Appendix B-1

General Biological Resources Assessment, County of San Bernardino, APN 0357-122-09

RCA Associates, Inc

April 26, 2023

GENERAL BIOLOGICAL RESOURCES ASSESSMENT

COUNTY OF SAN BERNARDINO, CALIFORNIA

APN: 0357-122-09

Prepared for:

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TITLE PAGE

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Project Location:	**County of San Bernardino, California** **APN: 0357-122-09**
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Section

1.0 INTRODUCTION AND SUMMARY

Biological surveys were conducted on a 3.58-acre site (APN: 0357-122-09) located southwest of the intersection of Summit Valley Road and State Highway 138 in the County of San Bernardino, California (Figures 1 and 2). The site is specifically located in Section 28, Township 3 North, Range 5 West in the USGS Cajon 7.5-minute California Quadrangle. The property is located in San Bernardino County just south of Hesperia city limits and northwest of Silverwood Lake. The project site is bordered by State Highway 138 to the north with vacant land beyond. Located to the east and south are existing residential properties, and a storage facility is located adjacent to the west.

As part of the environmental process, California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS) data sources were reviewed. Following the data review, surveys were performed on the site on April 24, 2023, during which the biological resources on the site and in the surrounding areas were documented by biologists from RCA Associates, Inc. As part of the surveys, the property and adjoining areas were evaluated for the presence of native habitats which may support populations of sensitive wildlife and plant species. The property was also evaluated for the presence of sensitive habitats including wetlands, vernal pools, riparian habitats, and jurisdictional areas.

Focused surveys were also conducted for both desert tortoise and burrowing owl. Scientific nomenclature for this report is based on the following references: Hickman (1993), Munz (1974), Stebbins (2003), Sibley (2000) and Whitaker (1980).

2.0 EXISTING CONDITIONS

The property is approximately 3.58-acres in size located on the southwest corner of the intersection of Summit Valley Road and State Highway 138, County of San Bernardino, California (Township 3 North, Range 5 West, Section 28, USGS Cajon California quadrangle) (Figures 1, 2, and 3).

The site is relatively flat, approximately 1,070 meters above sea level with an existing gas station, convenience store and storage yard with sparse vegetation. The vegetation community on site consists of non-native plants, a few native plants and non-native grasses. Vegetation occurring on site includes kelch grass (*Schismus barbatus*), miniature lupine (*Lupinus bicolor*), shortpod mustard (*Hirschfeldia incana*), fiddleneck (*Amsinckia intermedia*), redstem stork's bill (*Erodium cicutarium*), and Indian rice grass (*Oryzopsis hymenoides*). Other species of flora that are expected to occur on site and the surrounding area are discussed in section 5.0.

The site is not expected to support a variety of wildlife species given that the site has been disturbed. No mammals were present on the site during the April 24, 2023, field investigation. Mammalian species that are expected to occur on site and the surrounding area are discussed in section 5.0.

Avian species observed on site include the common raven (*Corvus corax*), Cooper's hawk (*Accipiter cooperii*), western kingbird (*Tyrannus verticalis*), California quail (*Callipepla californica*), northern mockingbird (*Mimus polyglottos*), and house sparrow (*Passer domesticus*). Other avian species that are expected to utilize the site and surrounding area are discussed in section 5.0.

One reptile was observed during the survey, being the common side-blotched lizard (*Uta stansburiana*). A list of reptiles that could possibly inhabit the site or occur in the surrounding areas are discussed in section 5.0.

In addition, no sensitive habitats (e.g., sensitive species critical habitats, vernal pools, etc.) have been documented in the immediate area according to the CNDDB (2023) and none were observed during the field investigations.

3.0 METHODOLOGIES

General biological surveys were conducted on April 24, 2023, during which biologists from RCA Associates, Inc. walked 10-meter parallel belt transects throughout the property in a east-west direction. During the surveys, data was collected on the plant and animal species present on the site. All plants and animals detected during the surveys were recorded and are provided in Tables 1 & 2 (Appendix A). The property was also evaluated for the presence of habitats which might support sensitive species. Scientific nomenclature for this report is based on the following references: Hickman (1993), Munz (1974), Stebbins (2003), Sibley (2000), and Whitaker (1980). Following completion of the initial reconnaissance survey, protocol surveys were conducted for the burrowing owl as per agency requirements. Weather conditions consisted of wind speeds of 0 to 5 mph, temperatures in the mid to high 70's (°F) (PM) with approximately 0% cloud cover. The applicable methodologies are summarized below.

General Plant and Animal Surveys: Ten meter transects were walked throughout the site and in the surrounding area (i.e., the zone of influence) at a pace that allowed for careful documentation of the plant and animal present on the site. All plants observed were identified in the field and wildlife was identified through visual observations and/or by vocalizations. Tables 1 and 2 (Appendix A) provide a comprehensive compendium of the various plant and animal species observed during the field investigations on site or in the surrounding areas. The taxonomic nomenclature used in this study follows the California Native Plant Society (CNPS).

Burrowing Owl: A habitat assessment (Phase 1) was conducted for the burrowing owl in conjunction with the general biological surveys to determine if the site supports suitable habitat for the species on April 24, 2023. Following completion of the habitat assessment, it was determined that the site supports marginally suitable habitat for the burrowing owl. As part of the burrowing owl survey, transects were walked throughout the site during which any suitable burrows were evaluated for owls and owl sign (e.g., whitewash, feathers, or castings). After the field investigations it was determined that there are no suitable burrows on site for burrowing owls and no burrowing owls were observed. Burrowing owls typically utilize burrows which have been excavated by other animals (squirrels, coyotes, foxes, dogs, etc.) since owls rarely dig their own burrows. CDFW protocol also requires surveys be conducted in the surrounding area out to a distance of about 500 feet where accessible; therefore, zone of influence (ZOI) surveys were

performed in the area surrounding the site. If present on a site, CDFW typically requires the owls to be passively relocated during the non-breeding season.

4.0 LITERATURE SEARCH

As part of the environmental process, a search of the California Natural Diversity Database (CNDDB, 2023) search was performed. Based on this review, it was determined that twenty-three special status species, twelve animals, one invertebrate, and ten plants, have been documented within the Cajon California quadrangle. The following tables provide data on each special status species which has been documented in the area.

NAME	STATUS	HABITAT REQUIREMENTS	PRESENCE/ ABSENCE ON PROPERTY
PLANTS			
Within Cajon Quadrangle			
Short-joint beavertail (*Opuntia basilaris var. brachyclada*)	Federal: None State: None CNPS: 1B.2	Chaparral, Joshua tree woodland, Mojavean desert scrub, pinyon and juniper woodland. Between 425-2015 m.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
White pygmy-poppy (*Canbya candida*)	Federal: None State: None CNPS: 4.2	Joshua tree woodland, Mojave Desert scrub, gravely, sandy habitat between 600-1350 m.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Mojave milkweed (*Asclepias nyctaginifolia*)	Federal: None State: None CNPS: 2B.1	Mojavean desert scrub Pinon & juniper woodlands between 775-1605 m.	The site supports marginal suitable habitat for the species. However, none were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Black bog-rush (*Schoenus nigricans*)	Federal: None State: None CNPS: 2B.2	Marsh & swamp wetland, often found in	The site does not contain suitable habitat for the species. None

