U.S. Postal Service may take several days to be delivered. Email is an "environmentally friendlier way" of receiving correspondence and documents rather than "snail mail."

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats potentially occupied by the Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments include recommendations intended to enhance protection of this species and its habitat during activities that may be authorized by the County of San Bernardino, Land Use Services Department, Planning Division (County), which we recommend be added to project terms and conditions in the authorizing documents [e.g., issuance of permits, etc.] as appropriate. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachment for the proposed action.

The Mojave desert tortoise is among the top 50 species on the list of the world's most endangered tortoises and freshwater turtles. The International Union for Conservation of Nature's (IUCN) Species Survival Commission, Tortoise and Freshwater Turtle Specialist Group, now considers the Mojave desert tortoise to be Critically Endangered (Berry et al. 2021), "... based on population reduction (decreasing density), habitat loss of over 80% over three generations (90 years), including past reductions and predicted future declines, as well as the effects of disease (upper respiratory tract disease/mycoplasmosis). *Gopherus agassizii* (sensu stricto) comprises tortoises in the most well-studied 30% of the larger range; this portion of the original range has seen the most human impacts and is where the largest past population losses have been documented. A recent rigorous rangewide population reassessment of *G. agassizii* (sensu stricto) has demonstrated continued adult population and density declines of about 90% over three generations (two in the past and one ongoing) in four of the five *G. agassizii* recovery units and inadequate recruitment with decreasing percentages of juveniles in all five recovery units."

This status, in part, prompted the Council to join Defenders of Wildlife and the Desert Tortoise Preserve Committee (DTPC) to petition the California Fish and Game Commission (Commission) in March 2020 to elevate the listing of the Mojave desert tortoise from Threatened to Endangered under the California Endangered Species Act (CESA) (Defenders of Wildlife et al. 2020). Importantly, following California Department of Fish and Wildlife's (CDFW) (2024a) status review, in their April 2024 meeting the Commission voted unanimously to accept the CDFW's petition evaluation and recommendation to uplist the tortoise from threatened to endangered under the CESA. This unanimous vote was based on the scientific data provided on the species' status, declining trend, numerous threats, and lack of effective recovery implementation and land management (CDFW 2024b). On July 15, 2025, the tortoise was officially uplisted to endangered status under the CESA (Commission 2025).

Thank you for including the Council on the County's list of Affected Interests and contacting us via email on 9/5/2025 regarding the public comment period on this "Initial Study and Mitigated Negative Declaration for the Cactus Club Hotel (PROJ-2023-00061; APN: 0608-051-02, 03, and 04) (County 2024) (Initial Study/Mitigated Negative Declaration). In the Initial Study/Mitigated Negative declaration, we found the following project description.

The following comments are for the "Biological Resources Assessment, Jurisdictional Delineation, and Native Plant Protection Plan for the Proposed Cactus Club Hotel Project in Joshua Tree, California" (Biological Resources Assessment) prepared by Jennings Environmental, LLC (Jennings Environmental 2023) and for the "Initial Study/Mitigated Negative Declaration, PROJ-2023-00061, Proposed Cactus Club Hotel, for *Evoque Modern* APN: 0608-051-02, 03, and 04" (Initial Study/Mitigated Negative Declaration) prepared by the County in 2024. According to the Initial Study/Mitigated Negative Declaration, "[t]he Project proposes Tentative Parcel Map No. 20774 to combine three (3) existing parcels to create four (4) new parcels (Parcel 1, 5.28 acres; Parcel 2, 2.57 acres; Parcel 3, 2.56 acres; and Parcel 4, 2.24 acres) and a Conditional Use Permit for the development and operation of a twenty (20) room two-story hotel on Parcel 1 and associated infrastructure." The guest rooms, consisting of a total of 20 rooms will be "in three separate structures with a total of 7,705 square feet. Additional structures include a 1,300 square foot coffee shop/cafe, 1,300 square foot restaurant, 3,600 square foot club room, 1,800 square foot wine bar, 2,550 square foot lobby/office/mechanical/laundry building, 3,500 square foot hotel restaurant, and 3,800 square foot spa, and associated infrastructure including American with Disabilities Act

(ADA) parking spaces, ADA ramps and walkways, native plantings, downward facing lighting, refuse enclosure, on-site drainage improvements, a septic system, and paved access roads. Parcels 2, 3 and 4 will remain vacant.”

We note on page 4 of the Biological Resources Assessment (Jennings Environmental 2023) that the consultant was retained to perform a “...literature review and reconnaissance-level survey.” On page 5, they report, “Jennings biologist, Gene Jennings, conducted the *general reconnaissance survey* [*emphasis added*] within the Project site to identify the potential for the occurrence of special status species, vegetation communities, or habitats that could support special status wildlife species. The surveys were conducted on foot, throughout the Project site between 0955 and 1130 hours [*emphasis added*] on February 2, 2023.”

We were unable to find in the Biological Resources Assessment the project location or description of where the reconnaissance-level survey was conducted.

There are multiple problems associated with the Biological Resources Assessment (Jennings Environmental 2023) and, as presented in the Initial Study/Mitigated Negative Declaration, the County’s approach to assessing impacts to tortoises on this site from the construction, operation, and maintenance of the proposed Project. Some of them are described below.

(1) Rather than a reconnaissance survey, a formal tortoise protocol survey (USFWS 2019) should have been performed to comply with the Federal Endangered Species Act (FESA) and CESA. CDFW has adopted the USFWS’s 100% coverage survey walking transects 10 meters wide of the “action area” as the methodology to use (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281283-reptiles>) to determine tortoise presence/use of the action area and compliance with FESA and CESA.

The “action area” is defined in 50 Code of Federal Regulations 402.2 and the USFWS Desert Tortoise Field Manual (USFWS 2009) as “all areas to be affected directly or indirectly by proposed development and not merely the immediate area involved in the action.” Thus, the action area is larger than the project footprint/project site. The size of the action area/area to be surveyed is usually determined through coordination between the project proponent and the USFWS and CDFW.

The acreage given in the NoI is 12.65 acres for the four parcels. Whereas the consultant spent approximately 1.35 hours surveying the site, several Board members have performed tortoise protocol surveys since 1990 when they were first required, and we find that an appropriate survey rate is about four acres/hour. So, it should have taken at least three hours to adequately survey the 12.6-acre site when implementing the USFWS formal tortoise protocol survey. This survey rate for the tortoise does not include surveys for burrowing owls in areas adjacent to the Project site as required by the CDFW (CDFG 2012) or surveys in the remaining part of the “action area” for the tortoise under the formal tortoise protocol survey (USFWS 2019), which would likely take several more hours.

Formal protocol surveys must be performed for the County to be able to ascertain the use of the action area by the tortoise and to comply with FESA and CESA. Consequently, the County has insufficient information to adequately determine whether tortoises use the action area and what the

impacts would be to the tortoise from the construction, operation, and maintenance of the proposed Project.

In addition, this USFWS and CDFW tortoise survey protocol specifies that the survey be conducted during the tortoise's active season, that is when air temperatures are appropriate for tortoises to be active and above ground during the day – usually April through May and September through October. The reconnaissance survey was conducted in early February when tortoises are usually in their burrows making it difficult to find them.

According to the USFWS (2019) the surveyor should provide the complete results of their work so the USFWS “can fully understand the project-specific circumstances, such as the conditions under which the survey was conducted (e.g., weather, experience of the surveyors, access to the survey area, degree of disturbance of the land, etc.).” This information should be provided in the biological report as well as when the results of the report were submitted to the USFWS and CDFW and their responses.

There is a substantial difference between conducting a reconnaissance survey of a site for evidence of use by special status species and conducting a survey protocol whose methodology is tailored to the ecological and behavioral characteristics specific to each special status species. The formal protocol survey for the tortoise has been developed using ecological and behavioral parameters for the tortoise as well as statistical analysis of the ability of qualified biologists to detect tortoises when they are above ground. Consequently, a general reconnaissance survey is more likely to result in a finding of no evidence of the special status species present (e.g., Mojave desert tortoise, burrowing owl) on a project site which in many cases would be an incorrect representation on the use of the project site by the special status species.

(2) Because this reconnaissance survey, which is inadequate with respect to meeting federal and State requirements under FESA and CESA was performed more than 2.5 years ago on February 2, 2023, the Council advises the County that the project proponent or their consultant should contact the USFWS and CDFW and inquire whether another survey is required. USFWS (2019) states the following with regards to the longevity of the validity of a given survey: “If the survey data *are more than a year old [emphasis added]*, we encourage project proponents to contact us at the earliest possible time to allow us to assess the specific circumstances under which the data were collected (e.g., time of year, drought/rainfall conditions, size and location of the site, etc.) and to discuss whether additional surveys would be appropriate. Spatial information can be provided in pdf and GIS formats.”

In addition, CDFW usually accepts survey results for up to one year after they were performed. For surveys completed more than a year ago, CDFW usually requires that the formal survey protocol for the tortoise be implemented again and cover the action area for small projects such as this one.

(3) It is laudable that, as reported on page 5 of Jennings Environmental, LLC. (2023), that they consulted the California Natural Diversity Data Base (CNDDB) and other references. However, we have found that these resources are inadequate in determining actual occurrences of the tortoise in a given region. CNDDB is not always current in entering all occurrence data reported and not all surveyors, biologists, etc. report their findings to CNDDB. Biologists with Circle Mountain

Biological Consultants, Inc. (CMBC), including the primary author of this comment letter, have performed surveys at 309 sites on 16,274 acres and 138.65 linear miles of pipeline since 1988 in the Morongo Basin, which encompasses the Project site. In Figures 1a and 1b, results of pertinent surveys are depicted as green where tortoise sign was found and red where no tortoise sign was found in Figures 1a and 1b below.

Figure 1a shows the results of 16 surveys on 10 sites between 100 feet (Survey #15, 228, 229, 230, 231, 232, 242 in the figure) and a half mile northwest (Survey #34) of the Project site, where tortoises and/or their signs were found on the dark green sites and in adjacent areas for the light green sites. The large site across Highway 62 where 7 of the 16 surveys have been performed is Copper Mountain College where more than 25 tortoises have been found on the 85-acre site since it was developed in 2005 (LaRue, personal observation). Many of these animals were hatchlings or juvenile tortoises indicating that reproduction is prevalent in the area. This tortoise recruitment is atypical for much of the tortoise population in the Western Mojave Desert (Allison and McLuckie 2018). Figure 1b shows that the nearest sites where no tortoise signs were found (shown as red polygons for sites and lines for pipelines) were 1.5 miles west (Survey #6) and 1.6 miles northwest (Survey #179, 218).

We offer these results from conducting tortoise protocol surveys as new data and evidence that tortoises are prevalent in the Project area, and that a reconnaissance survey performed by the consultant for this Project is insufficient to determine use of the Project site and action area by tortoises or to comply with FESA and CESA. Consequently, if the County's intent is to comply with FESA and CESA and adequately determine, analyze, and mitigate impacts to the tortoise under the California Environmental Quality Act (CEQA), the County should require that protocol surveys for the tortoise be conducted covering the action area by biologists deemed qualified by the U.S. Fish and Wildlife Service (USFWS) and CDFW before the County completes its Initial Study/CEQA document for this Project.

