



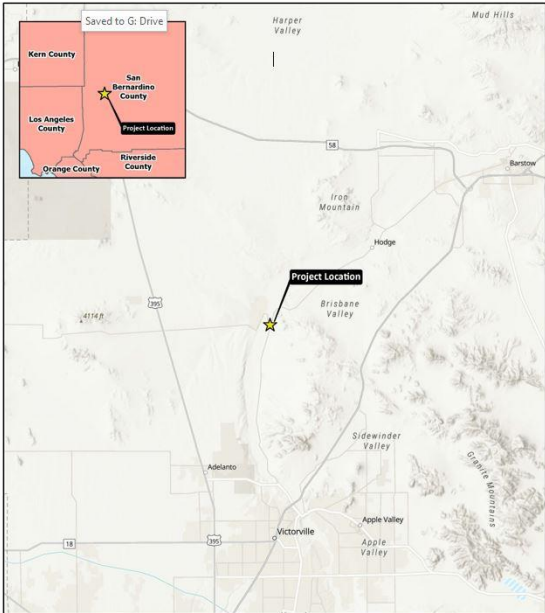
LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: May 18, 2023

AGENDA ITEM #4

Project Description:

APNs: 0467-101-02
Applicant: Abraham Maida & Salam Maida
Community: Helendale/1st Supervisory District
Location: 15444 Vista Road, Helendale, CA 92342
Project No.: PROJ-2020-00135
Staff: Reuben J. Arceo, Contract Planner
Rep.: N/A
Proposal: A Conditional Use Permit (CUP) to construct a new convenience store to include 3,705 square-foot of retail space and a 2,724 square-foot fuel canopy; to bring into full compliance all structures and operations including existing retail structures, a 1,768 square-foot pub and an 804 square-foot salon; and a type 20 alcohol license on 3.71 acres.



12 Hearing Notices Sent On: May 4, 2023

Report Prepared By: Reuben J. Arceo

SITE INFORMATION

Parcel Size 3.71 acres
 Terrain: Primarily flat, containing multiple structures.
 Vegetation: Site is paved with no natural vegetation growth.

SURROUNDING LAND DESCRIPTION:

Area	Existing Land Use	Land Use Category	Land Use Zoning District
Project Site	Commercial (Retail Store)	Commercial	General Commercial (CG)
North	Vacant; Commercial (Retail Store)	Commercial	General Commercial (CG)
South	Commercial (Retail Store); Single Family Residential; Commercial (Convenience Store / Gas)	Commercial	General Commercial (CG)
East	Undeveloped and Vacant	Rural Living	Rural Living (RL)
West	Undeveloped and Helendale Community Services District, Office Public Facilities (Railroad)	Rural Living	Rural Living – 5 acre minimum (RL-5)

AGENCY

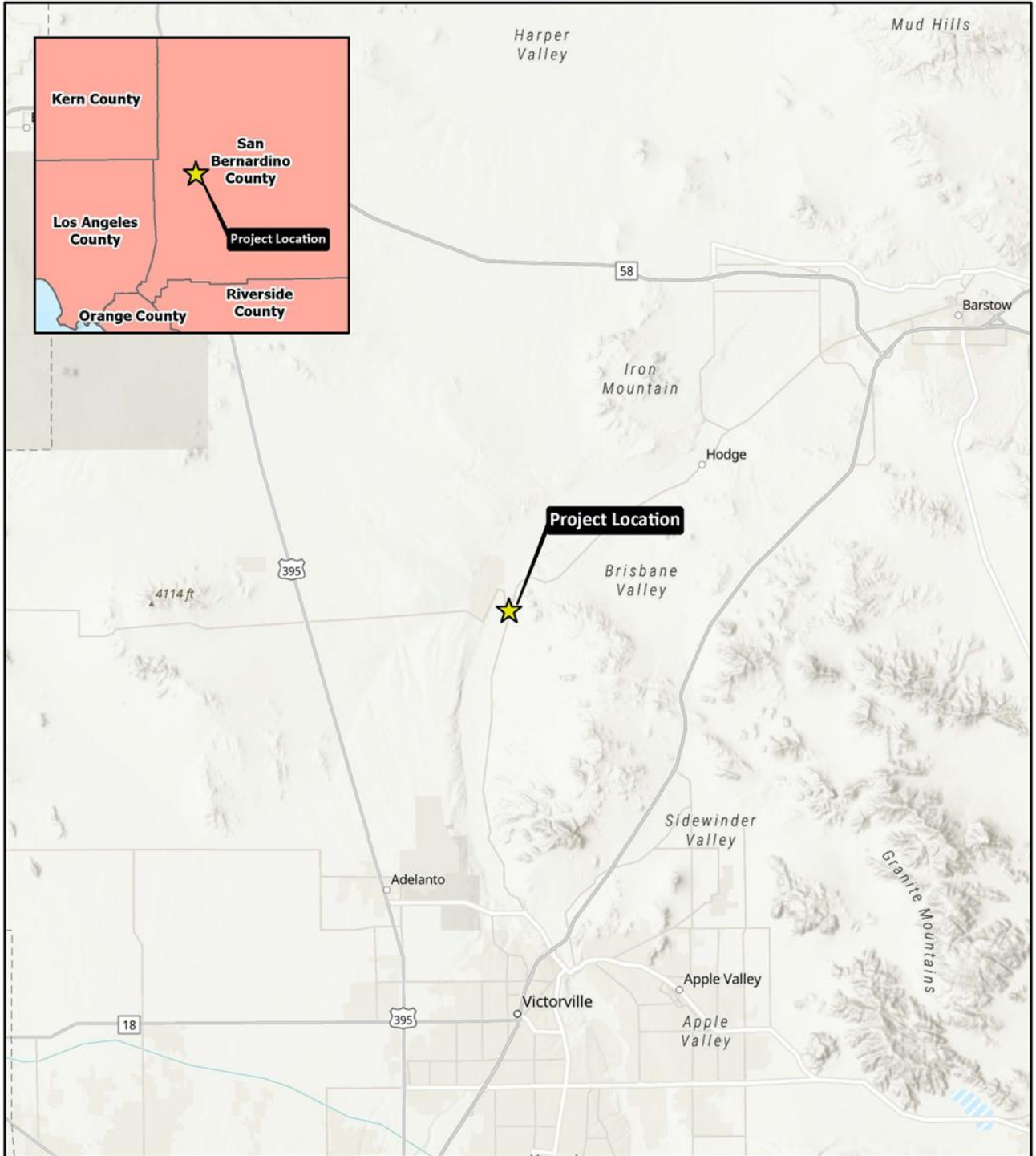
COMMENT

City Sphere of Influence:	None	N/A
Water Service:	Existing Water Well	Subject to EHS Approval
Sewer Service:	On-site septic system/Package	Subject to EHS/Lahontan Water Board