		alkaline marshes from 120-1525 m.	were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
San Bernardino aster (*Symphyotrichum defoliatum*)	Federal: None State: None CNPS: 1B.2	Meadows and seeps, cismontane woodland, coastal scrub, lower montane coniferous forest, marshes and swamps, valley and foothill grassland. Between 3-2045 m.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Greata's aster (*Symphyotrichum greatae*)	Federal: None State: None CNPS: 1B.3	Chaparral, cismontane woodland, broadleafed upland forest, lower montane coniferous forest, riparian woodland. Between 335-2015 m.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
White-bracted spineflower (*Chorizanthe xanti var. leucotheca*)	Federal: None State: None CNPS: 1B.2	Mojavean desert scrub, pinyon and juniper woodland, coastal scrub (alluvial fans). Between 365-1830 m.	The site supports marginal suitable habitat for the species. However, none were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Parish's alumroot (*Heuchera parishii*)	Federal: None State: None CNPS: 1B.3	Lower montane coniferous forest, subalpine	The site does not contain suitable habitat for the species. None

		coniferous forest, upper montane coniferous forest, alpine boulder and rock field. Between 1340-3505 m.	were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Palmer's mariposa-lily (*Calochortus palmeri var. palmeri*)	Federal: None State: None CNPS: 1B.2	Meadows and seeps, chaparral, lower montane coniferous forest. Between 195-2530 m.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Plummer's mariposa-lily (*Calochortus plummerae*)	Federal: None State: None CNPS: 4.2	Coastal scrub, chaparral, valley and foothill grassland, cismontane woodland, lower montane coniferous forest. Between 60-2500 m.	The site supports marginal suitable habitat for the species. However, none were observed on site and the species is not expected to occur on site given the lack of suitable habitat.

Table 4-1: Federal and State Listed Species and State Species of Special Concern.
E = Endangered; T = Threatened; SSC = Species of special concern; CNPS = California Native Plant Society.
CNDDB = California Natural Diversity Data Base

Notes:

Status abbreviations:

CNPS List 1A: Plants presumed extirpated in California and either rare or extinct elsewhere.
CNPS List 1B: Plants rare, threatened, or endangered in California and elsewhere.
CNPS List 2A: Plants presumed extirpated in California, but more common somewhere else.
CNPS List 2B: Plants rare, threatened, or endangered in California, but more common somewhere else
CNPS List 3: Plants about which more information is needed - a review list.
CNPS List 4: Plants of limited distribution - a watch list

.1 Seriously threatened in California (over 80% of occurrences threatened/ high degree and immediacy of threat)
.2 Moderately threatened in California (20-80% occurrences threatened/ moderate degree and immediacy of threat)
.3 No very threatened in California (<20% of occurrences threatened/ low degree and immediacy of threat or no current threats known)

Table 4-2: Special status wildlife and insects documented in the region (Source: CNDDB, 2023) or likely to occur in the region.

NAME	STATUS	HABITAT REQUIREMENTS	PRESENCE/ ABSENCE ON PROPERTY
Wildlife Species			
Within Cajon Quadrangle			
Coast horned lizard (*Phrynosoma blainvillii*)	Federal: None State: None CDFW: SSC	Frequents a wide variety of habitats, most common in lowlands along sandy washes with scattered low bushes.	The site supports marginal suitable habitat for the species. However, none were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Arroyo toad (*Anaxyrus californicus*)	Federal: None State: None CDFW: SSC	Semi-arid regions near washes or intermittent streams, including valley-foothill and desert riparian, desert wash, etc.	The site supports marginal suitable habitat for the species. However, none were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Crotch bumble bee (*Bombus crotchii*)	Federal: None State: Candidate Endangered	Coastal California east to the Sierra-Cascade crest and south into Mexico.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Bell's sparrow (*Artemisiospiza belli belli*)	Federal: None State: None CDFW: WL	Nests in chaparral dominated by fairly dense stands of chamise. Found in coastal sage scrub in south of range.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Long-eared owl (*Asio otus*)	Federal: None State: None CDFW: SSC	Riparian bottomlands grown to tall willows and cottonwoods; also, belts of live oak paralleling	The site does not contain suitable habitat for the species. None were observed on site and the species is not

		stream courses.	expected to occur on site given the lack of suitable habitat.
Coastal whiptail (*Aspedoscelis tigris stejnegeri*)	Federal: None State: None CDFW: SSC	Found in deserts and semi-arid areas with sparse vegetation and open areas. Also found in woodland and riparian areas.	The site supports marginal suitable habitat for the species. However, none were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Southwestern willow flycatcher (*Empidonax traillii extimus*)	Federal: Endangered State: Endangered	Riparian woodlands in Southern California.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Santa Ana speckled dace (*Rhinichthys osculus ssp. 8*)	Federal: None State: None CDFW: SSC	Headwaters of the Santa Ana and San Gabriel rivers. May be extirpated from the Los Angeles River system.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Yellow warbler (*Setophaga petechia*)	Federal: None State: None CDFW: SSC	Riparian plant associations in close proximity to water. Also nests in montane shrubbery in open conifer forests in Cascades and Sierra Nevada.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Mohave tui chub (*Siphateles bicolor mohavensis*)	Federal: Endangered State: Endangered	Endemic to the Mojave River basin, adapted to alkaline, mineralized waters.	The site does not contain suitable habitat for the species. None were observed on site and the species is not expected to occur on site given the lack of suitable habitat.

American badger (*Taxidea taxus*)	Federal: None State: None CDFW: SSC	Most abundant in drier open stages of most shrub, forest, and herbaceous habitats, with friable soils.	The site supports marginal suitable habitat for the species. However, none were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Two-striped gartersnake (*Thamnophis hammondii*)	Federal: None State: None CDFW: SSC	Coastal California from vicinity of Salinas to northwest Baja California. From sea to about 7,000 ft elevation.	The site supports marginal suitable habitat for the species. However, none were observed on site and the species is not expected to occur on site given the lack of suitable habitat.
Least Bell's vireo (*Vireo bellii pusillus*)	Federal: Endangered State: Endangered	Summer resident of Southern California in low riparian in vicinity of water or in dry river bottoms; below 2000 ft.	The site supports marginal suitable habitat for the species. However, none were observed on site and the species is not expected to occur on site given the lack of suitable habitat.

5.0 RESULTS

5.1 General Biological Resources

The site supports a heavily disturbed and partially developed habitat that consists of ornamental trees, non-native plants and a few native plants. Species observed on the site include rubber rabbitbrush (*Ericameria nauseosa*), California buckwheat (*Eriogonum fasciculatum*), dove weed (*Coton setigerus*), fragrant sumac (*Rhus aromatica*), sandysoil suncup (*Camissonia strigulosa*), California poppy (*Eschscholzia californica*), and flatspine bur ragweed (*Ambrosia acanthicarpa*). Table 1 provides a compendium of all plants occurring on the site and/or in the immediate surrounding area.

No mammals were observed on site during the field investigations although, species expected to occur on site and in the surrounding area include black tailed jackrabbit (*Lepus californicus*), California ground squirrel (*Spermophilus beecheyi*), and desert cottontail (*Sylvilagus auduboni*). Tables 1 and 2 (Appendix A) provide a compendium of the various plant and animal species identified during the field investigations and those common to the area. No distinct wildlife corridors were identified on the site or in the immediate area.

Birds observed included common raven (*Corvus corax*), Cooper's hawk (*Accipiter cooperii*), western kingbird (*Tyrannus verticalis*), California quail (*Callipepla californica*), northern mockingbird (*Mimus polyglottos*), and house sparrow (*Passer domesticus*). Table 2 provides a compendium of wildlife species observed during the various surveys and those likely to occur in the area.