(4) On page 10, Jennings Environmental (2023) makes the following conclusions based on the reconnaissance survey results: "The habitat on site is marginally suitable for desert tortoise. *Recent occurrences in the vicinity from 2008 are documented in the CNDDDB Search [emphasis added]*. However, no sign of desert tortoise (i.e. burrows, tracks, or pellets) was observed during the survey. Additionally, no desert tortoise individuals were observed. "Findings: Because the site is marginally suitable, it is recommended that *pre-construction surveys be completed* for this species. These surveys should be conducted by a qualified biologist and at an appropriate time of day/year to observe signs of desert tortoise."

In the first paragraph, the consultant notes an occurrence in 2008. Seven of the 16 surveys depicted in Figure 1a (i.e., all of the numbers greater than 215) were performed since 2008, with Survey #242 occurring in 2010. LaRue helped survey the Copper Mountain College site in 2024 when a half dozen tortoises were found across the street from the proposed Project site. So, again, these supplemental data are being provided so the County will include them in its analysis of whether any significant impacts as defined by CEQA will occur if this site is developed, used, and maintained, as proposed.

Figure 1b depicts a regional overview of tortoise surveys in the region, where the numbers have been removed to better depict locations of tortoise sign. Tortoise signs have been found on most

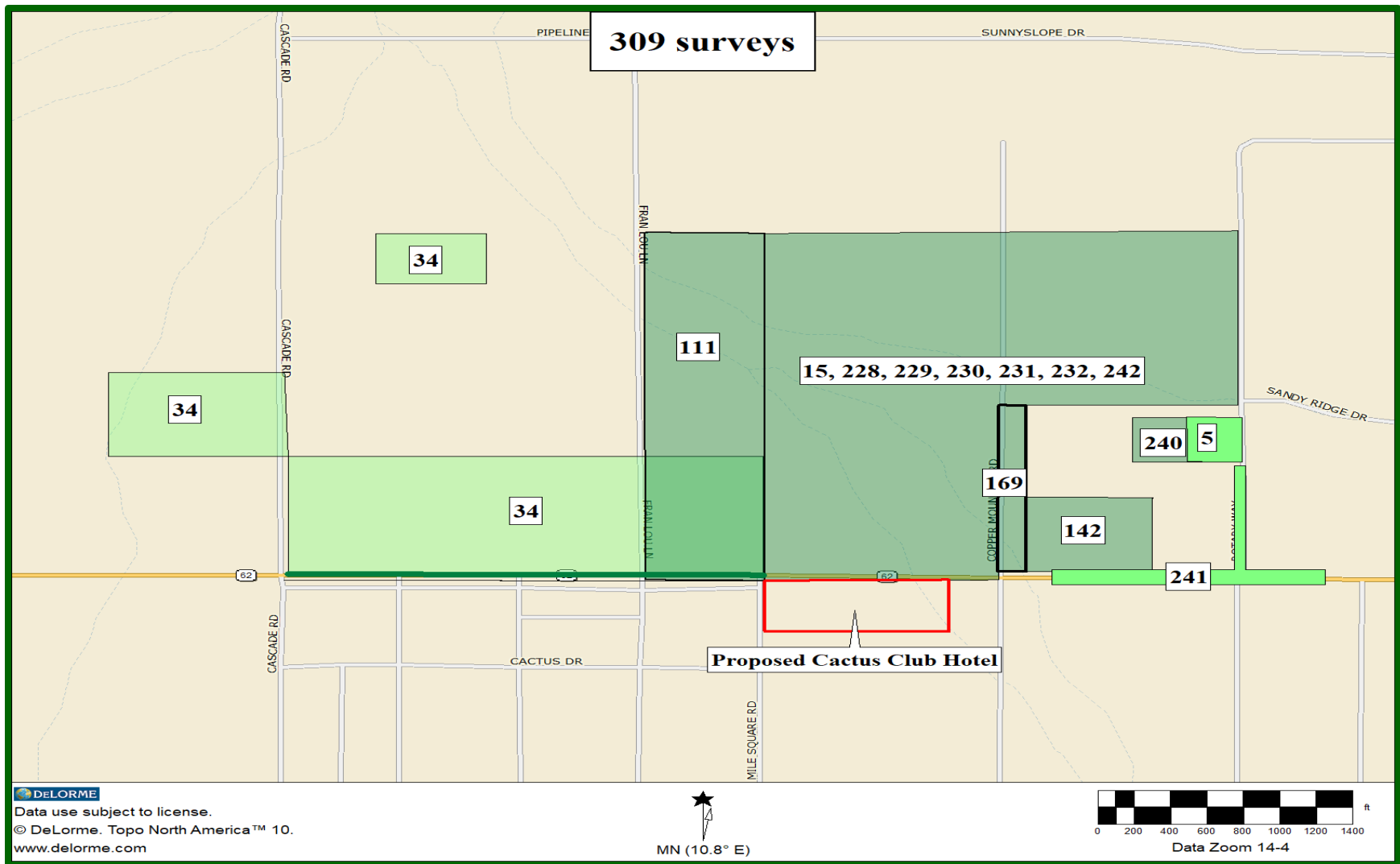


Figure 1a. Locations of recent tortoise surveys adjacent to the subject property where tortoise signs have been found either onsite or in adjacent areas on all surveys.

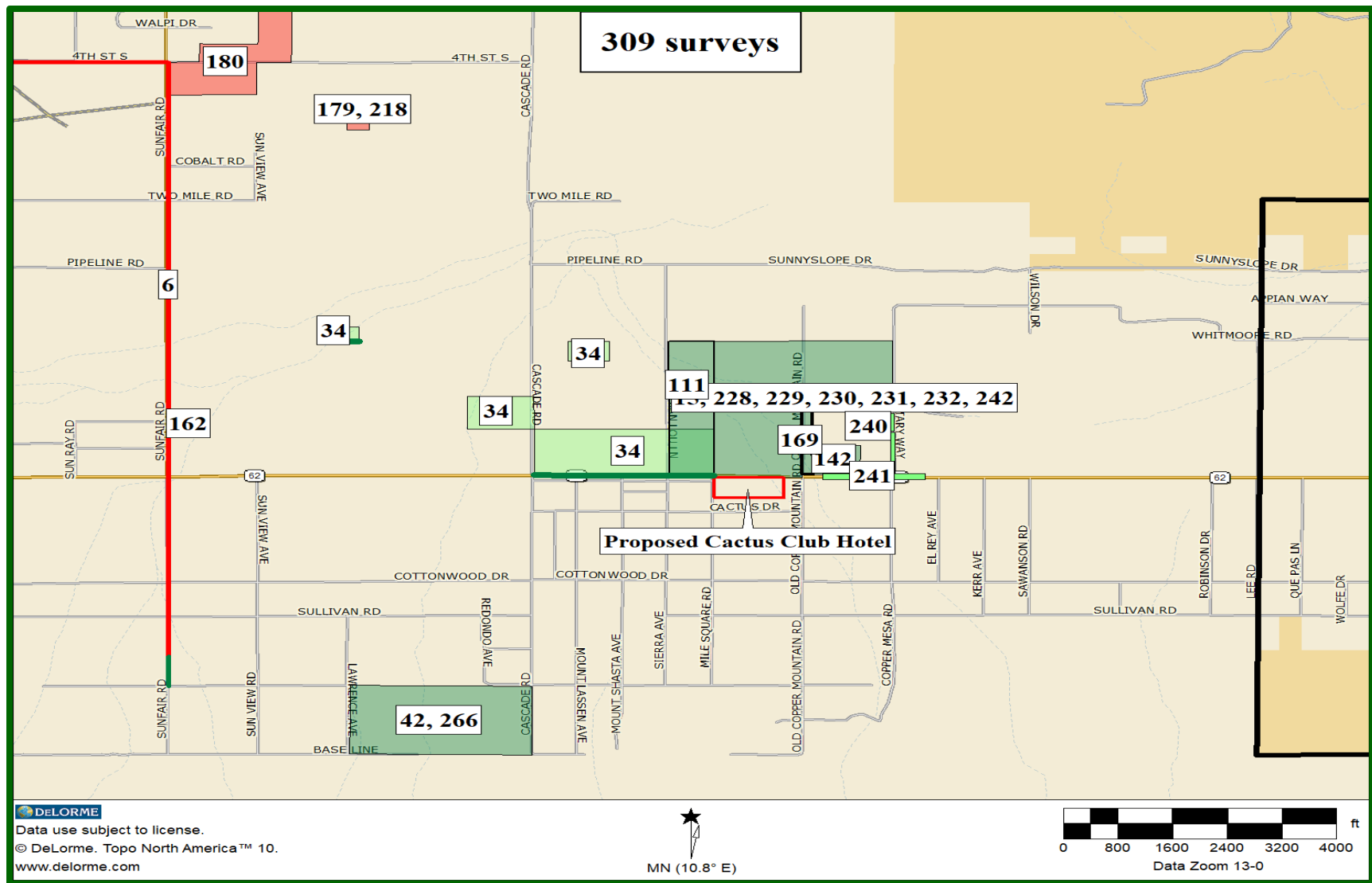


Figure 1b. Locations of recent tortoise surveys in the region where two red polygons and two red lines signify the only sites and pipelines, respectively, where no tortoise sign was found.

of the sites north of the community, including the region in which this site is located. These new data are provided to the County to emphasize the importance of performing USFWS (2019) protocol surveys that follow all the requirements in the survey methodology (e.g., survey width, conducted by biologists deemed qualified by USFWS and CDFW, survey the entire action area, conduct surveys within one year, etc.) to ascertain tortoise absence.

With regards to pre-construction surveys that are recommended to be implemented by Jennings Environmental (2023), we are not sure if these are formal protocol surveys or clearance surveys. The USFWS (2009) describes “clearance surveys,” which are more intense than that formal protocol surveys. The entire project site is surveyed a few days before surface disturbance is to occur and usually after a tortoise exclusion fence has been installed around the project site. The clearance survey protocol directs qualified biologists to walk transects 5 meters wide. For the next survey, the transect are walked perpendicular to the first. If a tortoise is found, the survey effort continues until no tortoises are seen. When tortoises are found they are removed from the project site and translocated following a protocol that must be approved by the USFWS (2020) and CDFW prior to initiating the pre-construction/clearance surveys.

The Council contends that the County cannot effectively assess the potential significance of impacts to the tortoise based on the promise of future surveys. And, as given above, nor can the County assess direct, indirect, cumulative, growth-inducing, and synergistic impacts based on the results of implementing a survey methodology that was inadequate to find tortoises/tortoise signs, did not cover the action area, was conducted at the wrong time of the year, and the results of which are 2.5 years old. We contend that these data should not be used to ascertain the current status of tortoises on/near the proposed Project site.