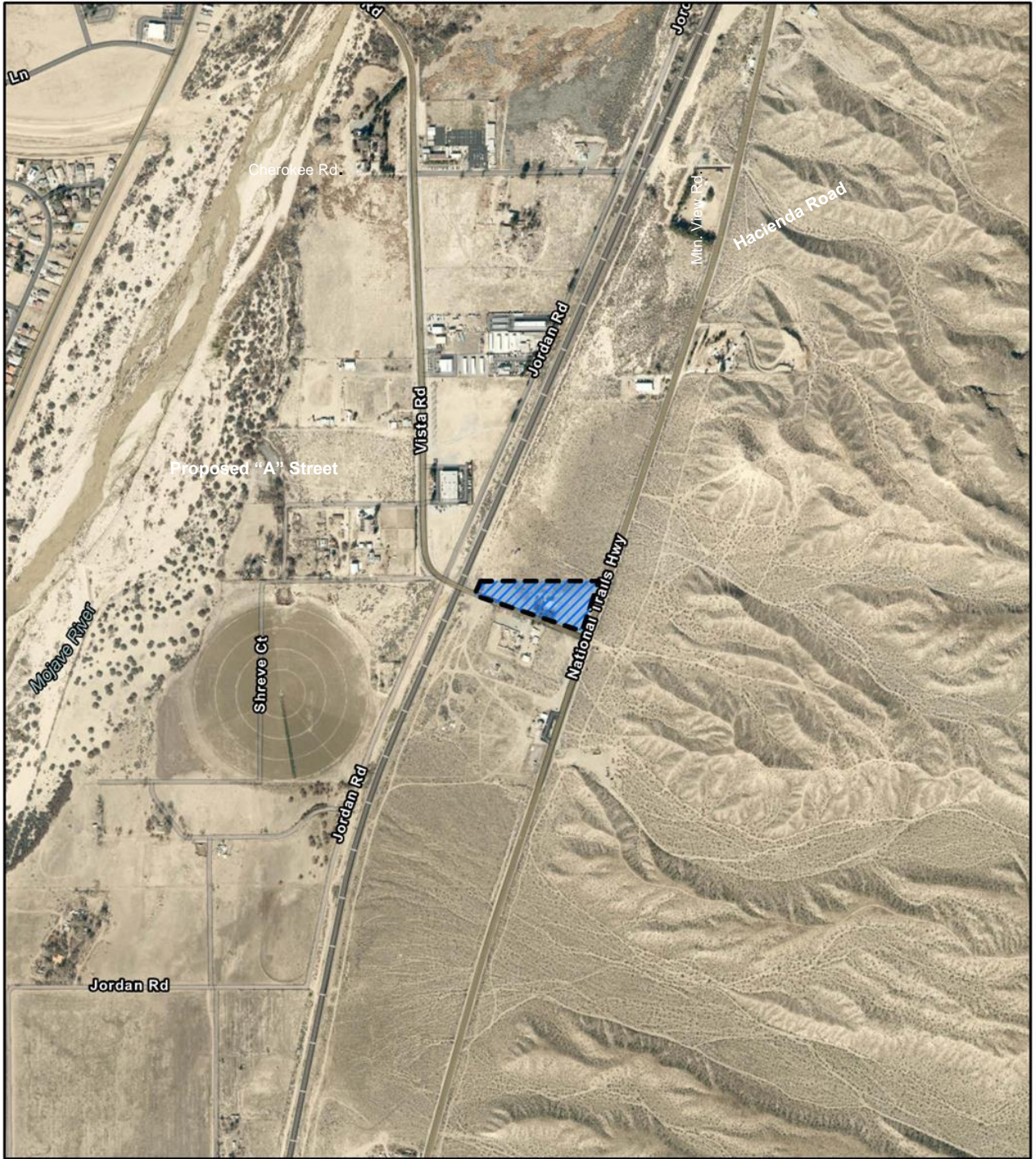
STAFF RECOMMENDATION: That the Planning Commission **ADOPT** the Mitigated Negative Declaration; **ADOPT** the Findings as contained in the staff report; **APPROVE** the Conditional Use Permit, subject to the Conditions of Approval; and **DIRECT** Staff to file a Notice of Determination¹.

¹ In accordance with Section 86.08.010 of the Development Code, the Planning Commission action may be appealed to the Board of Supervisors.

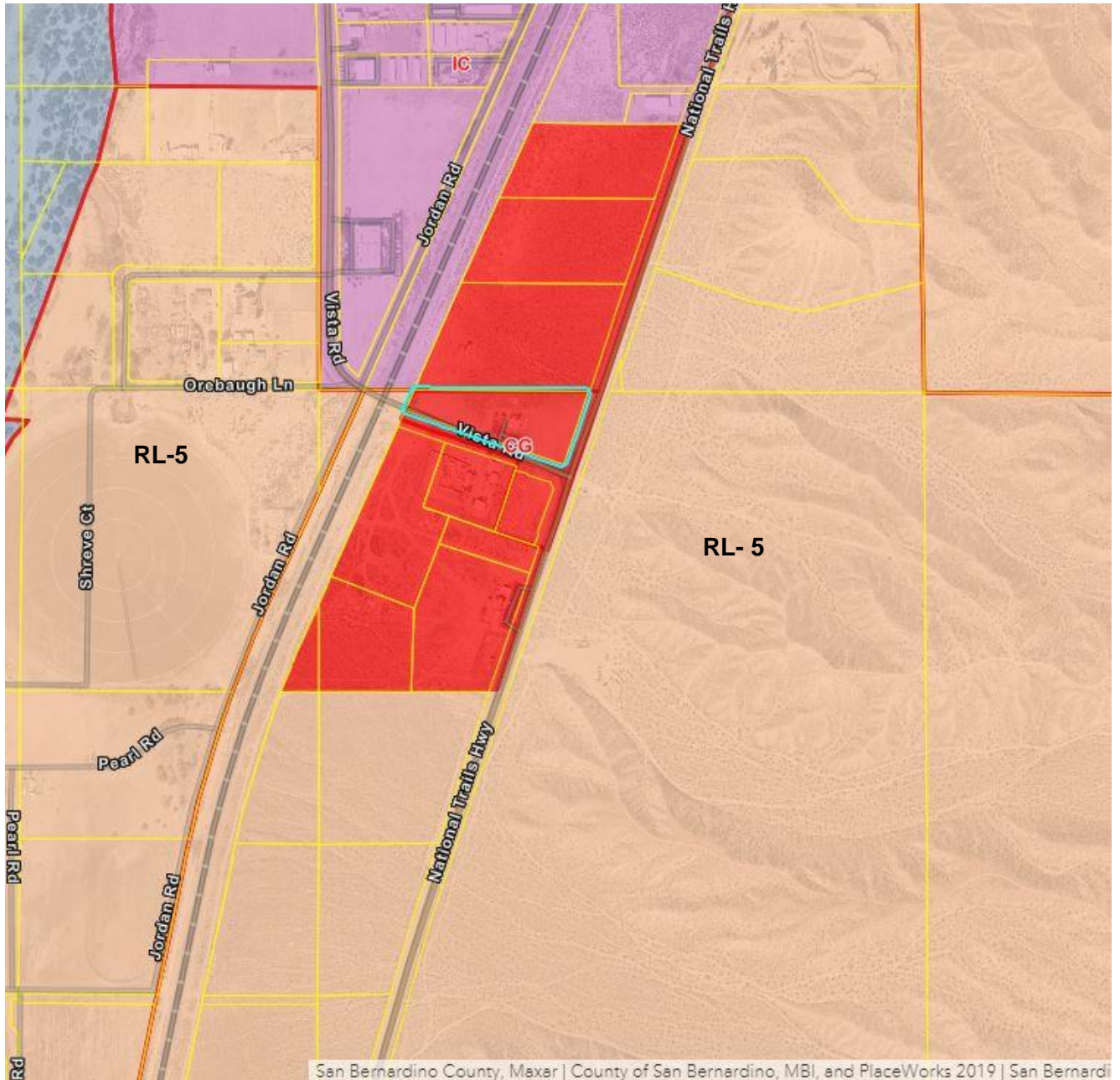
VICINITY MAP:



AERIAL MAP:



ZONING MAP: General Commercial (CG)



POLICY PLAN LAND USE MAP: Commercial (C)

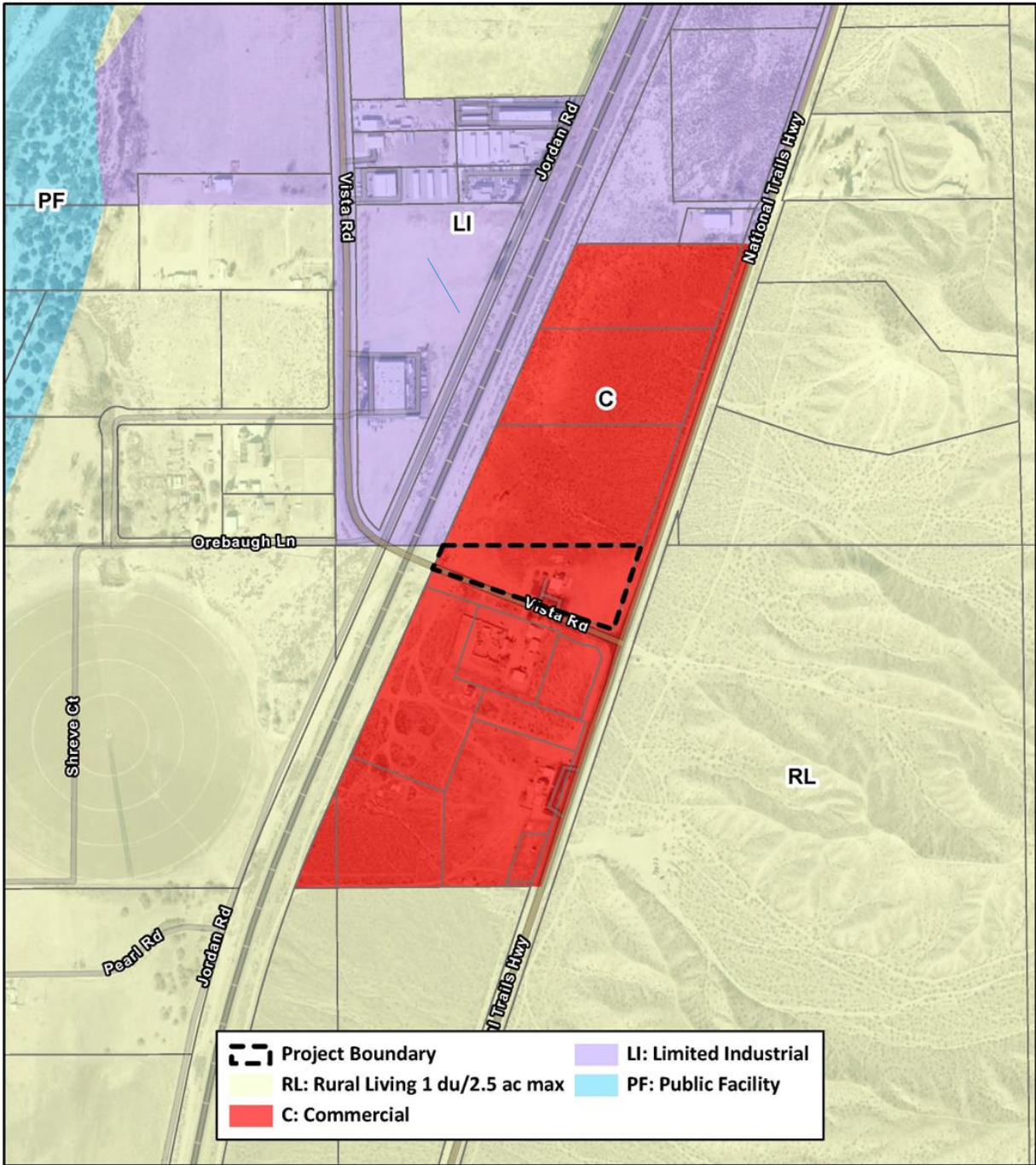


Figure 2
 Helendale Fuel and Convenience Center
 3,705 square feet
 Floor Plan

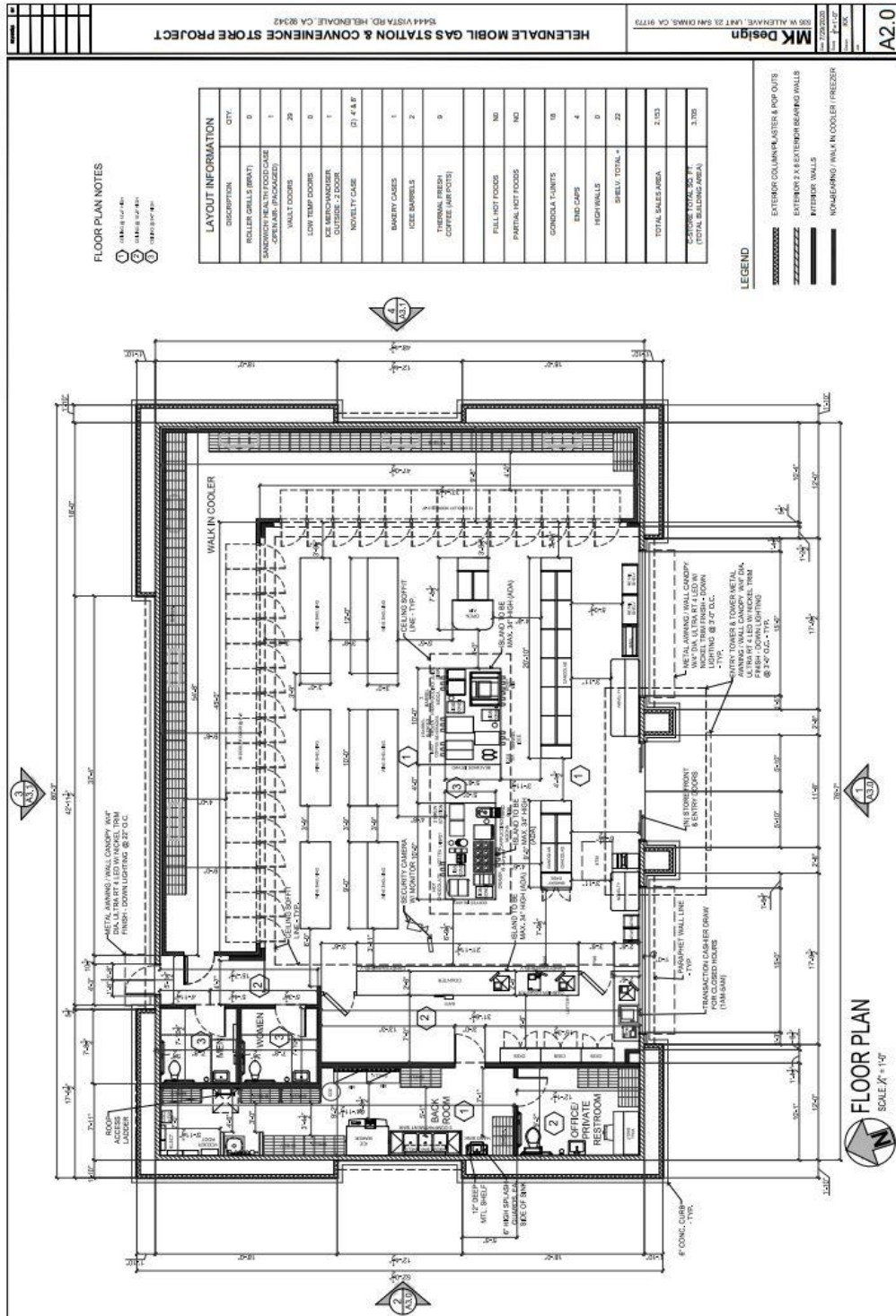


FIGURE 4
Helendale Fuel and Convenience Center
North South Building Elevation

Southwest Elevation



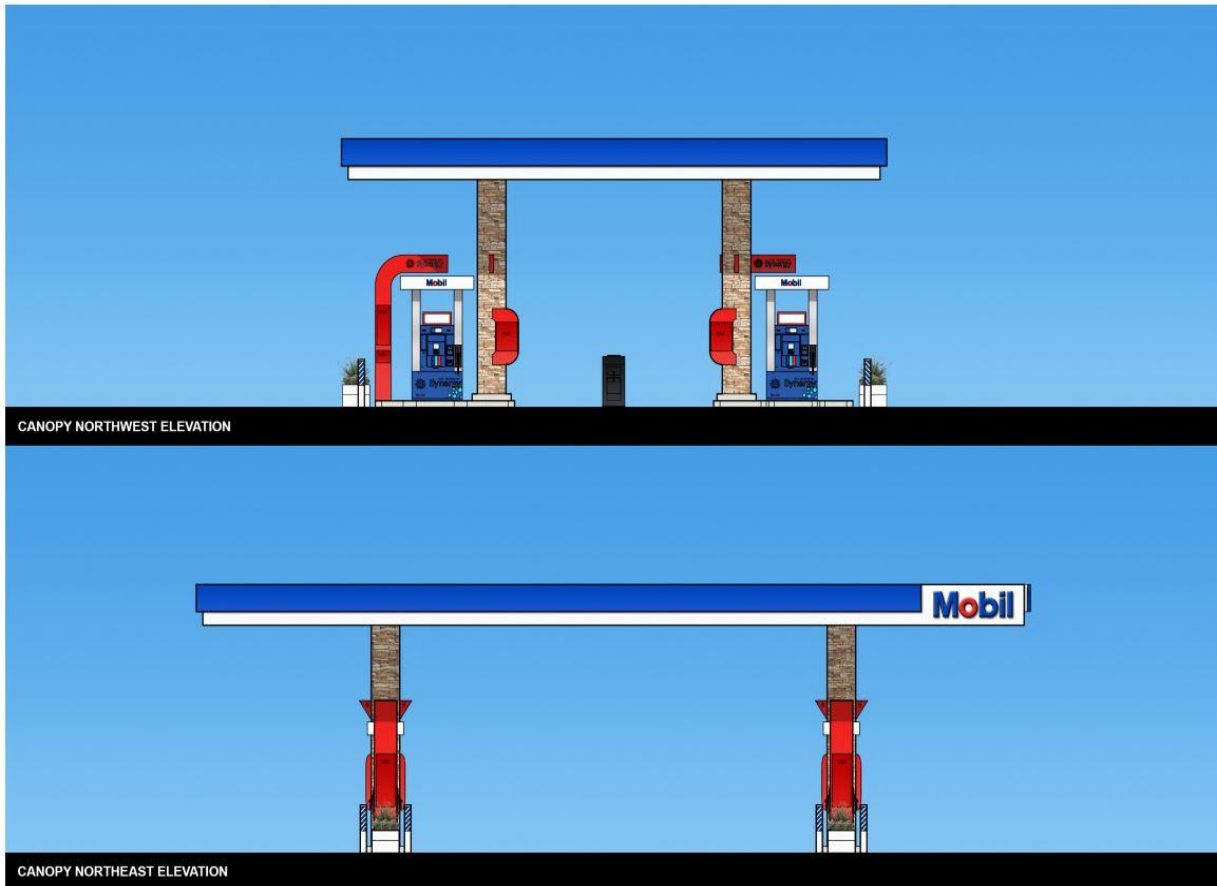
Northeast Elevation



Figure 5
Southeast/Northeast Elevations
Signage Pylon



FIGURE 6
Fuel Canopy



Site Photos



Facing northwest on National Trails Highway and Vista Road looking towards the Project site.

Facing north on Vista Road looking towards the existing structures on the Project site.



2022 Google, Image capture: Feb 2021



Facing northeast on Vista Road looking towards the existing structures on the Project site.

Facing northeast on Vista Road looking towards the Project site.



Facing west on National Trails Highway looking towards the Project site.



Facing southwest on National Trails Highway looking towards the Project site.



PROJECT DESCRIPTION AND BACKGROUND:

Abraham and Salam Maida (Applicant) are requesting approval of a Conditional Use Permit (CUP) to develop and operate a new convenience store containing 3,705 square-feet of new retail space and construct a 2,724 square-foot fuel canopy; and to bring into full compliance all structures and operations on site including existing retail structures that consist of a 1,768 square-foot pub and an 804 square-foot salon, and type 20 alcohol license (Project).