One reptile was observed during the survey, being the common side-blotched lizard (*Uta stansburiana*). Some species that are common in the area and that may occur on and around the site include the western fence lizard (*Sceloporus occidentalis*), alligator lizard (*Elgaria sp.*), and western whiptail lizard (*Cnemidophorus tigris*). Table 2 provides a compendium of wildlife species observed during the various surveys and those likely to occur in the area.

No sensitive habitats (e.g., wetlands, vernal pools, critical habitats for sensitive species, etc.) were observed on the site during the field investigations.

5.2 Federal and State Listed Species

Crotch Bumble Bee: The Crotch's bumble bee is a state candidate endangered species that can be distinguished by its square-shaped face and rounded ankle on the midleg. Females have a black head and face and display black color on their mid and bottom thorax. Males display yellow hair on their face, a black stripe mid-thorax, and the abdomen should have a yellow coloring. They are active from April to August, with nests located underground in abandoned rodent nests or above ground in tufts of grass or old bird nests and rely almost exclusively on milkweed to complete their life cycle. They inhabit grasslands and shrublands in hotter and drier areas of California's Mediterranean region, Pacific coast, western desert, and adjacent foothills throughout southwestern region. The site lacks suitable habitat for the Crotch's bumble bee to occur on site in the foreseeable future.

Southwestern willow flycatcher: The Southwestern willow flycatcher is state and federally listed as endangered. This species lives in riparian woodlands across Southern California. They typically grow to a little less than six inches in overall length and appear to be brownish olive below to more of a gray green color in their upper half. The throat of this species is typically whitish in color with the breast being a pale olive color. The species inhabits parts of Arizona, Colorado, New Mexico, Texas, and Utah in the past. Typically, they fly around d talking insects out of the air as their primary food source. This species requires dense riparian areas that have standing water on site or standing water nearby with saturated soils. Given that there is no standing water on site or in the immediate surrounding area, it is the opinion of RCA Associates, Inc. that the species does not inhabit the site and is not likely to in the future.

Mohave tui chub: The Mohave tui chub is a species of fish that is state and federally listed as endangered. This species used to commonly be found in deep pools and slough-like areas of the Mojave River. Its range is now limited to only a handful of places in San Bernardino County. It is a fish that is brassy-brown in color and can grow up to 8 and 9 inches in length, but typically found at 4 to 6 inches in length. The females lay 4,000 to 50,000 eggs from February to October where they are spread over underwater vegetation. The species' primary diet consists of insect larvae. The does not support suitable habitat for the species and will not have any Mohave tui chub on site in the future given the lack of critical standing water habitat.

Least Bell's vireo: The least Bell's vireo is another species that is state and federally listed as endangered. Least Bell's vireos winter in southern Baja California, Mexico, where they occupy a variety of habitats, including mesquite scrub within arroyos, palm groves, and hedgerows bordering agricultural and residential areas. These birds arrive in Southern California for breeding in mid-March to early-April. This species has a variety of habitats but can typically be found in the vicinity of some sorts of water. There is some very marginal habitat of the species in the surrounding area but not on site and no sign of the species or observations were recorded. It is the opinion of RCA Associate's Inc. that the species will not occur on site.

5.3 Species of Special Concern

Sensitive Plants: There are ten plant species of special concern, these species are the short-joint beavertail, Mojave milkweed, Palmer's mariposa-lily, Plummer's mariposa-lily, white-bracted spineflower, Parish's alumroot, black bog-rush, San Bernardino aster, Greata's aster, and white pygmy-poppy. There is marginally suitable habitat for three of these ten species being the Plummer's mariposa-lily, Mojave milkweed, and white-bracted spineflower. All three of these species occur in Mojavean desert scrub habitat. The remaining seven of ten species will not occur on site due to the lack of habitat needed such as riparian habitat, seeps and meadows, or Joshua tree woodlands observed during the April 24, 2023, survey. Even with some marginally suitable habitat, none of the ten plant species of special concern were observed on site and are not expected to occur on site in the future.

Sensitive Wildlife: There are eight wildlife species that are species of special concern in the Cajon quadrangle, the arroyo toad, long-eared owl, coastal whiptail, Santa Ana speckled dace, two-striped gartersnake, yellow warbler, American badger, and coast horned lizard. There is minimal suitable habitat for five of the eight species listed above. These species are the coast horned lizard, coastal whiptail, American badger, two-striped gartersnake, and arroyo toad. There is no suitable habitat on site for the remaining three species, the Santa Ana speckled dace, yellow warbler, and long-eared owl. Even with some marginally suitable habitat, none of the eight wildlife species of special concern were observed on site during the April 24, 2023, survey, and they are not expected to occur on site in the future.

5.4 Jurisdictional Waters and Riparian Habitat

The United States Army Corps of Engineers (USACE) regulates discharges of dredged or fill material into waters of the United States (WoUS), and the State of California also regulates waters of the State (WoS) and streambeds under the preview of regional water quality boards and CDFW jurisdiction. These waters include wetlands and non-wetland bodies of water that meet specific criteria. One channel is located along the southern boundary of the property that may be considered jurisdictional and require a comprehensive jurisdictional delineation in the future if not avoided. In accordance with the most recent site plans (figure 4) the channel will be avoided during future construction activities and no further surveys would be required.

5.5 Protected Plants

As of September 22, 2020, the California Department of Fish and Wildlife temporarily listed the western Joshua tree (*Yucca brevifolia*) as an endangered species until a final decision is made in 2023. A protected plant plan was performed previously on December 20, 2022, that shows the site having no western Joshua trees on site or in the Immediate surrounding areas. It is the opinion of RCA Associates that no further surveys will be necessary. If western Joshua trees are found on site in the future any attempts to remove the Joshua Trees dead or alive will require an ITP.

6.0 IMPACTS AND MITIGATION MEASURES

6.1 General Biological Resources

Future development of the site will have minimal impact on the general biological resources present due to the site having been previously cleared of most vegetation communities. Most of the vegetation will likely be removed during future construction activities. Wildlife will also be impacted by development activities and those species with limited mobility (i.e., small mammals and reptiles) will experience increases in mortality during the construction phase. However, more mobile species (i.e., birds, large mammals) will be displaced into adjacent areas and will likely experience minimal impacts. Therefore, loss of about 3.58-acres of disturbed desert scrub habitat is not expected to have a significant cumulative impact on the overall biological resources in the region given the presence of similar habitat throughout the surrounding desert region. No sensitive habitats (e.g., wetlands, vernal pools, critical habitats for sensitive species, etc.) were observed on the site during the field investigations.

6.2 Federal and State Listed and Species of Special Concern

No federal or State-listed species or signs were observed on the site during the field investigations. In addition, there are no documented observations of any listed or special status species on the site or in the immediate surrounding area according to the CNDDB (2023). Furthermore, the site is not expected to support populations of any federally or state listed species based on the absence of critically necessary habitat that is required.

A pre-construction burrowing owl survey may be required by CDFW to determine if any owls have moved on to the site since the April 24, 2023, surveys. As stated in CDFW's *Staff Report on Burrowing Owl Mitigation*, the most effective method of completing a pre-construction survey (take avoidance survey) should be performed within 14 days of ground disturbance, followed by a final pre-construction survey within 24 hours of breaking ground.