(5) We understand that the proposed Project includes a parcel split, which is a paper transaction that would not, in and of itself, result in physical impacts to the Project site, but that it would authorize the construction, operations, and maintenance of a hotel and related facilities on one of the four newly-created parcels. Therefore, there may be immediate direct impacts to the tortoise if the Project is developed as well as indirect, cumulative, growth-inducing, and synergistic impacts from both the hotel and the developments that would be authorized for the other three parcels. In the absence of new protocol-level surveys that definitively confirm the absence of tortoises, the County risks violating CEQA, CESA, and FESA by approving this Project and not ensuring that the Project proponent has complied fully with these environmental laws.

(6) In the Initial Study/Mitigated Negative Declaration (County 2024, page 34), we found the following information,:

“According to the California Essential Habitat Connectivity Project 4, the Project Site is not mapped within an area for wildlife movement. Additionally, the site is not within a wildlife linkage as mapped by Mojave Desert Land Trust⁵. The proposed Project is also not within a Habitat Conservation Plan. Therefore, the proposed Project will not have an impact on any current wildlife corridors or habitat conservation plans.”

In searching the California Essential Habitat Connectivity Project website (CDFW 2010), we discovered that the proposed Project is located in a Mitigation Target Area for the tortoise. On this webpage CDFW says that more detailed analyses under the Desert Renewable Energy

Conservation Plan (DRECP) Conservation Strategy, which was completed in 2016. Under the DRECP, linkage habitats were identified for the tortoise. The proposed Project appears to be located in an area identified as linkage habitat needed to provide population connectivity between the Ord-Rodman Tortoise Conservation Area to the northwest of the Project site and Joshua Tree National Park to the south of the Project site (BLM 2016, Averill-Murray et al. 2021).

In addition, San Bernardino County should have a Conservation and Open Space Element in its General Plan and have included an element for wildlife connectivity. Please include this information in the Initial Study/Mitigated Negative Declaration with respect to the tortoise and the Project site.

Several scientific reports and journal articles have been written on this issue of connectivity between populations for the tortoise. A recent publication by Averill-Murray et al. (2021), mentioned above, discusses the importance of connectivity of Mojave desert tortoise populations and linkage habitats. The authors emphasized that “[m]aintaining an ecological network for the Mojave desert tortoise, with a system of core habitats (TCAs = Tortoise Conservation Areas) connected by linkages, is necessary to support demographically viable populations and long-term gene flow within and between TCAs.”

“Ignoring minor or temporary disturbance on the landscape could result in a cumulatively large impact that is not explicitly acknowledged (Goble, 2009); therefore, understanding and quantifying all surface disturbance on a given landscape is prudent.” Furthermore, “habitat linkages among TCAs must be wide enough to sustain multiple home ranges or local clusters of resident tortoises (Beier and others, 2008; Morafka, 1994), while accounting for edge effects, in order to sustain regional tortoise populations.” Consequently, effective linkage habitats are not long narrow corridors. Any development within them has an edge effect (i.e., indirect impact) that extends from all sides into the linkage habitat further narrowing or impeding the use of the linkage habitat, depending on the extent of the edge effect.

Averill-Murray et al. (2021) further notes that “To help maintain tortoise inhabitation and permeability across all other non-conservation-designated tortoise habitat, all surface disturbance could be limited to less than 5-percent development per square kilometer because the 5-percent threshold for development is the point at which tortoise occupation drops precipitously (Carter and others, 2020a).” They caution that the upper threshold of 5 percent development per square kilometer may not maintain population sizes needed for demographic or functional connectivity; therefore, development thresholds should be lower than 5 percent.

The lifetime home range for the Mojave desert tortoise is more than 1.5 square miles (3.9 square kilometers) of habitat (Berry 1986) and tortoises may make periodic forays of more than 7 miles (11 kilometers) at a time (Berry 1986).

In addition, a fundamental tenet of conservation biology is the need for gene flow to occur between populations to maintain genetic diversity; this enables a species to more likely survive, especially during climate change, which enables biodiversity. Linkage habitats are important as they provide gene flow/genetic connectivity among wildlife populations to maintain viability within each species and biodiversity in the current and future distribution of species when adapting to the impacts of climate change. Consequently, development in tortoise linkage habitat that exceeds this

development threshold in non-conservation-designated tortoise habitat such as the Ord-Rodman TCA to Joshua Tree National Park linkage habitat would result in the loss of the function of the linkage habitat, the loss of population connectivity, and would be considered a significant impact to the tortoise.

The proposed Project is a permanent disturbance to this linkage habitat and would result in permanent edge effects (=indirect impacts) during construction, operations, and maintenance that extend into the linkage habitat reducing its effectiveness. The County needs to analyze the remaining linkage habitat using the criteria provided in Averill-Murray et al. (2021) to determine whether it would contain the requisite properties needed to function as linkage habitat for the tortoise from the impacts from existing development and activities, the addition of the construction and use of the proposed Project, and future planned projects and activities. This would include new roads and increased vehicle use as well as the indirect impacts mentioned in #7 of this letter. The County needs to demonstrate in the CEQA document that the proposed Project with existing and future planned projects is “wide enough to sustain multiple home ranges or local clusters of resident tortoises (Beier and others, 2008; Morafka, 1994), while accounting for edge effects [=indirect impacts], in order to sustain regional tortoise populations” (Averill-Murray et al. 2021). Consequently, effective linkage habitats are not long narrow corridors or washes. One tortoise home range is more than one square mile.

Please revise the CEQA document to include this information and the information on requirements for linkage habitats for the tortoise in Averill-Murray et al. (2021) when the County conducts its analysis of impacts to the tortoise on movements and population connectivity from the proposed Project.

(7) As previously mentioned, the proposed Project would result in indirect, cumulative, synergistic, and growth-inducing impacts to the tortoise. We remind the County of the demographic status of the tortoise. The USFWS has documented substantial declines in tortoise abundance and density since 2004, especially in California (see attachment “Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including the Tortoises in Western Mojave Recovery Unit”). The primary reason for its substantial decline has been from increased mortality caused by indirect impacts from human activities. These include human activities that result in the destruction, degradation and/or fragmentation of tortoise habitat; surface disturbance and introduction of non-native invasive plant species via construction equipment, vehicles, and other sources; replacement of native forbs with high nutritional and water value with low nutritional non-native invasive grasses (Drake et al. 2016); increased occurrence of fire size, intensive, and frequency of human-caused wildfires from fuels provided by non-native invasive plant species (Brooks and Esque 2002); increased predation from substantially increased numbers of predators that utilize subsidies of food, water, and nesting locations (Boarman 2003); and increased human access that provides opportunities for vandalism and collecting tortoises for pets. Major sources of surface disturbance include residential, commercial, (such as the proposed Project) and industrial development projects and associated roads/highways; military training; and off-highway vehicle use (USFWS 2011, Tuma et al. 2016).

An example of one indirect impact from the Project’s construction, use, and operations and how it is likely to result in take of the tortoise is increased tortoise predation. Common ravens are known to prey on juvenile desert tortoises based on direct observations and circumstantial evidence, such

as shell-skeletal remains with holes pecked in the carapace (Boarman 1993). The number of common ravens increased by 1,528% in the Mojave Desert since the 1960s (Boarman 1993). This increase in raven numbers is attributed to unintentional subsidies provided by humans in the Mojave Desert.

In the Mojave Desert, common ravens are subsidized predators because they benefit from resources associated with human activities that allow their populations to grow beyond their “natural” carrying capacity in the desert habitat. Kristan et al. (2004) found that human developments in the western Mojave Desert affect raven populations by providing food subsidies, particularly trash and road-kill. Boarman et al. (2006) reported raven abundance was greatest near resource subsidies, specifically food (= trash) and water. Human subsidies include food and water from landfills and other sources of waste, reservoirs, sewage ponds, agricultural fields, feedlots, gutters. Subsidies also include perch, roost, and nest sites on power towers, telephone poles, light posts, billboards, fences, freeway or railroad overpasses, abandoned vehicles, and buildings (Boarman 1993). The human-provided subsidies allow ravens to survive in the desert during summer and winter when prey and water resources are typically inactive or scarce. Boarman et al. (1993) concluded that the human-provided resource subsidies must be reduced to facilitate a smaller raven population in the desert and reduced predation on the tortoise.

Coyotes are known predators of tortoises. High adult tortoise mortality from coyote predation was reported by Petersen (1994), Esque et al. (2010) and Nagy et al. (2015) in part of the range of the tortoise. In some areas, numbers of ravens correlated positively with coyote abundance (Boarman et al. 2006). Lovich et al. (2014) reported tortoise predation may be exacerbated by drought if coyotes switch from preferred mammalian prey to tortoises during dry years. Because the Mojave Desert has been in a multi-decade drought (Stahle 2020, Williams et al. 2022) due to climate change and drought conditions are expected to continue and intensify in future years, increased predation pressure from coyotes on tortoises is expected to continue.

The proposed Project would likely increase the availability of human-provided subsidies for predators of the tortoise including the common raven and coyote during the construction, operation, and maintenance phases of the Project. For example, during the construction phase the water used to control dust and the waste generated during construction including food brought to the Project site by workers for meals, etc., are examples of food and water subsidies for ravens and coyotes that would attract these predators to the Project site and increase their numbers in the surrounding area. Grading the site would expose, injure, or kill fossorial animals and provide a subsidized food source for ravens and coyotes. During operation and maintenance phases, the presence of food waste in uncovered trash cans and dumpsters would provide food subsidies for ravens and coyotes that would attract them to the project area and increase the likelihood of them preying on tortoises in the project area. Vertical structures (e.g., light poles, structural canopies, etc.) provide nesting subsidies for common ravens and increase their numbers in the project area resulting in greater predation on tortoises in nearby areas.

Currently the priority for managing the tortoise is to substantially reduce mortality and manage desert tortoise habitat for persistence and connectivity of the species (Averill-Murray et al. 2021, Holcomb 2025 personal communication). The major threat to the tortoise is mortality from human sources, either directly or indirectly. These sources of mortality must be substantially reduced or eliminated if the tortoise is to survive in the near future. The indirect impacts from the proposed

Project that are not addressed in the Initial Study/Mitigated Negative Declaration include all the indirect impacts listed earlier in this letter and possibly more (e.g., presence of unleashed dogs, etc.).

Another indirect impact that is frequently overlooked is from the construction, use, and maintenance of drainage systems. Depending on their design, these systems can trap tortoises resulting in injury or mortality to tortoises, from hatchlings to adult tortoises, that enter them or can drown tortoises. These and other indirect impacts to the tortoise and its habitat from implementation of the proposed Project should be described and analyzed in the CEQA document and effective mitigation required to offset these impacts.

(8) In the section on “Mandatory Findings of Significance,” two of the three questions under the CEQA Handbook are applicable to the tortoise. They are:

Does the project have the potential to substantially 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, substantially 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?

and

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?)