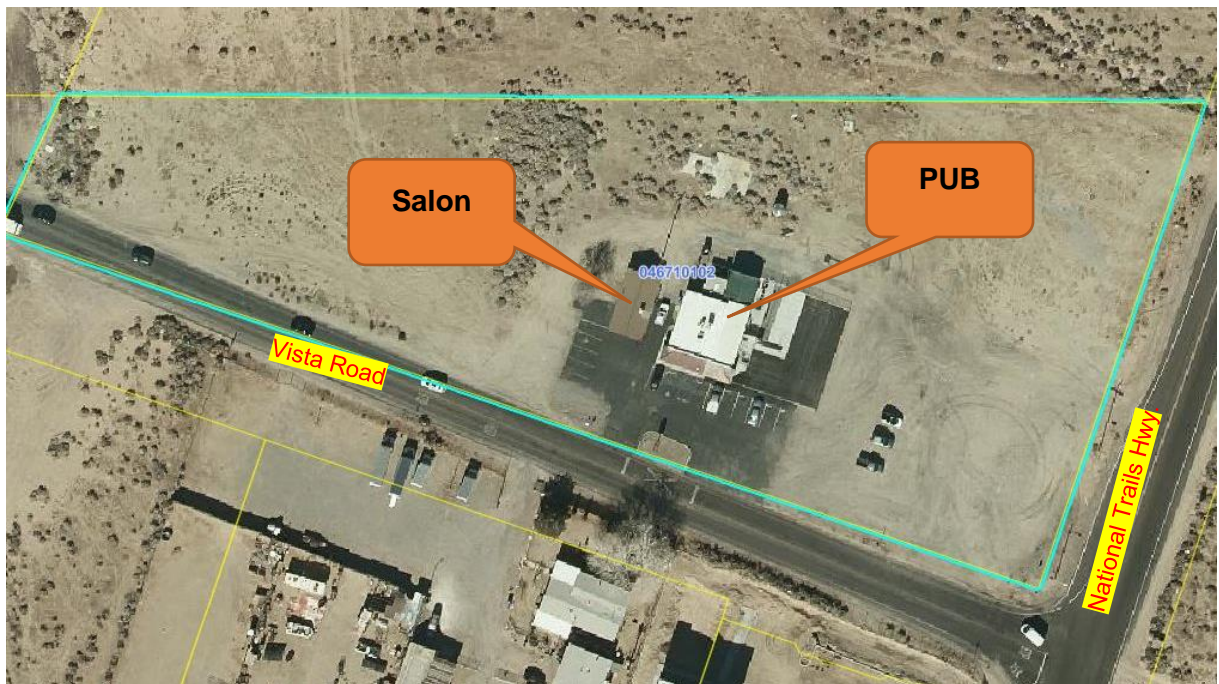
The Project development elements are summarized below.

- *Fueling Station (Mobil).* Four (4) fuel dispenser islands are proposed, under a 2,724 square-foot fuel canopy, and one underground storage tank (UST) will be installed for the storage of gasoline and a 10' 4" tall vertical propane tank.
- *Convenience Store.* The proposed Project would include a new 3,705 square foot convenience store as noted in Figure 1. The proposed convenience store would be located adjacent and north of the fueling area. The convenience store would include the retail sales area, the cash registers, restrooms and quick-service restaurant (QSR). The QSR will provide take out fast foods but will not provide seating. The convenience store public entry way is southward oriented and faces the fuel dispensing area. The Project will include a Type 20 alcohol license. The Applicant proposes standard allowed hours for sale of alcohol, 6 a.m. -2 a.m.
- *Existing Structures.* The site has two existing and operating buildings, Dempsey's Pub that is 1,768 square feet and Joe's Salon/Pat's Barber shop that is 804 square feet, both of which will be brought into building code compliance.
- *Access and Circulation.* Vehicular access would be provided by a new driveway entry along Vista Road and driveway entry located along National Trails Highway.
- *Parking.* The Convenience Store provides 22 standard parking spaces including two ADA accessible parking spaces. The existing pub provides eight spaces and the salon five spaces.
- *Landscaping.* Landscaping would total 17,010 square feet or 31% of the property, exceeding the 20% minimum required.
- *Building Architecture:* The Project architecture is a contemporary minimal modern architecture design. The materials like the porcelain tile, the buildings incorporate have longevity and low maintenance with a light wood grain finish that compliments the surrounding desert style and buildings. The stone (light to medium beiges with some browns) and stucco (med to dark beige) are earthtone colors that blend with the desert environment that is reflected on the building, trash enclosure, pylon signage, and on the fuel canopy columns.

The table below summarizes the Project elements.

Project Summary Table	
Project Element	Description
Total Site Area	3.71 acres
Total Building Area - New and Existing Floor Area	6,277 square-feet
Fuel Dispenser Area	4 fuel pumps, 2,724 square-feet fuel canopy
Convenience Store Floor area	3,705 square-feet

The property adjacent to the proposed Project, south of Vista Road, contains a gas station and convenience store, such that the proposed Project would be consistent with the existing development in the vicinity and would not greatly alter the character of the area. Project records identify, based on historic aerial photographs and maps, the site has been a relatively undeveloped flat area with little changes to the desert landscape apart from a few structural additions, paving of roads and increased off-highway vehicle tracks since the 1960's. The two existing buildings as shown in the aerial below function as a Salon and Pub. These structures will remain and will not be demolished.



The cultural study, prepared April 3, 2020, identified both the pub and salon as historic period buildings but the structures have not been evaluated by The California Register of Historic Resources (CRHR) and it is not known whether these structures are considered historical resources under CEQA and eligible for this classification. If found to be eligible for the CRHR, a determination would next need to be made about whether or not the Project would have a significant impact on the qualities that made them significant. The Initial Study Cultural -1 Mitigation Measure requires that prior to any ground-disturbing activity or demolition, the Lead Agency shall concur with the identification and evaluation of CRHR.

Salon



Pub



PROJECT ANALYSIS:

Development Code Compliance Summary: The Project satisfies all applicable standards of the Development Code for development in the General Commercial Zoning District, as shown in Table 2 Project Code Compliance, Table 82-15A Desert Region.

Table 2:

Project Code Compliance General Commercial Desert Region				
Project Component	Development Code Standard		Project Plans	
Helendale Fuel and Convenience Center	CUP		CUP	
Building Setbacks	Front	25	69'	
	Street side	25'	115'	
	Interior	10'	47'	
	Rear	10'	35'	
Lot Coverage	80%		5.7%	
Maximum Height	60'		23'	
Required Parking G.F.A Convenience Store	Ratio 1:250	S.F 3,705	Req'd Pkng 14	Provided 22
				22- 9' x 19' 1 - Handicap No EV Stalls
Landscape Area	20%		31%	

Operational Characteristics:

Four Gasoline pumping stations are proposed containing two service units each for a total of eight service units. Two parking stalls will be designated for EV service in the future. The vacant portion of the Project site is utilized for additional parking and has been well-traversed with motorized vehicles.

Fencing: a 6' high Desert Blend decorative masonry block wall is proposed behind the convenience store with the adjacent property at the north of the Project property.

Hours of Operation: The fuel dispensers and the convenience store will be open 24 hours a day, seven days a week. The proposed convenience store component of the Project is anticipated to employ up to four Persons. A Type 21 Alcohol license will be obtained upon approval of the project that authorizes the sale of beer, wine and distilled spirits.

Signs: The Project proposes signage per Development Code section 83.13.050(c)(8) (Onsite Signs in General Commercial land use zoning districts) and 83.13.100(a) (Sign Standards for Specific Uses – Service Station Signs).

Landscaping: A landscaping plan will be provided and will be required to comply with the Landscaping Standards provided in the Development Code, Section 83.10.060, Table 83-12 "Minimum Landscaped Area" and the Model Water Efficient Landscape Ordinance.