7.0 CONCLUSIONS AND CONSIDERATIONS

Future development activities are expected to result in the complete removal of vegetation from the 3.58-acre parcel; however, cumulative impacts to the general biological resources (plants and animals) in the surrounding area are expected to be negligible. This assumption is based on the presence of habitat on the site which is very common throughout the region. In addition, future development activities are not expected to have any impact on any State or Federal listed or State special status plant or animal species. As discussed above, the site does not support any state or federally listed species. In addition, burrowing owls do not inhabit the site and are not expected to be impacted given the absence of any suitable burrows. A Protected Plant Plan was completed prior in December of 2022. The following mitigation measures may be considered:

1. Pre-construction surveys for burrowing owls, desert tortoise, and nesting birds protected under the Migratory Bird Treaty Act and Section 3503 of the California Fish and Wildlife Code shall be conducted prior to the commencement of Project-related ground disturbance.
    a. Appropriate survey methods and timeframes shall be established, to ensure that chances of detecting the target species are maximized. In the event that listed species, such as the Least Bell's vireo, are encountered, authorization from the USFWS and CDFW must be obtained. If nesting birds are detected, avoidance measures shall be implemented to ensure that nests are not disturbed until after young have fledged.
    b. Pre-construction surveys shall encompass all areas within the potential footprint of disturbance for the project, as well as a reasonable buffer around these areas.
2. If any sensitive species are observed on the property during future activities, CDFW and USFWS (as applicable) should be contacted to discuss specific mitigation measures which may be required for the individual species. CDFW and USFWS are the only agencies which can grant authorization for the "take" of any sensitive species and can approve the implementation of any applicable mitigation measures.

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CERTIFICATION

I hereby certify that the statements furnished above and in the attached exhibits, presents the data and information required for this biological evaluation, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief. Fieldwork conducted for this assessment was performed by Ryan Hunter and Brian Bunyi. I certify that I have not signed a non-disclosure or consultant confidentiality agreement with the project applicant or applicant's representative and that I have no financial interest in the project.

Date: 04/26/2023

Signed: Ryan Hunter

Signed: Brian Bunyi

Field Work Performed By: Ryan Hunter
Senior Environmental Scientist & Biologist

Field Work Performed By: Brian Bunyi
Environmental Scientist & Wildlife Biologist