To assist the County in answering these two questions regarding the impacts to the tortoise from the construction, operations, and maintenance of the proposed Project, we are attaching “Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including Tortoises in the Western Mojave Recovery Unit.” Note that the proposed Project is in the Western Mojave Recovery Unit, the tortoise populations in this Unit are below the density needed for population viability (Allison and McLuckie 2018), and the density of tortoises continues to decline in the Western Mojave Recovery Unit (USFWS 2025). The adult tortoise population declined by about 50 percent and the number of juvenile tortoises decline by 91 percent between 2004 and 2014 (Allison and McLuckie 2018), and this downward trend continues (USFWS 2025). Also note that the tortoise cannot achieve recovery, that is, be removed from the list of threatened species under FESA unless it achieves recovery in all five recovery units including the Western Mojave Recovery Unit (USFWS 2011). This includes having viable populations. We conclude that having populations below the density needed for population viability means these populations are below the level needed to be self-sustaining, and any additional impacts to these populations would exacerbate this declining trend and remain below the level of self-sustaining. Using the information in this Appendix, we conclude the answer to these two questions is “yes,” which means the impacts from the proposed Project would be significant. Please include this information in the County’s analysis of the Project in the CEQA document.

Because the County has prepared an Initial Study/Mitigated Negative Declaration, it contains mitigation and monitoring sections that are supposed to demonstrate that implementation of

mitigation and monitoring actions will reduce the level of impacts from the construction, operation, and maintenance of the proposed Project to less than significant. However, until the County (1) determines the use of the Project site and surrounding area by tortoises; (2) determines the type and extent of the direct, indirect, cumulative, synergistic, and growth-inducing impacts to the tortoise/tortoise habitat from the construction, operation, and maintenance of the proposed Project; and (3) analyzes these impacts to the tortoise, the County is unable to identify the appropriate mitigation and monitoring to offset these impacts. Consequently, the County is currently unable to determine whether a mitigated negative declaration or an environmental impact report is the appropriate CEQA document to prepare for the proposed Project with respect to impacts to the tortoise.

(9) With regards to the burrowing owl, Jennings Environmental (2023) reported on page 11, “Based on the February 2023 field survey, the site does not contain suitable habitat for this species. No burrowing owls were observed during the site visit. No portion of the project site showed any evidence of past or present BUOW activity. No suitable burrows, feathers, whitewash, or castings were found. Additionally, the site does not contain a suitable burrow surrogate species (i.e., California ground squirrel (*Otospermophilus beecheyi*)).”

Like the methodologies described above for tortoises, the 2023 reconnaissance survey methodology conducted by Jennings Environmental, LLC. did not follow the survey protocol identified by the California Department of Fish and Game (CDFG 2012) for burrowing owl. For example, California ground squirrel burrows that are used by burrowing owls occur within several hundred feet of the proposed property on the college campus, and reconnaissance surveys (Jennings does not report where the transects were surveyed) may certainly have missed such burrows that would more likely be found during a protocol survey.

Equally important, CDFG (2012) requires that five transects spaced at 30-, 60-, 90-, 120-, and 150-meter intervals be surveyed in all adjacent areas for signs of burrowing owls. Given open, undeveloped lands to the south, east, and southwest (see Figure 2 below taken from the Biological Resources Assessment), these areas would need to be surveyed before Jennings Environmental could make the statement on page 11 as cited above.

Additionally, we provide the following supplemental information to the County concerning burrowing owls. Referring to Figures 1a and 1b above, CMBC has found burrowing owl signs during Surveys #111, 142, 169, and 228. Additionally, burrowing owl signs have been found during every tortoise protocol survey performed on the adjacent Copper Mountain College campus since the 50-acre sports complex was constructed in 2008, including surveys in 2024. Given this new information, the County needs to reassess its conclusion on page 32 of its Initial Study/Mitigated Negative Declaration that burrowing owls may not be significantly impacted as defined by CEQA with the construction, operation, and maintenance of this Project, because this conclusion is based on a faulty survey methodology and does not include the new information given herein.

In summary, because of the information the Council has provided to the County on occurrence data of tortoises/tortoise signs and burrowing owls/owl signs and the requirements under FESA and CESA for projects that would result in surface disturbance, the County should require the

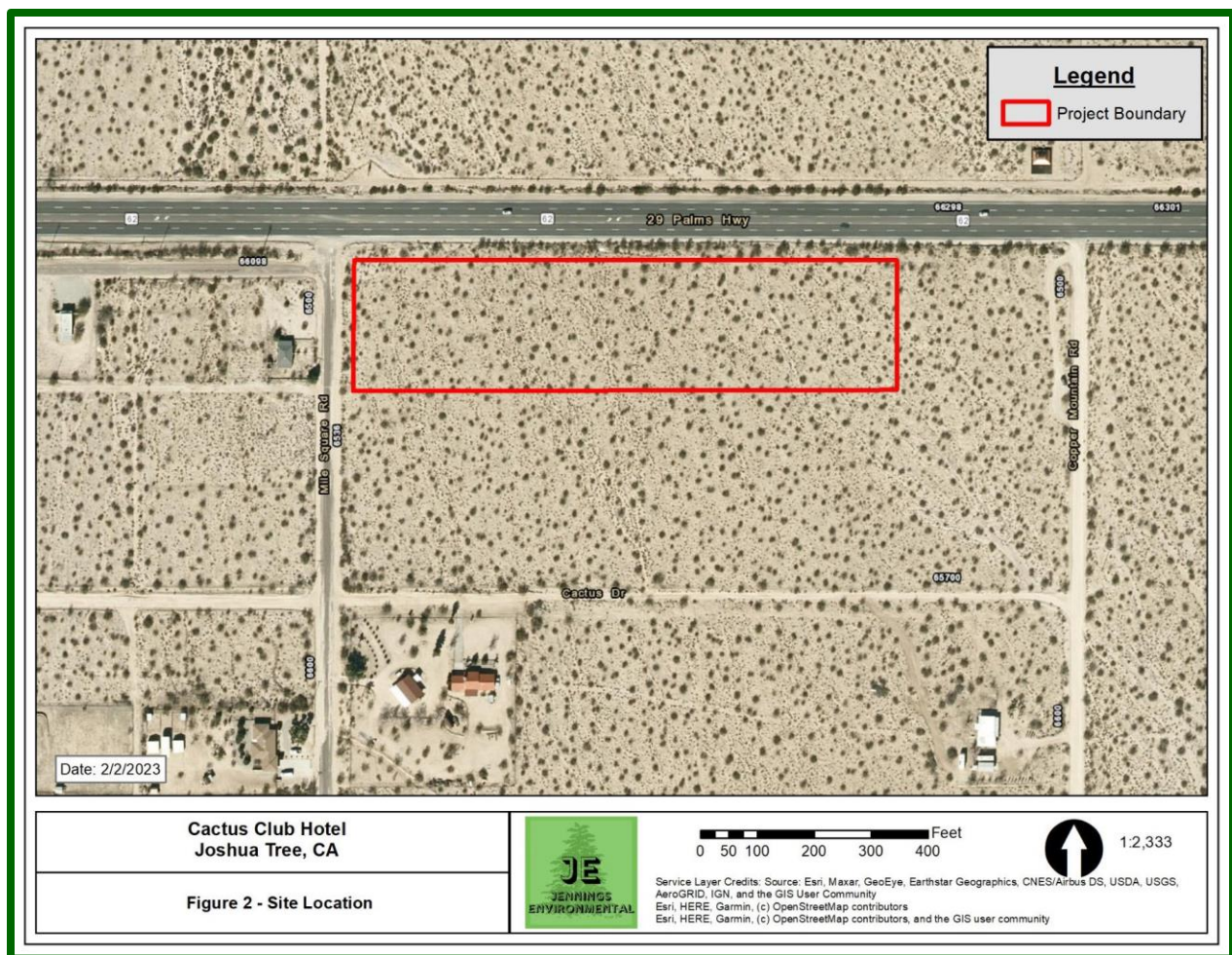


Figure 2. Cactus Club Hotel site location from Jennings Environmental LLC (2023).

Project proponent to comply with FESA and CESA requirements and have qualified biologists approved by USFWS and CDFW fully implement surveys of the action area/adjacent areas for these species. The results of these surveys should be included in the revised CEQA document and used in the analysis of the direct, indirect, cumulative, growth-inducing, and synergistic impacts to these species. Only after this process is completed will the County have sufficient information to determine the mitigation that needs to be implemented to offset these impacts to the tortoise and burrowing owl; to ensure that the impacts do not rise to the level of significance under CEQA; and to demonstrate that a mitigated negative declaration with effective mitigation that offsets the direct, indirect, cumulative, growth-inducing, and synergistic impacts is the appropriate CEQA document.

We appreciate this opportunity to provide the above comments and trust they will help protect tortoises during any resulting authorized activities. Herein, we reiterate that the Council wants to be identified as an Affected Interest for this and all other projects funded, authorized, or carried out by the County that may affect desert tortoises, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we ask that the County continue to notify the Council at eac@deserttortoise.org of any proposed projects that may affect the desert tortoise so we may comment on them to ensure

the County fully considers and implements actions to conserve these tortoises as part of its directive to conserve biodiversity on lands it oversees in San Bernardino County.

Please respond in an email that you have received this comment letter so we can be sure our concerns have been registered with the appropriate personnel and office for this Project.

Respectfully,



Edward L. LaRue, Jr., M.S.

Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

Attachment: Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including Tortoises in Western Mojave Recovery Unit.

Cc: Brian Croft, Assistant Field Supervisor, Palm Springs Fish and Wildlife Office, U.S. Fish and Wildlife Office, brian_croft@fws.gov

Peter Sanzenbacher, Mojave Desert Division Supervisor, peter_sanzenbacher@fws.gov

Heidi Calvert, Regional Manager, Region 6, Inland and Desert Region, California Department of Fish and Wildlife, Heidi.Calvert@wildlife.ca.gov

Steven Recinos, Environmental Scientist, Region 6, Inland Deserts Region, California Department of Fish and Wildlife, steven.recinos@wildlife.ca.gov

Literature Cited

Allison L.J. and A.M. McLuckie. 2018. Population trends in Mojave desert tortoises (*Gopherus agassizii*). *Herpetological Conservation and Biology*. 2018 Aug 1;13(2):433-52. http://www.herpconbio.org/Volume_13/Issue_2/Allison_McLuckie_2018.pdf

Averill-Murray, R.C., T.C. Esque, L.J. Allison, S. Bassett, S.K. Carter, K.E. Dutcher, S.J. Hromada, K.E. Nussear, and K. Shoemaker. 2021. Connectivity of Mojave Desert tortoise populations—Management implications for maintaining a viable recovery network. U.S. Geological Survey Open-File Report 2021–1033, 23 p., <https://doi.org/10.3133/ofr20211033>. <https://pubs.usgs.gov/of/2021/1033/ofr20211033.pdf>

Beier, P., D.R. Majka, and W.D. Spencer. 2008, Forks in the road—Choices in procedures for designing wildland linkages: *Conservation Biology* 22(4):836–851. <https://doi.org/10.1111/j.1523-1739.2008.00942.x>.