Construction Characteristics:

The total land area to be developed is a 3.71-acre (217,369 square feet) parcel and bounded by Vista Road to the south, vacant land to the north, national Trails Highway to the east, and the Topeka and Santa Fe Railway to the west. The 3.71-acre site is currently developed with two existing buildings that house a restaurant/bar and a salon/barber shop. The following development phases apply to the new facility.

- **Site Preparation Phase.** During this phase, the building footings, utility lines, and other underground infrastructure would be installed. Construction equipment that would be used onsite during this phase would include trenching equipment, back hoes, front loaders, graders, dump trucks, and water trucks.
- **Building Construction Phase.** The new buildings would be constructed during this phase. Construction equipment that would be used onsite during this phase would include forklifts, trucks, back hoes, front loaders, and compressors/generators.

Environmental Characteristics:

The Project site is heavily disturbed due to the existing development and continuous on-site activity. Additionally, the undeveloped portion of the property contains little vegetation such as scattered shrubs. Due to the Project site's existing conditions, the proposed Project would not cause a substantial adverse effect on any species identified as a candidate, sensitive or special status species.

Noise: Noise will include noise emanating from the fuel dispensing area, and the other related on-site improvements. The County's Development Code (Division 3, Countywide Development Standards; Chapter 83.01, General Performance Standards, Section 83.01.080, Noise) sets interior and exterior noise standards for specific land uses by type of noise source. Noise standards for stationary noise sources are summarized in the Ordinance in Table 83-2, Noise Standards for Stationary Noise Sources levels will be measured to demonstrate the operation's compliance with the Development Code ambient noise standards to ensure noise levels are maintained and do not exceed the County's ambient noise standards. The Applicant shall implement an operating policy, to safeguard and protect nearby properties from noise impacts, and errant noise, group impacts and crowds.

Hazardous Waste: The Project involves the construction and operation of a service station, which would include the installation and maintenance of an underground storage tank (UST) for the on-site storage of gasoline. Service stations are subject to routine inspection by federal, state, and local regulatory agencies with jurisdiction over fuel dispensing facilities. The service station's storage and delivery of the hazardous materials would comply with all applicable federal, state, and local regulation in order to functionally operate, including but not limited to Section 2540.7 – Motor Fuel Dispensing Facilities and Service Stations, of the California Occupational Safety and Health Regulations (CalOSHA); Chapter 38 – Liquefied Petroleum Gases, and the California Fire Code (CFC); the Resource Conservation and Recovery Act (RCRA); and the San Bernardino County Fire standards. The Project's construction would require the use of diesel fuel to power the construction equipment. The diesel fuel would be properly sealed in tanks and would be transported to the site by truck. Other hazardous materials that would be used on-site during the Project's construction phase include, but are not limited to, gasoline, solvents, architectural coatings, and equipment lubricants. These products are strictly controlled and regulated and in the event of any spill, cleanup activities would be required to adhere to all pertinent protocols.

The Applicant will be required to prepare a safety and hazard mitigation plan that indicates those protocols that must be adhered to in the event of an accident. Any business or facility that handles a hazardous material 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 must obtain hazardous material permits. San Bernardino County Fire Protection District, Office of the Fire Marshal, Hazardous Materials Division has reviewed and provided conditions of approval for the Project. One UST will be provided and a 10' 4" tall vertical propane tank.

Transportation/Traffic: The Project's Traffic Study was prepared by Albert Wilson & Associates dated July 27, 2020, to address potential traffic impacts and circulation needs associated with the proposed Project. The study was performed in conformity with County of San Bernardino Traffic Impact Study Guidelines dated July 9, 2019.

The Traffic Impact Analysis (TIA) concluded that the daily vehicle trips associated with the intersections and driveways of the proposed Project will continue to allow satisfactory levels of service. The Project is expected to generate a total of 52 new AM and 83 new PM vehicle trips during peak hour, and a total of 861 daily trips. In the Project opening year, the study intersection and driveways are found to operate at satisfactory levels of service with no significant impact from the new Project traffic.

The Project's Traffic Study was screened from requiring a VMT analysis under CEQA because the Project meets the definition of "locally serving retail" under 50,000 square feet and can be presumed to have an insignificant effect on VMT. Local serving retail projects less than 50,000 square feet may be presumed to have a less than significant impact absent substantial evidence to the contrary since local serving retail generally improves the convenience of shopping close to home and has the effect of reducing vehicle travel.

The Traffic study determined:

1. Intersections and driveways are found to operate at satisfactory levels of service with no significant impact from the new Project traffic.
2. The proposed Project would add additional traffic along Vista Road and National Trails Highway during the construction phase; however, this traffic will be minimal and temporary in nature. Therefore, the proposed Project would not conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.
3. The TIA concluded that the daily vehicle trips associated with the intersections and driveways of the proposed Project will continue to allow surrounding intersections and driveways to operate at satisfactory levels of service.

Tribal Consultation: In accordance with AB52 and SB-18, California Native American tribes were notified of the Project on June 21, 2019. San Manuel Mission Indians (SMBMI) representative, Jessica Mauck, responded with comments on July 17, 2019, stating that SMBMI would like to review a copy of the cultural resources report. In a follow-up email dated August 18, 2020, Ms. Mauck stated that SMBMI has no concerns, and simply requested that language attached to her email regarding the process for inadvertent discoveries be included within the Project mitigation measures and conditions of approval. The Project's Conditions of Approval incorporate the requested Tribal Cultural Mitigation Measures. The Morongo Band of Mission Indians responded on July 30, 2019, but did not provide comments on the Project. No other responses were received during the 30-day consultation period.

CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE:

An Initial Study/Mitigated Negative Declaration (IS/MND) (Exhibit A) was prepared for the Project in accordance with the requirements of the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, and California Code of Regulations Title 14, Section 15000 *et seq.* (CEQA Guidelines). The IS/MND concludes that the Project will not have a significant adverse impact on the environment with the implementation of recommended mitigation measures contained in the IS/MDN. The IS/MND was circulated to the State Clearinghouse for the required 30-day comment and review period. A comment from the Desert Tortoise Council (Council) dated April 1, 2023 is attached as Exhibit B. The Council raised concerns about the Project's indirect impacts to the desert tortoise and Mohave ground squirrel and other species that use the areas adjacent to the Project site and impacts to wildlife arising from human activities providing food subsidies.