Appendix A

Tables and Figures

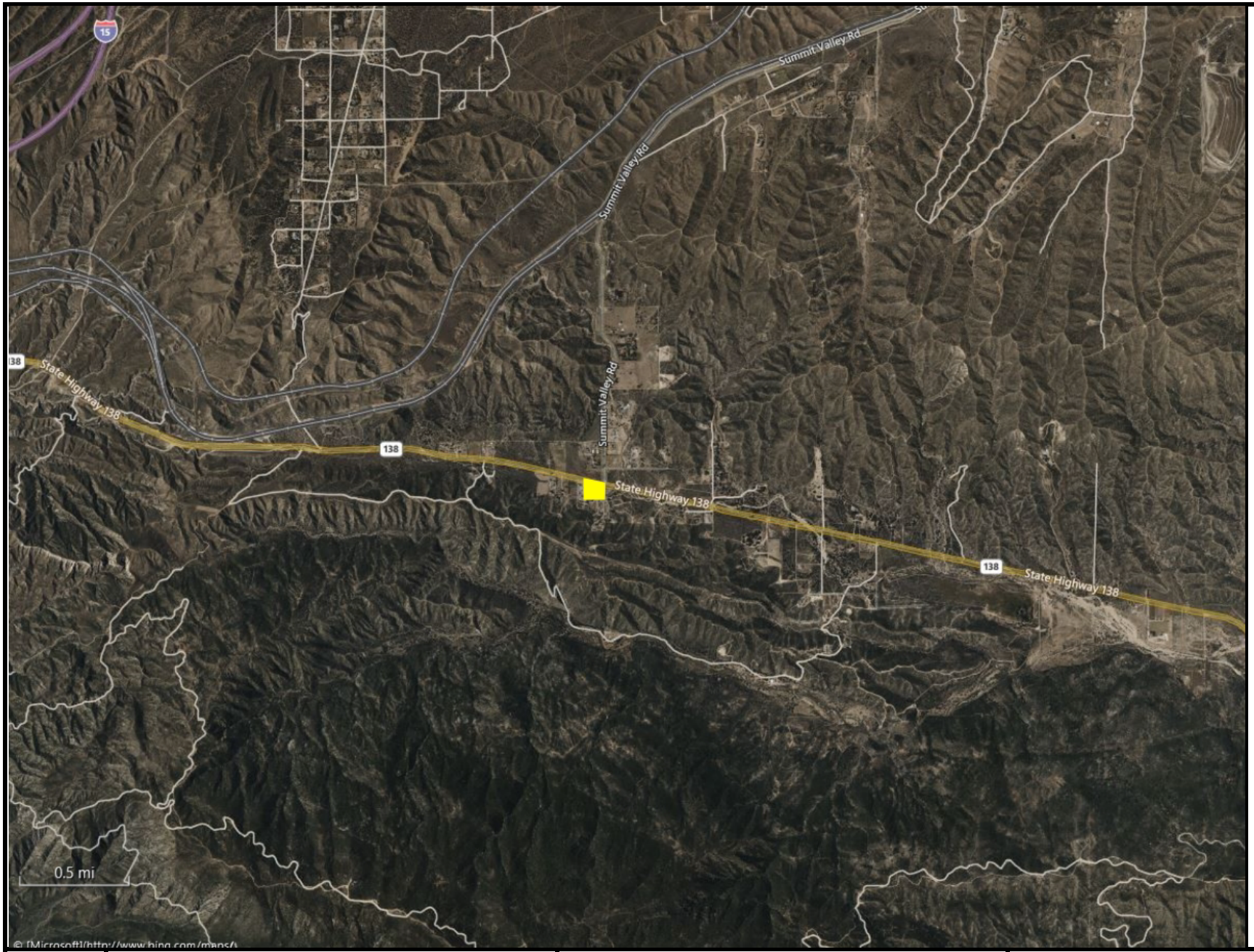


Figure 1: Regional Exhibit

Produced By: RCA Associates, LLC

SW Corner of Summit Valley Road and State Highway 138, San Bernardino County, CA

Source:	Uinta Software
Acreage:	3.58-Acres (Approximate)
Project #:	2023-58 JT

RCA ASSOCIATES, INC

Figure 2: Vicinity Exhibit

Produced By: RCA Associates, LLC

SW Corner of Summit Valley Road and State Highway 138, San Bernardino County, CA

Source:	Uinta Software
Acreage:	3.58-Acres (Approximate)
Project #:	2022-58 JT

RCA ASSOCIATES, INC

CENTER OF SITE LOOKING NORTH

CENTER OF SITE LOOKING EAST

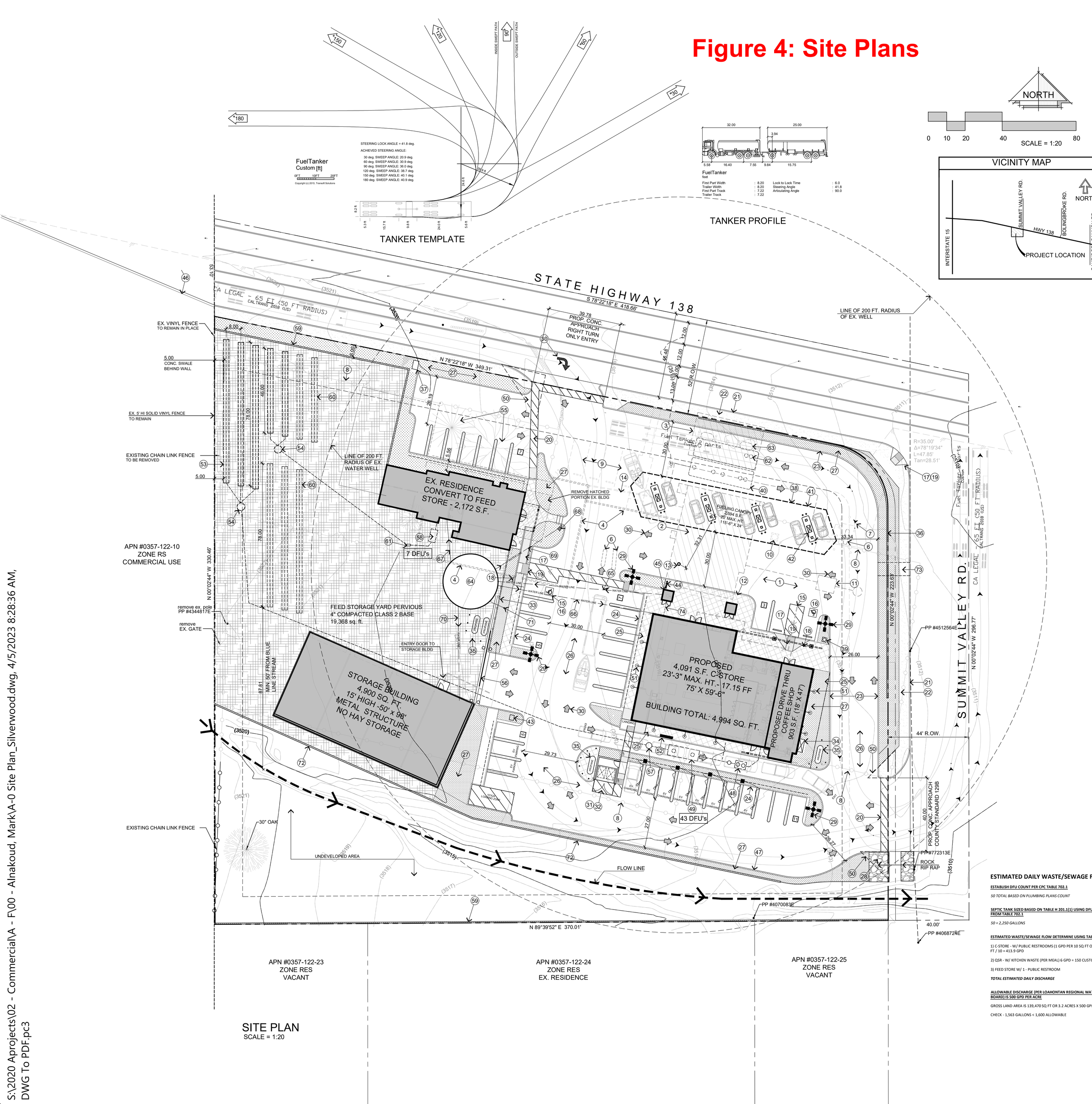
FIGURE 3: PHOTOGRAPHS OF SITE

CENTER OF SITE LOOKING SOUTH

CENTER OF SITE LOOKING WEST

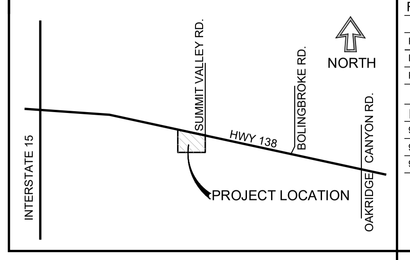
FIGURE 3, cont: PHOTOGRAPHS OF SITE

Figure 4: Site Plans



SITE PLAN
SCALE = 1:20

VICINITY MAP



PARKING DATA

REQUIRED PARKING PER G.F.A.:

AREA	RATIO	S.F.	# SPACES
PROPOSED CONVENIENCE STORE	1:250	4,139	16.5
DRIVE-THRU COFFEE SHOP	1:100	903	9
PROPOSED FEED STORE	1:200	2,164	10.7
		TOTAL REQUIRED	36

PROVIDED PARKING:

9'x19' ACCESSIBLE PARKING STALLS	=	2 SPACE(S)
9'x19' STANDARD PARKING STALLS	=	25 SPACES
9'x19' EV PARKING STALLS	=	10 SPACES
	TOTAL PROVIDED	37 SPACES

PROJECT DATA

APPLICATION TYPE:	MINOR USE PERMIT FOR REDESIGN AND EXPANSION OF A PREVIOUSLY APPROVED PROJECT
ZONE:	GENERAL COMMERCIAL (CG)
OCCUPANCY'S:	M/ B/ S
CONSTRUCTION TYPE:	V - B
STORIES:	1
FIRE SPRINKLERS:	NO

APPLICANT / OWNER:
MARK ALNAKOUD
12077 STATE HWY 138
HESPERIA, CA 92345
PH: 760-486-4825

ARCHITECT / REPRESENTATIVE:
STEENO DESIGN STUDIO, INC.
ARCHITECT: TOM STEENO
11774 HESPERIA RD. SUITE B-1
PH: 760.244.5001 FX: 760.244.1948

SCOPE OF WORK

TO DEMOLISH AN EXISTING 2,166 SQ. FT. CONVENIENCE STORE AND CONSTRUCT A NEW 4,091 SQ. FT. CONVENIENCE STORE, OPERATING FROM 5AM - 12AM, WITH A 903 SQ. FT. DRIVE-THRU COFFEE SHOP WITH NO INDOOR DINING. A GAS STATION WITH 4 DOUBLE SIDED FUEL DISPENSERS WITH CANOPY. EXISTING 2,172 SQ. FT. DWELLING TO BE CONVERTED TO FEED STORE AND A 4,900 SQ. FT. STORAGE BUILDING (NO HAY) WITHIN THE GENERAL COMMERCIAL ZONE. PROPOSED (2) NEW CONCRETE DRIVEWAY APPROACHS, (1) ON HWY 138 AND (1) ON SUMMIT VALLEY RD

BUILDING DATA

BUILDING	S.F.	OCCUPANCY	HOURS
C - STORE	4,091	M=45/ B=1/ S=4	5 am - 12 am
COFFEE SHOP	903	B=8	5 am - 12 am
CANOPY	2,594	NONE	5 am - 12 am
FEED STORE	2,172	M = 36	7 am - 7pm
STORAGE BLDG	4,900	S = 1	7 am - 7pm
TOTALS =	14,659	95 OCCUPANTS	

- OPERATING HOURS MAY VARY AS REQUIRED BY TENANTS
- OCCUPANT LOAD BASED ON TABLE A OF THE 2022 CBC. AND BUILDING SQ. FOOTAGE.
- OCCUPANT LOAD MAY VARY AS REQUIRED BY TENANTS

JOSHUA TREE NOTE:

NO JOSHUA TREES ARE PRESENT ONSITE

FAR ANALYSIS
FLOOR AREA RATIO

BUILDABLE LAND AREA 107,622 S.F.	
BUILDING FLOOR AREA	S.F.
C STORE W/ DRIVE THRU COFFEE SHOP	4,994
FUELING CANOPY	2,594
FEED STORE	2,172
STORAGE BUILDING	4,900
GROSS FLOOR AREA	14,760
FAR = GFA/BLA	14,759/ 107,622 = 0.14