Berry, K.H. 1986. Desert tortoise (*Gopherus agassizii*) relocation: Implications of social behavior and movements. *Herpetologica* 42:113-125. <https://www.jstor.org/stable/3892242>

Berry, K.H., L.J. Allison, A.M. McLuckie, M. Vaughn, and R.W. Murphy. 2021. *Gopherus agassizii*. The IUCN Red List of Threatened Species 2021: e.T97246272A3150871. <https://dx.doi.org/10.2305/IUCN.UK.2021-2.RLTS.T97246272A3150871.en>

- [BLM] U.S. Bureau of Land Management. 2016. Record of Decision for the Land Use Plan Amendment to the California Desert Conservation Plan, Bishop Resource Management Plan, and Bakersfield Resource Management Plan for the Desert Renewable Energy Conservation Plan (DRECP). Dated September 2016. Sacramento, CA
- Boarman, W.I. 1993. When a native predator becomes a pest—A case study, *in* Majumdar, S.K., Miller, E.W., Baker, D.E., Brown, E.K., Pratt, J.R., and Schmalz, R.F., eds., Conservation and resource management: Easton, Pennsylvania Academy of Science, p. 186–201.
- Boarman, W. 2003. Managing a Subsidized Predator Population: Reducing Common Raven Predation on Desert Tortoises. *Environmental Management* 32, 205–217 (2003).
<https://doi.org/10.1007/s00267-003-2982-x>
- Boarman, W.I., M.A. Patten, R.J. Camp, and S.J. Collis. 2006. Ecology of a population of subsidized predators: Common ravens in the central Mojave Desert, California. *Journal of Arid Environments* 67 (2006) 248–261.
<https://www.sciencedirect.com/science/article/abs/pii/S0140196306003016>
- Brooks, M.L., and T.C. Esque. 2002. Alien plants and fire in desert tortoise (*Gopherus agassizii*) habitat of the Mojave and Colorado Deserts. *Chelonian Conservation and Biology* 4:330–340.
<https://pubs.usgs.gov/publication/1008328>
- [CDFG] California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. The 7 March 2012 memo replacing 1995 staff report, State of California Natural resources Agency, Department of Fish and Wildlife. Sacramento, CA.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>
- [CDFW] California Department of Fish and Wildlife. 2024a. Status Review for Mojave Desert Tortoise (*Gopherus agassizii*) Report to the Fish and Game Commission, February 2024.
<https://nrm.dfg.ca.gov/documents/ContextDocs.aspx?cat=CESA-Listing>
- [CDFW] California Department of Fish and Wildlife. 2024b. 2022-2024 News Releases. California Fish and Game Commission Holds Hybrid Meeting, April 23, 2024.
<https://wildlife.ca.gov/News/Archive/california-fish-and-game-commission-holds-hybrid-meeting11>
- Carter, S.K., K.E. Nussear, T.C. Esque, I.I.F. Leinwand, E. Masters, R.D. Inman, N.B. Carr, and L.J. Allison. 2020. Quantifying development to inform management of Mojave and Sonoran desert tortoise habitat in the American southwest. *Endangered Species Research* 42:167–184.
<https://doi.org/10.3354/esr01045>.
<https://www.int-res.com/abstracts/esr/v42/p167-184/>
- [Commission] California Fish and Game Commission. 2025. CESA, Petitions to List Species Under the California Endangered Species Act, Finalized Petitions.
<https://fgc.ca.gov/CESA#1089124-mojave-aka-agassizs-desert-tortoise-2025>

- [County] Sand Bernardino County. 2024. Initial Study/Mitigated Negative Declaration, PROJ-2023-00061, Proposed Cactus Club Hotel. For *Evoque Modern* APN: 0608-051-02, 03, and 04. County of San Bernardino, Land Use Services Department, November 2024.
<https://lus.sbcounty.gov/wp-content/uploads/sites/48/Draft-ISMND-August-2025.pdf>
- Defenders of Wildlife, Desert Tortoise Preserve Committee, and Desert Tortoise Council. 2020. A Petition to the State of California Fish And Game Commission to move the Mojave desert tortoise from listed as threatened to endangered.
https://defenders.org/sites/default/files/2020-03/Desert%20Tortoise%20Petition%203_20_2020%20Final_0.pdf
- Drake, K. K., L. Bowen, K. E. Nussear, T. C. Esque, A. J. Berger, N. A. Custer, S. C. Waters, J. D. Johnson, A. K. Miles, and R. L. Lewison. 2016. Negative impacts of invasive plants on conservation of sensitive desert wildlife. *Ecosphere* 7(10):e01531. 10.1002/ecs2.1531.
<https://esajournals.onlinelibrary.wiley.com/doi/pdf/10.1002/ecs2.1531>
- Esque, T.C., K.E. Nussear, K.K. Drake, A.D. Walde, K.H. Berry, R.C. Averill-Murray, A.P. Woodman, W.I. Boarman, P.A. Medica. J. Mack, and J.H. Heaton. 2010. Effects of subsidized predators, resource variability, and human population density on desert tortoise populations in the Mojave Desert, U.S.A. *Endangered Species Research*, Vol. 12-167-177, 2010, doi: 10.3354/esr00298.
<https://www.int-res.com/articles/esr2010/12/n012p167.pdf>
- Goble, D.D. 2009. The endangered species act—What we talk about when we talk about recovery: *Natural Resources Journal* 49:1–44.
<https://www.jstor.org/stable/24889187>
- Holcomb, K.L. 2025. Personal communication. Desert Tortoise Recovery Office. U.S. Fish and Wildlife Service, Palm Springs, CA.
- Jennings Environmental, LLC. 2023. Biological Resources Assessment, Jurisdictional Delineation, and Native Plant Protection Plan for the Proposed Cactus Club Hotel Project in Joshua Tree, California. Unpublished report prepared on behalf of Evoque Modern, LLC, dated February 2023. Yucaipa, CA.
- Kristan, W.B., W.I. Boarman, and J.J. Crayon. 2004. Diet composition of common ravens across the urban wildland interface of the west Mojave Desert. *Wildlife Society Bulletin* 32: 244–253.
[https://doi.org/10.2193/0091-7648\(2004\)32\[244:DCOCRA\]2.0.CO;2](https://doi.org/10.2193/0091-7648(2004)32[244:DCOCRA]2.0.CO;2)
- Lovich, J.E., C.B. Yackulic, J.E. Freilich, M. Agha, M. Austin, K.P. Meyer, T.R. Arundel, J. Hansen, M.S. Vamstad, and S.A. Root. 2014. Climatic variation and tortoise survival—Has a desert species met its match? *Biological Conservation* 169: 214–224.
<https://www.sciencedirect.com/science/article/pii/S0006320713003443>

- Morafka, D.J. 1994. Neonates—Missing links in the life histories of North American tortoises, *in* Bury, R.B., and Germano, D.J., eds., *Biology of North American tortoises*: Washington, D.C., National Biological Survey, Fish and Wildlife Research 13:161–173.
- Nagy, K.A., L.S. Hillard, M.W. Tuma, and D.J. Morafka. 2015. Head-started desert tortoises (*Gopherus agassizii*)—Movements, survivorship and mortality causes following their release: *Herpetological Conservation and Biology* 10: 203–215.
<https://escholarship.org/content/qt67f7t2n6/qt67f7t2n6.pdf>
- Peterson, C.C. 1994. Different rates and causes of high mortality in two populations of the threatened desert tortoise *Gopherus agassizii*. *Biological Conservation* 70: 101–108.
<https://www.sciencedirect.com/science/article/abs/pii/0006320794902771>
- Stahle, D.W. 2020. Anthropogenic megadrought. *Science* 368 (6488): 238-239. DOI: 10.1126/science.abb6902.
<https://par.nsf.gov/servlets/purl/10166645>
- Tuma, M.W., C. Millington, N. Schumaker, and P. Burnett. 2016. Modeling Agassiz’s Desert Tortoise Population Response to Anthropogenic Stressors. *Journal of Wildlife Management* 80(3):414–429.
<https://wildlife.onlinelibrary.wiley.com/doi/abs/10.1002/jwmg.1044>
- [USFWS] U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). December 2009. Region 8, Sacramento, California.
<https://www.fws.gov/sites/default/files/documents/Desert-Tortoise-Field-Manual.pdf>
- [USFWS] U.S. Fish and Wildlife Service. 2011. Revised Recovery Plan for the Mojave Population of the Desert Tortoise (*Gopherus agassizii*). U.S. Fish and Wildlife Service, California and Nevada Region, Sacramento, California.
<https://www.fws.gov/sites/default/files/documents/USFWS.2011.RRP%20for%20the%20Mojave%20Desert%20Tortoise.pdf>
- [USFWS] U.S. Fish and Wildlife Service. 2019. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Reno, NV. October 8, 2019.
https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf
- [USFWS] U.S. Fish and Wildlife Service. 2020. Revised Translocation of Mojave Desert Tortoises from Project Sites: Plan Development Guidance and Attachments 1 and 2. 52 pp.
<https://www.fws.gov/media/revised-usfws-dt-translocation-guidance>
<https://www.fws.gov/media/translocation-guidance-attachment-1-clearance-survey-protocol-0>
<https://www.fws.gov/media/translocation-guidance-attachment-2-temporary-captive-care-wild-mojave-desert-tortoises>

[USFWS] U.S. Fish and Wildlife Service. 2025. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2024 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Las Vegas, Nevada.
<https://www.fws.gov/sites/default/files/documents/2025-08/2024-range-wide-mojave-desert-tortoise-monitoring-report.pdf>

Williams, A.P., B.I. Cook, and J.E. Smerdon. 2022. Rapid intensification of the emerging southwestern North American megadrought in 2020–2021. *Nature Climate Change*. 12 (2022):232–234.
<https://doi.org/10.1038/s41558-022-01290-z>.

Appendix A

Demographic Status and Trend of the Mojave Desert Tortoise including Tortoises in the Western Mojave Recovery Unit

Status of the Population of the Mojave Desert Tortoise: The Council provides the following information for resource and land management agencies so that these data may be included and analyzed in their project and land management documents and aid them in making management decisions that affect the Mojave desert tortoise (tortoise).

There are 17 populations of Mojave desert tortoise described below that occur in Critical Habitat Units (CHUs) and Tortoise Conservation Areas (TCAs); 14 are on lands managed by the BLM; 8 of these are in the California Desert Conservation Area (CDCA).

As the primary land management entity in the range of the Mojave desert tortoise, the Bureau of Land Management's (BLM's) implementation of a conservation strategy for the Mojave desert tortoise in the CDCA through implementation of its Resource Management Plan and Amendments through 2014 has resulted in the following changes in the status for the tortoise throughout its range and in California from 2004 to 2014 (**Table 1, Table 2**; USFWS 2015, Allison and McLuckie 2018). The Council believes these data show that BLM and others have failed to implement an effective conservation strategy for the Mojave desert tortoise as described in the recovery plan (both USFWS 1994a and 2011), and have contributed to tortoise declines in density and abundance between 2004 to 2014 (**Table 1, Table 2**; USFWS 2015, Allison and McLuckie 2018) with declines or no improvement in population density from 2015 to 2024 (**Table 3**; USFWS 2016, 2018, 2019, 2020, 2022a, 2022b, 2025).

Important points from these tables include the following:

Change in Status for the Mojave Desert Tortoise Range-wide

- Ten of 17 populations of the Mojave desert tortoise declined from 2004 to 2014.
- Eleven of 17 populations of the Mojave desert tortoise are below the population viability threshold. These 11 populations represent 89.7 percent of the range-wide habitat in CHUs/TCAs.