Mitigation Measures, as cited in the Mitigation Monitoring and Reporting Program (MMRP) (Exhibit C), were analyzed in the Initial Study and have been incorporated into the Project's Conditions of Approval (Exhibit D) to eliminate or reduce potential Project impacts and address environmental and project concerns. The Mitigation Measures include, but are not limited to, the following:

- CUL-1 California Register of Historical Resources (CRHR) Eligibility
- CUL-2 Archaeological Consulting
- CUL-3 Inadvertent Discoveries
- TCR-1 San Manuel Band of Mission Indians (SMBMI) Resource Discovery
- TCR-2 SMBMI Consultation

To minimize impacts to wildlife from inadvertent food subsidies, the Project incorporates trash receptacles contained within an enclosed roof mounted structure. The site will also be enclosed by a proposed six-foot-high masonry wall behind the convenience store with the adjacent property at the north of the Project property that will minimize impacts of wildlife encroachments and potential road kills from vehicles entering the fueling area and convenience center. In preparing the Project's Initial Study, the Best Available Science was utilized to assess the Project's potential environmental impacts. A biological study was not prepared as the existing site is heavily disturbed. Additionally, the undeveloped portion of the property contains little vegetation such as scattered shrubs, and does not contain any habitat areas, sensitive natural communities, wetlands, or migratory species, therefore, the Initial Study biological determination is that the site is not ideal to act as a wildlife corridor neither does it contain state or federally protected wetlands such as marshes, vernal pools, streams, or rivers.

In determining the standards for adequacy in the preparation of CEQA environmental documents, the environmental analysis under CEQA section 15151, a mitigated negative declaration (MND) should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of the MND is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make the MND inadequate. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure. The project MND meets the intent of section 15151.

An Air Quality study was prepared in accordance with Mohave Desert Air Quality Management District (MDAQMD) threshold criteria. As analyzed in the Air Quality Impact Analysis prepared by Landin & Associates, the Project would not result in or cause National Air Quality Standards (NAAQS) or California Ambient Air Quality Standards (CAAQS) violations.

Public Comments:

Project notices were sent to surrounding property owners within 300 feet of the Project site as required by Development Code Section 85.03.080. No public comments have been received.

RECOMENDATION: That the Planning Commission:

1. **ADOPT** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Exhibits A and C);
2. **ADOPT** the Findings as contained in the Staff Report (Exhibit E);
3. **APPROVE** the Conditional Use Permit to establish a new convenience store to include 3,705 square-foot of retail space and a 2,724 square-foot fuel canopy; and to bring into full compliance all structures and operations including existing retail structures that consist of a 1,768 square-foot pub and an 804 square-foot salon, and a type 20 alcohol license on 3.71 acres, subject to the Conditions of Approval (Exhibit D); and
4. **DIRECT** Staff to file the Notice of Determination (Exhibit F).

ATTACHMENTS:

- Exhibit A: Initial Study/Mitigated Negative Declaration
www.sbcounty.gov/uploads/LUS/Desert/DRAFT_ISMND_PROJ_2020_00135.pdf
- Exhibit B: Comment Letter
- Exhibit C: Mitigation Monitoring and Reporting Program
- Exhibit D: Conditions of Approval
- Exhibit E: Findings
- Exhibit F: Notice of Determination

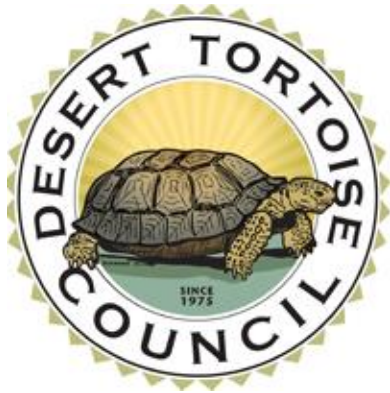
EXHIBIT A

Initial Study/Mitigated Negative Declaration

[http://www.sbcounty.gov/uploads/LUS/Desert/
DRAFT ISMND PROJ 2020 00135.pdf](http://www.sbcounty.gov/uploads/LUS/Desert/DRAFT_ISMND_PROJ_2020_00135.pdf)

EXHIBIT B

Comment Letter



DESERT TORTOISE COUNCIL

3807 Sierra Highway #6-4514
Acton, CA 93510

www.deserttortoise.org
eac@deserttortoise.org

Via email only

April 1, 2023

Reuben J. Arceo, Contract Planner
County of San Bernardino
Land Use Services Department
385 North Arrowhead Avenue, 1st floor
San Bernardino, CA 92415
Reuben.Arceo@lus.sbcounty.gov

RE: Comments on Helendale Mobile Gas Station and Convenience Store – Notice of Preparation and Initial Mitigated Negative Declaration and Mitigation, Monitoring, and Reporting Program Initial Study/Mitigated Negative Declaration

Dear Mr. Arceo,

The Desert Tortoise Council (Council) is a non-profit organization comprised of 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 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 sending future correspondence to us. When given a choice, we prefer that San Bernardino County (County) email to us 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 thank the County for contacting us directly about the availability of this document prepared under the California Environmental Quality Act (CEQA).

We appreciate this opportunity to provide comments on the above-referenced project. Given that the proposed project may contribute to take of the Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments pertain to enhancing protection of this species during activities authorized by the County.

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), as it is a “species that possess an extremely high risk of extinction as a result of rapid population declines of 80 to more than 90 percent over the previous 10 years (or three generations), population size fewer than 50 individuals, other factors.” It is one of three turtle and tortoise species in the United States to be critically endangered. This status, in part, prompted the Council to join Defenders of Wildlife and Desert Tortoise Preserve Committee (Defenders of Wildlife et al. 2020) to petition the California Fish and Game Commission in March 2020 to elevate the listing of the Mojave desert tortoise from threatened to endangered in California.

We reviewed the Draft Initial Study and Mitigated Negative Declaration for the Helendale Mobile Gas Station and Convenience Store (MND) and the Mitigation, Monitoring, and Reporting Program Initial Study/Mitigated Negative Declaration – Helendale Mobil Gas Station & Convenience Store (MMRP) and offer the following comments for your consideration, placement into the permanent administrative/decision record for this project, and incorporation into the final document.

Description of Proposed Action

According to the MND, the Applicant/Owner of the property requests the approval of a Conditional Use Permit (CUP) to construct and operate a new gas station and a 3,705 sq. ft. convenience store with four (4) fuel dispenser islands, a 2,724 sq. ft. fuel canopy, a 206 sq. ft. trash enclosure, a 10’ 4”-foot tall vertical propane tank, and a 241 sq. ft. loading area, and a new septic system (“Project”). When construction is completed, the proposed Project will be staffed with 2-3 working employees and will be operational twenty-four (24) hours a day, seven days a week. The Project will also include a Type 20 alcohol license.

Currently the parcel has two existing buildings, Dempsey’s Pub and Joie’s Salon/Pat’s Barber shop that are 1,768 sq. ft. and 804 sq. ft. respectively. These buildings use an existing well.

The parcel is bordered by National Trails Highway on the east, Vista Road on the south, railroad tracks on the west and undeveloped land on the north. It is about 3.25 miles north of an aggregate mining operation on National Trails Highway where under the Federal Endangered Species Act (FESA) the U.S. Fish and Wildlife Service (USFWS) issued a section 10(a)(1)(B) incidental take permit to implement a habitat conservation plan for take of tortoises from the expansion of the mining facility to the north.

Comments on the Initial Study/Mitigated Negative Declaration for the Helendale Mobile Gas Station and Convenience Store , January 2023

Using Science, Implementing Agency Coordination, and Complying with Environmental Requirements

We believe the purpose of a CEQA document includes (1) conducting an analysis using the best available data of the direct, indirect, and cumulative impacts of a proposed project on the

environment and using this analysis to adopt, modify with mitigation, or reject the proposed project; and (2) documenting compliance with applicable environmental laws, regulations, policies, and plans. Unfortunately, the MND does not appear to have accomplished these purposes in the MND.