HESPERIA UTILITIES

WATER :
EXISTING WELL ON SITE

ELECTRIC (PROPOSED):
SOUTHERN CALIFORNIA EDISON CO.
12353 HESPERIA RD.
VICTORVILLE, CA 92392
(760) 951-3237

TELEPHONE (PROPOSED):
VERIZON
15108 LA PAZ ROAD
VICTORVILLE, CA 92392
(800) 772-5153

DISPOSAL:
ADVANCED DISPOSAL INC.
17105 MESA RD.
HESPERIA, CA 92345

GAS (PROPOSED):
PROPANE

SEWER
PRIVATE

LEGEND

[#] NUMBER OF PARKING STALLS TO A SECTION

(#) KEY NOTE SYMBOL

ESTIMATED DAILY WASTE/SEWAGE FLOW

ESTABLISH DFU COUNT PER CPC TABLE 702.1

50 TOTAL BASED ON PLUMBING PLANS COUNT

SEPTIC TANK SIZED BASED ON TABLE H 201.1(1) USING DFU COUNT AS DERIVED FROM TABLE 702.1

50 = 2,250 GALLONS

ESTIMATED WASTE/SEWAGE FLOW DETERMINE USING TABLE H 201.1(4)

1) C-STORE - W/ PUBLIC RESTROOMS (1 GPD PER 10 SQ FT OF FLR. SPACE) = 4,139 SQ FT / 10 = 413.9 GPD

2) QSR - W/ KITCHEN WASTE (PER MEAL) 6 GPD = 150 CUSTOMERS X 6 = 900 GPD

3) FEED STORE W/ 1 - PUBLIC RESTROOM = 250 GPD

TOTAL ESTIMATED DAILY DISCHARGE = 1,563 GALLONS

ALLOWABLE DISCHARGE (PER LOAHONTAN REGIONAL WATER QUALITY CONTROL BOARD) IS 500 GPD PER ACRE

GROSS LAND AREA IS 139,470 SQ FT OR 3.2 ACRES X 500 GPD = 1,600 ALLOWABLE GPD

CHECK - 1,563 GALLONS < 1,600 ALLOWABLE

DFU WORKSHEET

SEPTIC SYSTEM	DFU's	QUANTITY	TOTAL
LAVATOR			
Private	1.0		0
Public	2.0		0
CLOTHES WASHER			
Private	3.0	1	3
Public	4.0		0
SERVICE SINK/MOP			
Emergency	0.0	2	0
2 inch	2.0		0
WATER CLOSET			
Single	3.0	3	9
Flush Tank	3.0		0
RECEPTOR (Without Waste)			
Low Demand (1 GPF) - refrigerators, coffee urns, water stations	3.0	3	21
High Demand (2") - commercial sinks, dishwashers	4.0		0
SINK			
Bar (Private)	1.0	2	2
Bar (Public)	2.0		0
Commercial w/ Food Waste	3.0		0
Kitchen (Domestic)	2.0	3	6
Service / Mop Basin	3.0		0
URINALS			
1.0 GPF	5.0		0
0.5 GPF	4.0		0
WATER CLOSETS			
3.5 GPF (Gravity Tank)			
Private	6.0		0
Public	8.0	2	16
3.5 GPF (Flushometer Tank)			
Private	6.0		0
Public	8.0		0
1.6 GPF (Flushometer Valve)			
Private	6.0		
Public	8.0		
1.1.6 GPF (Gravity Tank)			
Private	8.0		0
Public	8.0		0
1.1.6 GPF (Flushometer Valve)			
Private	8.0		0
Public	8.0		0
		TOTAL DFUS	50

(74) NEW 1" WATER LINE FROM WELL TO C STORE

SITE DATA

A.P.N: 0357-122-09

LEGAL DESCRIPTION:

THE EASTERLY 410 FT. OF THAT PORTION OF THE NORTHEAST ¼ OF THE NORTHEAST ¼ SECTION 28, TOWNSHIP 3 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND ON FILE IN THE DISTRICT LAND OFFICE, LYING SOUTH OF THE CENTERLINE OF THE EXISTING STATE HIGHWAY.

SITE AREA

AREA		SQ. FOOTAGE
GROSS ACREAGE	3.20 ACRES	139,470 S.F.
NET LAND AREA	2.47 ACRES	107,622 S.F.
EXISTING MARKET BUILDING AREA TO BE DEMOLISHED		2,166 S.F.
EXIST. GAS PUMP AREA TO BE DEMOLISHED		830 S.F.

LAND AREA & COVERAGE

AREA	SQ. FOOTAGE	% COVERAGE
PROPOSED C-STORE & COFFEE SHOP	4,994	4.69%
PROPOSED FEED STORE (EX. HOUSE)	2,172	2.01%
FEED STORAGE YARD (PERVIOUS SURFACE)	19,368	18.00%
METAL STORAGE BUILDING	4,899	4.55%
EXIST. CONC. SLAB	2,015	1.87%
EXIST. A/C PAVING TO REMAIN	7,720	7.17%
PROPOSED A/C PAVING (FUEL CANOPY INCLUDED)	31,224	29.01%
EXIST. CONCRETE & CURBING	948	.88%
PROP. CONCRETE & CURBING	5,379	5.00%
PROP. LANDSCAPE AREA	7,143	6.64%
TOTAL NET LAND AREA COVERAGE =	86,002 S.F.	79.91%
UNDEVELOPED AREA	21,620	20.09%
TOTAL NET LAND AREA =	107,622 S.F.	