Change in Status for the Western Mojave Recovery Unit – California

- This recovery unit had a 51 percent decline in tortoise density from 2004 to 2014.
- Tortoise populations in all three TCAs in this recovery unit have densities that are below viability.

Change in Status for the Superior-Cronese Tortoise Population in the Western Mojave Recovery Unit.

- The population in this recovery unit experienced declines in densities of 61 percent from 2004 to 2014. In addition, there was a 51 percent decline in tortoise abundance.
- This population has densities less than needed for population viability (USFWS 1994a).

Table 1. Summary of 10-year trend data for the 5 Recovery Units and 17 CHUs/TCAs for Mojave desert tortoise. The table includes the area of each Recovery Unit and CHU/TCA, percent of total habitat for each Recovery Unit and CHU/TCA, density (number of breeding adults/km² and standard errors = SE), and the percent change in population density between 2004 and 2014. Populations below the viable level of 3.9 breeding individuals/km² (10 breeding individuals per mi²) (assumes a 1:1 sex ratio) or showing a decline from 2004 to 2014 are in red.

Recovery Unit: Designated Critical Habitat Unit ¹ /Tortoise Conservation Area	Surveyed area (km ²)	% of total habitat area in Recovery Unit & CHU/TCA	2014 density/km ² (SE)	% 10-year change (2004–2014)
Western Mojave, CA	6,294	24.51	2.8 (1.0)	–50.7 decline
Fremont-Kramer	2,347	9.14	2.6 (1.0)	–50.6 decline
Ord-Rodman	852	3.32	3.6 (1.4)	–56.5 decline
Superior-Cronese	3,094	12.05	2.4 (0.9)	–61.5 decline
Colorado Desert, CA	11,663	45.42	4.0 (1.4)	–36.25 decline
Chocolate Mtn AGR, CA	713	2.78	7.2 (2.8)	–29.77 decline
Chuckwalla, CA	2,818	10.97	3.3 (1.3)	–37.43 decline
Chemehuevi, CA	3,763	14.65	2.8 (1.1)	–64.70 decline
Fenner, CA	1,782	6.94	4.8 (1.9)	–52.86 decline
Joshua Tree, CA	1,152	4.49	3.7 (1.5)	+178.62 increase
Pinto Mtn, CA	508	1.98	2.4 (1.0)	–60.30 decline
Piute Valley, NV	927	3.61	5.3 (2.1)	+162.36 increase
Northeastern Mojave	4,160	16.2	4.5 (1.9)	+325.62 increase
Beaver Dam Slope, NV, UT, AZ	750	2.92	6.2 (2.4)	+370.33 increase
Coyote Spring, NV	960	3.74	4.0 (1.6)	+ 265.06 increase
Gold Butte, NV & AZ	1,607	6.26	2.7 (1.0)	+ 384.37 increase
Mormon Mesa, NV	844	3.29	6.4 (2.5)	+ 217.80 increase
Eastern Mojave, NV & CA	3,446	13.42	1.9 (0.7)	–67.26 decline
El Dorado Valley, NV	999	3.89	1.5 (0.6)	–61.14 decline
Ivanpah Valley, CA	2,447	9.53	2.3 (0.9)	–56.05 decline
Upper Virgin River	115	0.45	15.3 (6.0)	–26.57 decline
Red Cliffs Desert	115	0.45	15.3 (6.0)	–26.57 decline
Range-wide Area of CHUs - TCAs/Range-wide Change in Population Status	25,678	100.00		–32.18 decline

¹ U.S. Fish and Wildlife Service. 1994b. Endangered and threatened wildlife and plants; determination of critical habitat for the Mojave population of the desert tortoise. Federal Register 55(26):5820-5866. Washington, D.C.

Table 2. Estimated change in abundance of adult Mojave desert tortoises in each recovery unit between 2004 and 2014 (Allison and McLuckie 2018). Decreases in abundance are in red.

Recovery Unit	Modeled Habitat (km ²)	2004 Abundance	2014 Abundance	Change in Abundance	Percent Change in Abundance
Western Mojave	23,139	131,540	64,871	–66,668	–51%
Colorado Desert	18,024	103,675	66,097	–37,578	–36%
Northeastern Mojave	10,664	12,610	46,701	34,091	270%
Eastern Mojave	16,061	75,342	24,664	–50,679	–67%
Upper Virgin River	613	13,226	10,010	–3,216	–24%
Total	68,501	336,393	212,343	–124,050	–37%

Table 3. Summary of data for Agassiz’s desert tortoise, *Gopherus agassizii* (=Mojave desert tortoise) from 2004 to 2024 for the 5 Recovery Units and 17 Critical Habitat Units (CHUs)/Tortoise Conservation Areas (TCAs). The table includes the area of each Recovery Unit and CHU/TCA, percent of total habitat for each Recovery Unit and CHU/TCA, density (number of breeding adults/km² and standard errors = SE), and percent change in population density between 2004-2014 (USFWS 2015). Populations below the viable level of 3.9 breeding individuals/km² (10 breeding individuals per mi²) (assumes a 1:1 sex ratio) (USFWS 1994a, 2015) or showing a decline from 2004 to 2014 are in **red**.

Recovery Unit: Designated CHU/TCA &	% of total habitat area in Recovery Unit & CHU/TCA	2004 density / km ²	2014 density/ km ² (SE)	% 10-year change (2004– 2014)	2015 density / km ²	2016 density / km ²	2017 density / km ²	2018 density / km ²	2019 density / km ²	2020 density / km ²	2021 density / km ²	2024 density /km ²
Western Mojave, CA	24.51		2.8 (1.0)	–50.7 decline								
Fremont-Kramer	9.14		2.6 (1.0)	–50.6 decline	4.5	No data	4.1	No data	2.7	1.7	No data	1.8
Ord-Rodman	3.32		3.6 (1.4)	–56.5 decline	No data	No data	3.9	2.5/3.4*	2.1/2.5*	No data	1.9/2.5*	2.7
Superior-Cronese	12.05		2.4 (0.9)	–61.5 decline	2.6	3.6	1.7	No data	1.9	No data	No data	No data
Colorado Desert, CA	45.42		4.0 (1.4)	–36.25 decline								
Chocolate Mtn AGR, CA	2.78		7.2 (2.8)	–29.77 decline	10.3	8.5	9.4	7.6	7.0	7.1	3.9	7.4
Chuckwalla, CA	10.97		3.3 (1.3)	–37.43 decline	No data	No data	4.3	No data	1.8	4.6	2.6	No data
Chemehuevi, CA	14.65		2.8 (1.1)	–64.70 decline	No data	1.7	No data	2.9	No data	4.0	No data	No data
Fenner, CA	6.94		4.8 (1.9)	–52.86 decline	No data	5.5	No data	6.0	2.8	No data	5.3	No data
Joshua Tree, CA	4.49		3.7 (1.5)	+178.62 increase	No data	2.6	3.6	No data	3.1	3.9	No data	No data
Pinto Mtn, CA	1.98		2.4 (1.0)	–60.30 decline	No data	2.1	2.3	No data	1.7	2.9	No data	No data
Piute Valley, NV	3.61		5.3 (2.1)	+162.36 increase	No data	4.0	5.9	No data	No data	No data	3.9	4.0

Northeastern Mojave AZ, NV, & UT	16.2		4.5 (1.9)	+325.62 increase								
Beaver Dam Slope, NV, UT, & AZ	2.92		6.2 (2.4)	+370.33 increase	No data	5.6	1.3	5.1	2.0	No data	No data	1.7
Coyote Spring, NV	3.74		4.0 (1.6)	+ 265.06 increase	No data	4.2	No data	No data	3.2	No data	No data	2.7
Gold Butte, NV & AZ	6.26		2.7 (1.0)	+ 384.37 increase	No data	No data	1.9	2.3	No data	No data	2.4	No data
Mormon Mesa, NV	3.29		6.4 (2.5)	+ 217.80 increase	No data	2.1	No data	3.6	No data	5.2	5.2	No data
Eastern Mojave, NV & CA	13.42		1.9 (0.7)	-67.26 decline								
El Dorado Valley, NV	3.89		1.5 (0.6)	-61.14 decline	No data	2.7	5.6	No data	2.3	No data	No data	
Ivanpah Valley, CA	9.53		2.3 (0.9)	-56.05 decline	1.9	No data	No data	3.7	2.6	No data	1.8	
Upper Virgin River, UT & AZ	0.45		15.3 (6.0)	-26.57 decline								
Red Cliffs Desert**	0.45	29.1 (21.4-39.6)**	15.3 (6.0)	-26.57 decline	15.0	No data	19.1	No data	17.2	No data	No data	17.5†
Rangewide Area of CHUs - TCAs/Rangewide Change in Population Status	100.00			-32.18 decline								

*This density includes the adult tortoises translocated from the expansion of the MCAGCC, that is resident adult tortoises and translocated adult tortoises.

**Methodology for collecting density data initiated in 1999.

†Results from 2023

Change in Status for the Mojave Desert Tortoise in California

- Eight of 10 populations of the Mojave desert tortoise in California declined from 29 to 64 percent from 2004 to 2014 with implementation of tortoise conservation measures in the Bureau of Land Management's Northern and Eastern Colorado Desert (NECO), Northern and Eastern Mojave Desert (NEMO), and Western Mojave Desert (WEMO) Plans.
- Eight of 10 populations of the Mojave desert tortoise in California are below the viability threshold for density. These eight populations represent 87.45 percent of the habitat in California that is in CHU/TCAs.
- The two viable populations of the Mojave desert tortoise in California are declining. If their rates of decline from 2004 to 2014 continue, these two populations will no longer be viable by about 2030.

Change in Status for the Mojave Desert Tortoise on BLM Land in California

- Eight of eight populations of Mojave desert tortoise on lands managed by the BLM in California declined from 2004 to 2014.
- Seven of eight populations of Mojave desert tortoise on lands managed by the BLM in California are no longer viable.

Change in Status for Mojave Desert Tortoise Populations in California that Are Moving toward Meeting Recovery Criteria

- The only population of Mojave desert tortoise in California that did not decline is on land managed by the National Park Service, which increased 178 percent from 2004 to 2014.

Important points to note from the data from 2015 to 2024 in Table 3 are:

Change in Status for the Mojave Desert Tortoise in the Western Mojave Recovery Unit:

- The density of tortoises continues to decline in the Western Mojave Recovery Unit
- The density of tortoises from 2015 to 2024 continues to fall below the density needed for population viability.

Change in Status for the Mojave Desert Tortoise in the Colorado Desert Recovery Unit:

- Many of the populations in this recovery unit have densities that are near the threshold for population viability.

Change in Status for the Mojave Desert Tortoise in the Northeastern Mojave Recovery Unit:

- Two of the three population with densities greater than needed for population viability declined to level below the minimum viability threshold.
- Three of the four populations in this recovery unit have densities below the minimum density needed for population viability.

Change in Status for the Mojave Desert Tortoise in the Eastern Mojave Recovery Unit:

- Both populations in this recovery unit have densities below the minimum density needed for population viability.

Change in Status for the Mojave Desert Tortoise in the Upper Virgin River Recovery Unit:

- The one population in this recovery unit is small and appears to have stable densities.

The Endangered Mojave Desert Tortoise: The Council believes that the Mojave desert tortoise meets the definition of an endangered species. In the FESA, Congress defined an “endangered species” as “any species which is in danger of extinction throughout all or a significant portion of its range...” In the California Endangered Species Act (CESA), the California legislature defined an “endangered species” as a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant, which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes (California Fish and Game Code § 2062). Because most of the populations of the Mojave desert tortoise were non-viable in 2014, most are declining, and the threats to the Mojave desert tortoise are numerous and have not been substantially reduced throughout the species’ range, the Council believes the Mojave desert tortoise should be designated as an endangered species by the USFWS and California Fish and Game Commission. Despite claims by USFWS (Averill-Murray and Field 2023) that a large number of individuals of a listed species and an increasing population trend in part of the range of the species prohibits it from meeting the definitions of endangered, we are reminded that the tenants of conservation biology include numerous factors when determining population viability. The number of individuals present is one of a myriad of factors (e.g., species distribution and density, survival strategy, sex ratio, recruitment, genetics, threats including climate change, etc.) used to determine population viability. In addition, a review of all the available data does not show an increasing population trend (please see Tables 1 and 3).

Literature Cited in Appendix A
Demographic Status and Trend of the Mojave Desert Tortoise
including Tortoises in the Western Mojave Recovery Unit

Allison L.J. and A.M. McLuckie. 2018. Population trends in Mojave desert tortoises (*Gopherus agassizii*). Herpetological Conservation and Biology. 2018 Aug 1. 13(2):433–452.
http://www.herpconbio.org/Volume_13/Issue_2/Allison_McLuckie_2018.pdf

or

<https://www.fws.gov/media/allison-and-mcluckie2018mojave-desert-tortoise-population-trends>

[USFWS] U.S. Fish and Wildlife Service. 1994a. Desert tortoise (Mojave population) Recovery Plan. U.S. Fish and Wildlife Service, Region 1, Portland, Oregon. 73 pages plus appendices. https://ecos.fws.gov/docs/recovery_plan/940628.pdf

[USFWS] U.S. Fish and Wildlife Service. 1994b. Endangered and threatened wildlife and plants; determination of critical habitat for the Mojave population of the desert tortoise. Federal Register 55(26):5820-5866. Washington, D.C.

[USFWS] U.S. Fish and Wildlife Service. 2011. Revised Recovery Plan for the Mojave Population of the Desert Tortoise (*Gopherus agassizii*). U.S. Fish and Wildlife Service, California and Nevada Region, Sacramento, California.

<https://www.fws.gov/sites/default/files/documents/USFWS.2011.RRP%20for%20the%20Mojave%20Desert%20Tortoise.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2015. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2013 and 2014 Annual Reports. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2015%20report.%20Rangewide%20monitoring%20report%202013-14.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2016. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2015 and 2016 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2016%20report.%20Rangewide%20monitoring%20report%202015-16.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2018. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2017 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2018%20report.%20Rangewide%20monitoring%20report%202017.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2019. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2018 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2019%20report.%20Rangewide%20monitoring%20report%202018.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2020. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2019 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. 42 pages. https://www.fws.gov/sites/default/files/documents/2019_Rangewide%20Mojave%20Desert%20Tortoise%20Monitoring.pdf

[USFWS] U.S. Fish and Wildlife Service. 2022a. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2020 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2022%20report.%20Rangewide%20monitoring%20report%202020.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2022b. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2021 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2022%20report.%20Rangewide%20monitoring%20report%202021.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2025. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2024 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Las Vegas, Nevada.

<https://www.fws.gov/sites/default/files/documents/2025-08/2024-range-wide-mojave-desert-tortoise-monitoring-report.pdf>

EXHIBIT M

Mujica, Oliver

From: Levon Kazarian <wussrocker@sbcglobal.net>
Sent: Tuesday, October 7, 2025 9:36 PM
To: Mujica, Oliver
Cc: Rowe, Dawn
Subject: comments on: PROJ-2023-00061 Cactus Club Hotel

[You don't often get email from wussrocker@sbcglobal.net. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Dear Mr. Mujica,

I am a small business owner and resident of Joshua Tree and would like to offer my comments on the Cactus Club Hotel project.

In general, as both a restaurant owner and a resident of Joshua Tree, I think commercial development of lodgings and restaurant options in Joshua Tree and the greater Morongo Basin are beneficial to the community and the economy of our area.

However, I have many concerns about this project and its applicants that I would like you to consider before letting the project move forward. These are my concerns:

— A project of this scale, with such a high occupancy and with many sewage hungry businesses like cafes and restaurants, can't possibly be allowed proceed on a septic waste water system. A package wastewater treatment plant should be necessary, and will substantially affect the cost of the project, potentially making it unfeasible.

— Various planning documents including the earlier General Plan and the later Countywide Plan of 2020 stressed "limited" development and the need to respect community character. The scale of this project is in tension with those documents and is so large as to probably be evaluated on the higher level of scrutiny afforded to resorts.

— Aesthetics: Evoque Modern and its associated company Fieldtrip have built many structures in Joshua Tree. Their structures are often out of scale with the surrounding neighborhood since they are not meant to be residences but rather luxury short term rental mini hotels that violate our community spirit and the County's Short Term Rental ordinance (more on that below). Evoque and Fieldtrip's style is a monumental brutalist stucco suburban shopping center aesthetic that would be more at home in the San Joaquin or San Fernando Valley than an area that has a proud rustic and modern aesthetic heritage like ours. Evoque's aesthetic is generally an ugly, out of scale eyesore, and the fact that their proposal does not provide elevation drawings for evaluation is worrying. Community Planning documents generally encouraged developments that respect the community's historic rural and modern character and Evoque should be required to provide a full set of architectural drawings before their proposal is approved.

— Evoque Modern is a bad faith player in our community: Evoque has a deeply intertwined ownership interest with Fieldtrip. Together these companies and their owners have built a hospitality company based on gaming the County's Short Term Rental Ordinance. As you know, in San Bernardino County, no single owner is allowed more than two short term rental licenses. By creating numerous shell companies and shuffling LLC members every time one of their STR licenses is set to expire, Evoque and Fieldtrip have duped the county's Land Use department and abused the county's

STR ordinance to benefit themselves at the expense of their residential neighbors and the community at large. There's no way to tell how many STR licenses they have, but it is certainly WELL above two. I half-heartedly commend them for going through the proper process this time but, ideally, they would be required to divest themselves of these illegal micro hotels before allowing them to proceed with this legitimate, legal hospitality project. I would just warn Land Use Services that the applicants have not played straight with your department and the county in the past, and may not with this project. Please hold them to the highest levels of scrutiny.

If this project was smaller in scale, better designed, and was not proposed by a bad faith player like Evoque/Fieldtrip, I would have never written this letter. I think an independent motel/restaurant in the proposed location at a smaller scale is a great idea and would benefit the entire community. But Evoque's proposal should be rejected.

Thank you for considering my comments.

Levon Kazarian

EXHIBIT N



Post Office Box 24
Joshua Tree CA 92252
www.mbconservation.org

October 7, 2025

PROJ-2023-00061 Cactus Club Hotel, APNs- 0608-051-02, 03, and 04

Lead Agency: County of San Bernardino Land Use Services Department 385 N. Arrowhead Avenue, 1st Floor San Bernardino, CA 92415-0182

Oliver Mujica E-mail: Oliver.Mujica@lus.sbcounty.gov

cc: Dawn.Rowe@bos.sbcounty.gov

Dear Mr. Mujica,

The Morongo Basin Conservation Association is pleased to submit the following comments on the proposal of issuance a Mitigated Negative Declaration for the above project.

MBCA's mission encompasses advocacy for the economic well-being of our high desert communities and, while this project would serve that purpose, any economic benefits must be balanced with the environmental and social impacts such a significant development would have on the unincorporated desert community.

The project for which a Conditional Use Permit is being applied requires re-definition to enable the proper evaluation of its potential environmental impact. The Notice of Completion & Environmental Transmittal describes the project as: *...and a Conditional Use Permit for the development and operation of a twenty (20) room two-story hotel on Parcel 1 and **associated infrastructure***. However, the written description within the IS states:

*...Conditional Use Permit for the development and operation of a twenty (20) room two-story hotel on Parcel 1 and associated infrastructure. The hotel Project consists of a single-story hotel lobby building with a greeting area, office, guest laundry facility, and mechanical room. The guest rooms will be in separate buildings, consisting of a total of 20 rooms in three separate structures with a **total of 7,705** square feet. Additional structures include a **1,300** square foot coffee shop/cafe, **1,300** square foot restaurant, **3,600** square foot club room, **1,800** square foot wine bar, **2,550** square foot lobby/office/mechanical/laundry building, **3,500** square foot hotel restaurant, and **3,800** square foot spa.*

Hotel = 7,705 sf _____ Accessory Uses = 17,550 sf

Further, it is unclear if the project and the 'associated infrastructure' or 'amenities' will be open to the public. Will the many other uses: café, restaurant, club room, wine bar, hotel restaurant and spa be open to the public? If so, then the project should be evaluated as a significant commercial development before entitlement. If the amenities are to be used solely by the guests of the hotel, then it would appear the sf areas allocated to these uses is out of proportion to their intended customer base. (See below re: parking.)

The additional uses beyond the 20-room hotel are described as accessory, amenities uses or 'associated infrastructure'. Within the Development code, CHAPTER 84.01: ACCESSORY STRUCTURES AND USES, accessory uses are described as being '**subordinate to the primary use**'. With the cumulative area of the accessory uses being over twice the area of the hotel units the description of the project as a hotel requires revision. The project presented would appear to be closer to a Resort and the environmental analysis must be evaluated accordingly.

It appears the proposed project would trigger notification (from Development Code 84.01: ACCESSORY STRUCTURES AND USES) and the project description makes no mention of the following.

the Director shall be responsible for determining if a proposed accessory use meets the criteria in this Chapter. Before making a determination, the Director shall give notice to contiguous property owners in compliance with [§85.02.030](#)

Some issues of concern we believe have not been adequately addressed or require additional consideration are:

1. The request for the CUP should be clarified and revised to describe what appears to be a Resort development.
2. The scale of the development is out of character with the community. The development as designed would effectively form a wall along 29 Palms Highway obscuring views of, and towards the National Park to the south. The 5-acre parcel along would be densely developed with only a small portion at the eastern portion of the site remaining as open space. The lot coverage calculation requires verification to include impervious surfaces.
3. The project description proposes: '*Tentative Parcel Map (TTM) No. 20774 to combine three (3) existing parcels to create four (4) new parcels (Parcel 1, 5.28 acres; Parcel 2, 2.57 acres; Parcel 3, 2.56 acres; and Parcel 4, 2.24 acres)*'. The 'Exhibit of Project Location' does not include the residential parcels fronting on Cactus Dr. The exhibits do not illustrate the locations of the three parcels to be included within the TTM or the specific zoning designations of the parcels.
4. From the project description: "*The project site is located within a relatively undeveloped area of Joshua Tree. The site is surrounded by vacant land to the north, east, south, and west, with one rural residence to the southeast, and California Highway 62 to the north.*" However, there is a home directly to the south, and a community of homes to the south and west of the proposed development. This project could have a significant impact on the rural character of the area that must be fully disclosed. See above for need to provide notification of neighboring properties.