KEYED NOTES

1. EXISTING A/C PAVING TO REMAIN
2. EXISTING 2,166 SQ. FT. C-STORE TO BE DEMOLISH AT HATCHED AREA
3. EXISTING GAS PUMP AREA TO BE DEMOLISHED
4. EXISTING BLOCK WALL TO BE REMOVED
5. CONCRETE PATH OF TRAVEL
6. EXISTING PROPANE TANKS TO BE RELOCATED
7. EXISTING BOLLARDS TO BE REMOVED
8. EXISTING CHAINLINK FENCE TO BE REMOVED
9. EXISTING PARKING AND WHEEL STOPS TO BE REMOVED @ DASHED LINES
10. EXISTING VAPOR RECOVERY SYSTEM AND BOLLARDS TO BE RELOCATED
11. EXISTING SEPTIC SYSTEM TO BE ABANDONED
12. STORAGE - 6' X 6'
13. EXISTING WELL TO REMAIN AND TO BE ROUTED UNDERGROUND AS SHOWN
14. EXISTING CURB & FLATWORK TO BE DEMOLISHED.
15. PROP. VAN ACCESSIBLE PARKING SPACE
16. PROP. ACCESSIBILITY STALL EMBLEM PAINTED AS SHOWN
17. PROP. A.D.A. RAMP NOT TO EXCEED 8.33% SLOPE IN DIRECTION OF RUN AND 2% MAX CROSS SLOPE
18. PROP. WARNING SIGNAGE REGARDING UNAUTHORIZED USE OF DISABLED PARKING SPACES
19. TRUNCATED DOMES, 36" DEPT x WIDTH OF RAMP
20. PROP. 48" WD. A.D.A. PATH OF TRAVEL
21. PROPOSED CONC. CURB & GUTTER PER CITY STANDARDS
22. PROPOSED 10' WD. CONC. SIDEWALK PER CITY STANDARDS
23. PROP. 6' WIDE CONCRETE CURB.
24. PROP. 6' WIDE CONCRETE CURB. W/ 2' PARKING NOSE OVER
25. PROP. 4" NOMINAL THICK CONCRETE WALKWAYS
26. PROP. 6" THK. A.C. PAVING
27. PROP. LANDSCAPED AREA SEE LANDSCAPE PLANS
28. ROCK RIP RAP, SEE ENGINEERING FOR DETAILS
29. 23' SITE LIGHT POLE STANDARD W/ 24" HIGH CONC. BASE W/ SHOE BOX STYLE FIXTURES & LIGHT SHIELD TO MEET 0.5 FOOTCANDLE LEVELS AT ALL PROPERTY LINE.
30. PROP. TRAFFIC FLOW DIRECTIONAL ARROWS PAINTED ON PAVING AS SHOWN ON PLAN
31. PROP. 12'-4" x 13' x 6' HI. ACCESSIBLE TRASH ENCLOSURE
32. PROP. 8" THK. REINFORCED CONCRETE PAD W/ 2% MAXIMUM SLOPE AWAY FROM TIE
33. PROP. 6' HI WROUGHT IRON FENCING
34. PROP. EXTERIOR MOUNT WEATHER-PROOF ELECTRICAL SWITCHGEAR
35. PROP. NEW LOCATION OF 12 - 19" x 37" 500 GAL. PROPANE TANKS W/ STEEL BOLLARDS
36. 4' HIGH BLOCK WALL. SEE GRADING PLAN
37. PROP. 24 S.F. FUEL PRICING SIGN. UNDER SEPARATE PERMIT
38. PROP. 8" CONCRETE PAVING OVER UNDERGROUND FUEL TANKS
39. PROP. NEW LOCATION OF VAPOR RECOVERY SYSTEM
40. REUSE (1) EXISTING UNDER GROUND FUEL STORAGE TANK, ABANDON THE ONE CLOSEST TO THE PROPERTY LINE
41. PROP. FUEL CANOPY
42. PROP. FUEL DISPENSERS (8)
43. PROP. AIR & WATER FOR CUSTOMER USAGE
44. PROP. PERMANENTLY ANCHORED BICYCLE RACKS WITHIN 200 FT. OF THE VISITORS' ENTRANCE, READILY VISIBLE TO PASSERS BY, FOR 5% OF NEW VISITOR MOTORIZED VEHICLE PARKING SPACES BEING ADDED, WITH A MIN. OF (1) TWO-BIKE CAPACITY RACK.
45. PROP. WELL TANK AND CONTROLS
46. PROP. TAPERED A/C BERM
47. 6" 'A' CURB & GUTTER.
48. 750 GALLON GREASE INTERCEPTOR AND SAMPLE BOX
49. PROP NEW 2500 GALLON SEPTIC TANK
50. 15' LINE OF CLEAR SIGHT TRIANGLE
51. EXTERIOR GOOSENECK LIGHTING FIXTURE W/ SHIELDING DESIGN
52. 55" MENU SIGN TO BE UNDER SEPARATE PERMIT (SHALL NOT EXCEED 50 S.F.)
53. LEACH FIELD SEE SIZING
54. DISTRIBUTION BOX
55. EX. TRESS TO BE REMOVED
56. 8' HI. HOT DIPPED, POWDER-COATED GALVANIZED STEEL ROLLING GATE W/ POWER OPENER
57. 1/2 HP 70 GALLON SEWAGE PUMP STATION IN VEHICLE RATED VAULT
58. EX 1000 GALLON SEPTIC TANK
59. 6' HIGH BLOCK WALL, SEE GRADING PLAN
60. FUTURE 100% EXPANSION AREA FOR LEACH LINES
61. SEWER BACKFLOW PREVENTER (VALVE) W/ ACCESS BOX
62. REMOVE EX. FUEL FILLING MANHOLES
63. EX. DISPENSERS TO BE REMOVED
64. PROP. STEEL WATER TANK TO BE SIZED BY FIRE DEPT. FOR FIRE SUPRESSION AND DOMESTIC WATER SUPPLY
65. NEW 2" WATER LINE FROM EX. WELL TO PROP. WATER TANK
66. NEW 1" WATER LINE FROM PROP. WATER TANK TO CONVENIENCE STORE
67. NEW 1" WATER LINE FROM PROP. WATER TANK TO FEED STORE
68. PROP. NEW FIRE HYDRANT
69. NEW 4" WATER LINE FROM PROP. WATER TANK TO NEW FIRE HYDRANT
70. NEW 1" WATER LINE FROM PROP. WATER TANK TO STORAGE HOSE BIB
71. NEW 1" WATER LINE FROM PROP. WATER TANK TO LANDSCAPE IRRIGATION POINT OF CONNECTION
72. PROP. RETAINING WALL - SEE CIVIL PLANS
73. UNDERSIDEWALK DRAIN SEE CIVIL DRAWINGS

OFFICIAL USE ONLY

STEENO DESIGN STUDIO INC.
ARCHITECTURE ◆ DESIGN ◆ PLANNING
11774 HESPERIA RD. SUITE B-1 HESPERIA, CA 92345
PHONE (760) 244-5001 ◆ FAX (760) 244-1948
www.steenodesign.com

DATE FINISHED
NOVEMBER 2022

REVISIONS

LICENSED ARCHITECT JAMES R. STEENO C-26448 REN. 2/29/25 STATE OF CALIFORNIA

PROJECT: MINOR USE PERMIT COMM. EXPANSION

SILVERWOOD GAS MARKET

CONTACT INFO:
MARK ALNAKOUD
760-486-4825

PROJECT ADDRESS:
12077 STATE HWY 138
HESPERIA, CA 92345

JOB NO.
COM20-A00

SHEET NAME:
SITE PLAN

PAGE
A-0

Table 1 - Plants observed on the site and known to occur in the immediate surrounding area.

Common Name	Scientific Name	Location
Kelch grass	*Schismus barbatus*	On Site
Wall barley	*Hordeum murinum*	“
California buckwheat	*Eriogonum fasciculatum*	“
Redstem stork’s bill	*Erodium cicutarium*	“
Red brome	*Bromus rubens*	“
Shortpod mustard	*Hirschfeldia incana*	“
Common rush	*Juncus effusus*	“
Rubber rabbitbrush	Ericameria nauseosa	“
Flatspine bur ragweed	*Ambrosia acanthicarpa*	“
Miniature lupine	*Lupinus bicolor*	“
California scrub oak	*Quercus berberidifolia*	“
Dove weed	*Croton setigerus*	“
Sandysoil suncup	*Camissonia strigulosa*	“
Norway maple	*Acer platanoides*	“
Spanish broom	*Spartium junceum*	“
Creeping juniper	*Juniperus horizontalis*	“
English ivy	*Hedera helix*	“
California poppy	*Eschscholzia californica*	“
Indian rice grass	*Eriocoma hymenoides*	“
California coffeeberry	*Frangula californica*	“
Elder	*Sambucus nigra*	“
Fragrant sumac	*Rhus aromatica*	“
Waterjacket	*Lycium andersonii*	“
Desert peach	*Prunus fasciculata*	“
Desert starvine	*Echinopepon bigelovii*	“
Coast live oak	*Quercus agrifolia*	“

Note: The above Table is not a comprehensive list of every plant species which may occur in the area, but is a list of those common species which were identified on the site or which have been observed in the region by biologists from RCA Associates, Inc.

Table 2 - Wildlife observed on the site during the field investigations.

Common Name	Scientific Name	Location
Common raven	*Corvus corax*	On Site
House sparrow	*Passer domesticus*	“
House Finch	*Haemorhous mexicanus*	“
Northern mockingbird	*Mimus polyglottos*	“
Cooper’s hawk	*Accipiter cooperii*	“
California quail	*Callipepla californica*	“
Western kingbird	*Tyrannus verticalis*	“
Common side-blotched lizard	*Uta stansburiana*	“
Western whiptail lizard	*Cnemidophorus tigris*	May Occur
Western fence lizard	*Sceloporus occidentalis*	
Black-tailed jackrabbit	*Lepus californicus*	“
Desert cottontail	*Sylvilagus audubonii*	“
California California ground squirrel	*Spermophilus beecheyi*	“

Note: The above Table is not a comprehensive list of every animal species which may occur in the area, but is a list of those common species which were identified on the site, or which have been observed in the region by biologists from RCA Associates, Inc.

REGULATORY CONTEXT

The following provides a summary of federal and state regulatory jurisdiction over biological and wetland resources. Although most of these regulations do not directly apply to the site, given the general lack of sensitive resources, they provide important background information.

Federal Endangered Species Act

The USFWS has jurisdiction over federally listed threatened and endangered plant and animal species. The federal Endangered Species Act (ESA) and its implementing regulations prohibit the take of any fish or wildlife species that is federally listed as threatened or endangered without prior approval pursuant to either Section 7 or Section 10 of the ESA. ESA defines "take" as "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Federal regulation 50CFR17.3 defines the term "harass" as an intentional or negligent act that creates the likelihood of injuring wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns such as breeding, feeding, or sheltering (50CFR17.3). Furthermore, federal regulation 50CFR17.3 defines "harm" as an act that either kills or injures a listed species. By definition, "harm" includes habitat modification or degradation that actually kills or injures a listed species by significantly impairing essential behavior patterns such as breeding, spawning, rearing, migrating, feeding, or sheltering (50CFR217.12).

Section10(a) of the ESA establishes a process for obtaining an incidental take permit that authorizes nonfederal entities to incidentally take federally listed wildlife or fish. Incidental take is defined by ESA as take that is "incidental to, and not the purpose of, the carrying out of another wise lawful activity." Preparation of a habitat conservation plan, generally referred to as an HCP, is required for all Section 10(a) permit applications. The USFWS and National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries Service) have joint authority under the ESA for administering the incidental take program. NOAA Fisheries Service has jurisdiction over anadromous fish species and USFWS has jurisdiction over all other fish and wildlife species.

Section 7 of the ESA requires all federal agencies to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any species listed under the ESA, or result in the destruction or adverse modification of its habitat. Federal agencies are also required

to minimize impacts to all listed species resulting from their actions, including issuance or permits or funding. Section 7 requires consideration of the indirect effects of a project, effects on federally listed plants, and effects on critical habitat (ESA requires that the USFWS identify critical habitat to the maximum extent that it is prudent and determinable when a species is listed as threatened or endangered). This consultation results in a Biological Opinion prepared by the USFWS stating whether implementation of the HCP will result in jeopardy to any HCP Covered Species or will adversely modify critical habitat and the measures necessary to avoid or minimize effects to listed species.

Although federally listed animals are legally protected from harm no matter where they occur, Section 9 of the ESA provides protection for endangered plants by prohibiting the malicious destruction on federal land and other "take" that violates State law. Protection for plants not living on federal lands is provided by the California Endangered Species Act.

California Endangered Species Act

CDFW has jurisdiction over species listed as threatened or endangered under Section 2080 of the California Fish and Wildlife Code. Section 2080 prohibits the take of a species listed by CDFW as threatened or endangered. The state definition of take is similar to the federal definition, except that Section 2080 does not prohibit indirect harm to listed species by way of habitat modification. To qualify as take under the state ESA, an action must have direct, demonstrable detrimental effect on individuals of the species. Impacts on habitat that may ultimately result in effects on individuals are not considered take under the state ESA but can be considered take under the federal ESA.

Proponents of a project affecting a state-listed species must consult with CDFW and enter into a management agreement and take permit under Section 2081. The state ESA consultation process is similar to the federal process. California ESA does not require preparation of a state biological assessment; the federal biological assessment and the CEQA analysis or any other relevant information can provide the basis for consultation. California ESA requires that CDFW coordinate consultation for joint federally listed and state-listed species to the extent possible; generally, the state opinion for the listed species is brief and references provisions under the federal opinion.

Clean Water Act, Section 404

The COE and the U.S. Environmental Protection Agency regulate the placement of dredged or fill material into "Waters of the United States" under Section 404 of the Clean Water Act. Waters of the United States include lakes, rivers, streams, and their tributaries, and wetlands. Wetlands are defined for regulatory purposes as "areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" (33 Code of Federal Regulations [CFR] 328.3, 40 CFR 230.3).

The COE may issue either individual permits on a case-by-case basis or general permits on a program level. General permits are pre-authorized and are issued to cover similar activities that are expected to cause only minimal adverse environmental effects. Nationwide permits (NWP's) are general permits issued to cover particular fill activities. All NWP's have general conditions that must be met for the permits to apply to a particular project, as well as specific conditions that apply to each NWP.

Clean Water Act, Section 401

Section 401 of the Clean Water Act requires water quality certification and authorization of placement of dredged or fill material in wetlands and Other Waters of the United States. In accordance with Section 401 of the Clean Water Act, criteria for allowable discharges into surface waters have been developed by the State Water Resources Control Board, Division of Water Quality. As such, proponents of any new project which may impair water quality as a result of the project are required to create a post construction stormwater management plan to ensure offsite water quality is not degraded. The resulting requirements are used as criteria in granting National Pollution Discharge Elimination System (NPDES) permits or waivers, which are obtained through the Central Valley Regional Water Quality Control Board (RWQCB). Any activity or facility that will discharge waste (such as soils from construction) into surface waters, or from which waste may be discharged, must obtain an NPDES permit or waiver from the RWQCB. The RWQCB evaluates an NPDES permit application to determine whether the proposed discharge is consistent with the adopted water quality objectives of the basin plan.

California Fish and Wildlife Code, Sections 1600-1616

Under the California Fish and Wildlife Code, Sections 1600-1616 CDFW regulates projects that divert, obstruct, or change the natural flow or bed, channel, or bank of any river, stream, or lake. Proponents of such projects must notify CDFW and enter into a streambed alteration agreement with them.

Section 1602 of the California Fish and Wildlife Code requires a state or local government agency, public utility, or private entity to notify CDFW before it begins a construction project that will: (1) divert, obstruct, or change the natural flow or the bed, bank, channel, or bank of any river, stream, or lake; (2) use materials from a streambed; or (3) result in the disposal or deposition of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into any river, stream, or lake. Once the notification is filed and determined to be complete, CDFW issues a streambed alteration agreement that contains conditions for construction and operations of the proposed project.

California Fish and Wildlife Code, Section 3503.5

Under the California Fish and Wildlife Code, Section 3503.5, it is unlawful to take, possess, or destroy any birds in the order Falconiformes (hawks, eagles, and falcons) or Strigiformes (owls). Take would include the disturbance of an active nest resulting in the abandonment or loss of young.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits the taking, hunting, killing, selling, purchasing, etc. of migratory birds, parts of migratory birds, or their eggs and nests. As used in the MBTA, the term "take" is defined as "to pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill, unless the context otherwise requires." Most bird species native to North America are covered by this act.

Sensitive Natural Communities

The California Office of Planning and Research and the Office of Permit Assistance (1986) define project effects that substantially diminish habitat for fish, wildlife, or plants, or that disrupt or divide the physical arrangement of an established community as significant impacts under CEQA. This definition applies to certain natural communities because of their scarcity and ecological

values and because the remaining occurrences are vulnerable to elimination. For this study, the term "sensitive natural community" includes those communities that, if eliminated or substantially degraded, would sustain a significant adverse impact as defined under CEQA. Sensitive natural communities are important ecologically because their degradation and destruction could threaten populations of dependent plant and wildlife species and significantly reduce the regional distribution and viability of the community. If the number and extent of sensitive natural communities continue to diminish, the status of rare, threatened, or endangered species could become more precarious, and populations of common species (i.e., not special status species) could become less viable. Loss of sensitive natural communities also can eliminate or reduce important ecosystem functions, such as water filtration by wetlands and bank stabilization by riparian woodlands for example.