5. The math within the parking tabulation shown on the site plan does not add up! See above for need to accommodate parking for all the uses.
6. The development appears it will remove all existing native plants on site. The development would better fit the community and support the Goals of the Countywide vision if the design were to preserve and feature existing plants. To remove all the existing plantings only to replace with new landscaping requiring supplemental water is not appropriate for our warming and drying climate.
7. Potential traffic and **safety** issues for this development require further analysis. Access to and from 29 Palms Highway requires careful study and consideration of mitigation measures. Access to Mas O Menos, west of the development, already creates safety issues and these concerns must not be exacerbated with this Resort. The possibility of extending the frontage road to the stop light should be considered.

The analysis does not account for the potential traffic of all the proposed uses. The level of traffic generated by a Resort (see above) would differ from that for a hotel and has not been considered accordingly. The traffic study must account for the hotel, the club room, café, proposed restaurants, wine bar, and spa as well as the hotel.

8. The real potential for flooding of the development requires further study. The recent heavy rains, anticipated to become more severe as the climate continues to warm, must be accounted for.
9. A development of this scale may require utilizing a package wastewater treatment plant. The scope of work with multiple restaurants and hotel units may exceed the capability of utilizing a septic system.
10. The need for, and location for housing of the many employees that will staff this development, requires consideration within the approval process. The high desert community has a shortage of affordable rental housing. Workers will need to commute with subsequent impacts on traffic and generation of additional Vehicle Miles Traveled.
11. Traffic concerns require additional consideration on a cumulative scale. With the many proposed developments currently undergoing consideration throughout the Morongo Basin consideration of traffic impacts on an overall community scale is warranted. Developments currently being planned or are under or consideration at this time include, in addition to this proposal: The expansion of the Pioneertown Motel; the Landing in Landers; the Joshua Tree Resort in Downtown Joshua Tree, Ofland in 29 Palms and Lovemore Ranch in Joshua Tree.
12. The Countywide Plan adopted in 2020 is based upon an assumption of **limited** growth within the unincorporated east desert area. From the [Countywide Plan PEIR](#) (which was adopted as part of the final EIR):

3.4 INTENDED USES OF THE EIR (for the period 2016 to 2040)!

This is a Program EIR that examines the potential environmental impacts of the proposed Countywide Plan. This PEIR also addresses various actions by the County and others to adopt and implement the Countywide Plan. It is the intent of the PEIR to evaluate the environmental impacts of the proposed Project, thereby enabling the County of San Bernardino, other responsible agencies, and interested parties to make informed decisions.

Joshua Tree CPA	827 Population	238 housing units	53 employment	39,970 sf
-----------------	----------------	-------------------	---------------	-----------

(8) **No growth** is projected in the East Desert region areas of Pioneertown CPA, areas **outside CPA boundaries** in the Twentynine Palms SOL, or unincorporated areas outside a CPA or SOL.

The development as proposed would be in contravention to the assumed projections on which the Countywide Plan was prepared and adopted. Its construction would add nearly 75% of the anticipated 39,970 sf of new commercial construction for the 24 year period the EIR covers. The additional employment is not paired with the needed additional housing. The lingering effect of the STR boom continues to be felt in the community.

We look forward to seeing these issues addressed within an amended environmental analysis.

As a point of information, the site plan published for soliciting comments on the proposed issuance of a Mitigated Negative Declaration is **not legible**. We believe the project should be re-circulated with a revised Initial Study with legible documents.

Thank you for your consideration.



Steve Bardwell, President
Morongo Basin Conservation Association

EXHIBIT O

Maryann Noice
Post Office Box 1221
Joshua Tree, CA. 92252

August 31, 2023

Anthony DeLuca
Senior Planner
Land Use Services Development
385 N. Arrowhead Ave. 1st Floor
San Bernardino, CA 92415-0187

Objection Letter

PROJECT NUMBER: PROJ-2023-00061
ASSESSOR PARCEL NO (APN): 0608-051-02,03,04
APPLICANT: Evoque Modern LLC
LOCATION: 66121 Twentynine Palms Hwy, J.T.

Mr. DeLuca,

Thank you for your time on the phone yesterday.

I am replying quickly with a written objection to this project.

- A) This development represents a loss of privacy for me, and also my neighbors.
- B) It will have a negative impact to my future planned home, to the surrounding neighbors who currently have homes and area itself.
- C) Increased traffic, increased noise. **The type of business will generate a lot of traffic or noise late at night.**
- D) **The type of business does not suit the local area**
- E) **Neighbors will be compromised by the introduction of trade traffic and staff arrivals and departures, as well as their intended guests coming and going at all hours.**
- F) **Parking problems will be introduced. Including Semi Truck Parking**
- G) **The business will directly be visible to neighbors living room windows, and the business unit represents a significant appearance and function with a significant loss of privacy.**
- H) Music, will we (the neighbors) have to contend with late night music and loud base (boom, boom, boom) until 2AM?
- I) Senior Citizens (myself included) in the area, treasure our community and this project would not fit in.
- J) Habitat in the area; we have Desert Tortoises, Quail, and Road Runners just to name a few. Who's ensuring these are protected?
- K) Of course, new things are great at first. Then the upkeep diminishes and the clientele changes. (Not always for the better. – Drug Use, Prostitutes). Let's prevent that from happening and protect our community Senior's and resident's.
- L) Additional lights from the buildings, parking lots themselves, as well as all types of vehicles now shining in our homes.
- M) We already have an issue with a bar in the area. Loud music all day and late into the nights, (After 10PM – ALL THE TIME) bright lights, and headlights of vehicles into homes. This establishment was proposed to us as a taco stand. Not a bar.

In closing, I hope you and the planning commission members turn down the proposed project.

Respectfully,

September 4, 2023

RECEIVED

2023 SEP -8 AM 9: 00

LAND USE SERVICES
ADMINISTRATION

ATTENTION:

Mr. Anthony DeLuca, Senior Planner
385 N. Arrowhead Avenue
San Bernardino, CA 92415

REGARDING:

Project Number PROJ-2023-00061

APN 0608-051-02, 03, 04

Mr. DeLuca,

Thank you for the opportunity to comment on the proposed development now under consideration. My wife and I are twenty-two-year residents of the Panorama Heights Planned Community and will be significantly and detrimentally affected by the proposed hotel complex. We strongly urge you to act in opposition to this project and deny the requested Conditional Use Permit (CUP).

Simply stated:

This proposed hotel complex is completely incompatible with the established desert community bordering the proposed building / construction site.

Allow me to explain:

The location of the proposed project is part of a seven-mile highway corridor (SR 62) that runs between Whitefeather Road (Location of San Bernardino County Government Center, California Highway Patrol Offices and High Desert Medical Center) and the high-density residential community of Indian Cove (Lear Avenue).

As one travels this seven-mile corridor they pass through an open desert panorama of natural beauty. Distant mountains north of SR 62 offer open vistas of mountains, cloud formations, sunrises, and sunsets. South of SR 62 are amazing rock formations and mountains within the Joshua Tree National Park. In fact, the border of the Joshua Tree National Park is barely one mile south of the proposed building site.

This seven-mile corridor is overwhelmingly populated by single family homes. It is also home to the community-based Copper Mountain College. Currently, there is only one active commercial establishment. (Mas o Menos Cocktail Bar, 66031 29 Palms Hwy.)

That being said, the proposed six-acre building location is located on the south side of SR 62, approximately four miles east of Whitefeather Road. Virtually dead center of the seven-mile corridor!

This proposed project:

- 20 Rooms/Suites (10,255 SF)
- Hotel Restaurant (3,500 SF)
- Club Room (3,600 SF)
- Fine Dining Restaurant (1,300 SF)
- Wine Bar (1,800 SF)
- Café (1,300 SF)
- Spa (3,800 SF)

Totals 25,555 SF

Requesting a CUP "to operate a twenty (20) room hotel" is certainly a mis-leading oversimplification. Providing 15,300 SF of space for a "hotel restaurant", "club room", "fine dining restaurant", "wine bar", "café", and a "spa" is not for the sole benefit of the occupants of the twenty "rooms/suites". This is designed to be a combined hotel/entertainment/social activities facility.

Again, this project is completely incompatible with the established desert/residential community!

In addition, per San Bernardino County documents, "The CN (Neighborhood Commercial) land use zoning district provides sites for...

- retail trade and personal services
- repair services
- lodging services
- professional services
- recreation and entertainment services
- And
- similar and compatible uses."

Further uses are listed as...

- Child care centers
- Churches and other places of worship

- Community centers
- Day care centers
- Fitness centers
- Grocery stores
- Medical and dental offices
- Restaurants and cafes

Though not an exhaustive list, a common trait is reflected in most of the uses illustrated. These are daily commercial and community services that are operational within what could be called normal business hours. As such, the associated operational activities would be compatible with the general schedule of the residential community.

In contrast, the proposed hotel project will be operational twenty-four hours a day, seven days a week, fifty-two weeks a year!!! Such a project will inevitably lead to:

LIGHTING ISSUES resulting in the loss of our dark skies and star-filled nights.

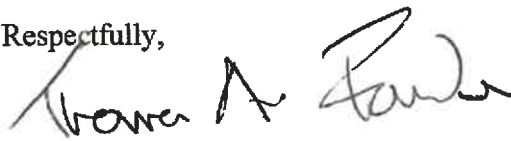
NOISE ISSUES which will rob us of the peaceful serenity of our desert home.

TRAFFIC / CONGESTION ISSUES both pedestrian and vehicular activity stealing the desert solitude so many of us cherish.

I will say again, for the third time, this project is completely incompatible with the established desert/residential community!

Thank you for your time in considering the concerns expressed. Please give careful attention to the issues presented and, once again, I strongly urge you to act in opposition to this project and deny the requested Conditional Use Permit (CUP)!

Respectfully,



Thomas A. Fowler
6642 Mile Square Road
Joshua Tree, CA 92252
760-974-2050
thebrokenj@hotmail.com

P.S. I would like to be notified of the decision rendered for this project.

Mujica, Oliver

From: Beau Tillman <beautillman@yahoo.com>
Sent: Monday, September 4, 2023 8:52 AM
To: DeLuca, Anthony
Subject: PROJ-2023-00061

You don't often get email from beautillman@yahoo.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

PROJECT NUMBER PROJ-2023-00061

ASSESSOR PARCEL 0608-051-02, 03, 04

Hello sir,

First of all, thank you for the notification of this proposed project.

I own a home just southeast of this project on the other side of Cactus rd. (6626 Copper Mountain Rd)

My only concern is how tall of a structure this will be. I would hate to loose any view of the valley that I have.

Is there a architectural design available to review of the proposed Hotel/spa?

Thank you for your time. I look forward to hearing back from you.