The proposed Project is within the range of the tortoise and Mohave ground squirrel (*Xerospermophilus mohavensis*). Both species are listed as threatened under the California Endangered Species Act (CESA) and the tortoise is listed as threatened under the Federal Endangered Species Act (FESA). We found no information in the MND that consultation with the USFWS and CDFW has occurred to determine whether the proposed Project is likely to result in take of these listed species. We found no information that consultation with CDFW has occurred to determine whether a Lake and Streambed Alteration Agreement under California Fish and Game Code 1600 is needed, as a waterway or drainage is located along/near the north side of the parcel. We were unable to determine from the Project description whether this waterway would be affected, either directly or indirectly, by the proposed Project.

We found no mention in the MND of consultation with CDFW and USFWS and the results of these consultations. However, we did find a section entitled “Consultation with California Native American Tribes.” This consultation is required to identify and address potential adverse impacts to tribal cultural resources from the proposed Project. We also found a section entitled “Additional Approval Required by Other Public Agencies” in the MND that listed “none” for Federal agencies and only “Caltrans” for State agencies.

We request that the County complete consultation regarding biological resources with the USFWS and CDFW to ensure compliance with the FESA, Migratory Bird Treaty Act (MBTA), CESA, and California Fish and Game Codes (e.g., streambeds, migratory birds, etc.). Further we request that the CEQA document for the proposed Project be revised and include that:

- (1) the Applicant/Owner or the County has consulted with CDFW and USFWS regarding protected/regulated biological resources, and report in the CEQA document the results of these consultations,
- (2) the proposed Project complies with the legal, regulatory, and policy requirements of FESA, CESA, and California Fish and Game Codes, and
- (3) the information/data that support the conclusions of these two agencies is provided in the CEQA document.

Absent this information, the public does not know if these requirements were accidentally overlooked by the County or the Applicant. In addition, providing this information in the MND would be consistent with the information provided in the MND’s section on “Consultation with California Native American Tribes” and would demonstrate that the County is not being arbitrary or selective in its compliance with laws/regulations/codes or presentation of data.

Compliance with California Executive Order

On October 7, 2020, Governor Newsom issued an executive order to combat the biodiversity crisis and climate change crisis. We note that other executive orders signed by California governors are cited in the MND (e.g., Executive Order S-1408). To demonstrate compliance with the purpose and intent of the executive order to combat the biodiversity crisis and climate change crisis, we

request that the County add information on how this MND complies with this executive order and other relevant executive orders for biological resources.

Climate Change

The MND has a section that analyzes impacts to air quality from a human health perspective. However, we found no section that analyzes the impacts of the proposed Project, including the construction and operations and maintenance phases, on climate change and effects on wildlife and habitats. When looking at each project individually in the region, the impacts may be minor. However, cumulative impacts should be analyzed and presented with referenced or supporting data in this CEQA document. Given the importance of this environmental factor/resource issue (e.g., Governor’s October 7, 2020 Executive Order) and its rapid and substantial impacts to many Mojave Desert species and the ecosystem (Smith et al. 2023), we request that an analysis of the proposed Project on climate change and wildlife including the tortoise be included in the MND.

Using Science to Substantiate Environmental Impacts

In the MND, several determinations regarding impacts to environmental factors/resource issues are made with little or no data and references to support these determinations. In the October 7, 2020 Executive Order, the Governor called on agencies to use the “best available science” in dealing with the biodiversity (= biological resources) and climate change crises. To help in implementing this Executive Order, we ask that this and all CEQA documents the County prepares/approves should use data, preferable the best available science, to analyze each impact to each environmental factor/resource issue and then make a determination with the data cited in the CEQA document that substantiates this determination. We request the MND be updated to provide data from scientific journals, research reports, and protocol/statistical surveys regarding direct, indirect, and cumulative impacts to the tortoise, other wildlife species, and their habitats in the MND from implementation of all phases of the proposed Project.

Biological Resources as an Environmental Factor – Standard Questions Analyzed in a MND

Under Biological Resources, the MND limits its analysis of impacts from the proposed Project to six specific questions typically asked under CEQA. One question on impacts to species asks if the Proposed Project would “Have substantial adverse effects, *either directly or through habitat modifications* [emphasis added], 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 Wildlife or U.S. Fish and Wildlife Service?” In the MND, the County’s answer is “no.” This conclusion is supported with a description of the biological resources currently believed to be on the parcel and concludes that “[d]ue to the Project site’s existing conditions, the proposed Project would not cause a substantial adverse effect on any species identified as a candidate, sensitive or special status species. Therefore, a less than significant impact would occur.”

Unfortunately, this question does not consider whether the proposed Project would have indirect impacts that would result in or contribute to substantial adverse effects to a candidate, sensitive, or special status species or its habitat. We presume this is because this question is not asked, so there is no analysis of indirect impacts of the proposed Project to candidate, sensitive, or special status species near the proposed Project. Specifically, on page 27 of the MND, the County says, “the Project site is located within the Biotic Resource Overlay for Mojave Ground Squirrel Habitat and Desert Tortoise Habitat.” However, we found no information in the MND whether the

proposed Project would indirectly impact any of these species, and if so, how these impacts would affect their survival.

The absence of a description and analysis of indirect impacts to biological resources is a major oversight in the analysis of impacts in this MND and the MND process. We understand these questions are standard questions used in all MND. However, these questions do not describe/analyze indirect impacts from proposed projects (e.g., introduction of or increase in subsidies for predators of candidate, sensitive, and special status species, introduction of or increase in environmental contaminants, introduction of or increase in the spread of invasive plant species, new or increased sources or wildfires, etc.). This oversight by CEQA should be corrected. We request that these questions be revised so they require analysis of all indirect impacts, not just impacts within the project footprint/parcel. Further, we request that this MND analyze the indirect impacts of the Proposed Project for the candidate, sensitive, and special status species listed in the MND including the tortoise and Mohave ground squirrel,

Indirect Impacts

In the MND, the County says, “the Project site has been developed with two (2) buildings that have a combined footprint of 2,572 sq. ft. and a paved parking lot. The vacant portion of the Project site appears to be utilized for additional parking beyond the paved parking area. The vacant space has been cleared of natural vegetation and is well-traversed; therefore, the Project site does not appear to be a viable location for animal habitat.”

While the Project site may not provide habitat for permanent occupancy of the tortoise, Mohave ground squirrel, and other special status species, these species may use the areas adjacent to the Project site. Species in these areas would be indirectly impacted by the construction, operations, and/or maintenance of the proposed Project and may result in incidental take of these species that would violate federal laws and regulations and state laws and codes for the tortoise.

One example of an indirect impact from Project construction and operation and maintenance that would impact the tortoise and may 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 increased in raven numbers is attributed to unintentional subsidies provided by humans.

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, as well as perch, roost, and nest sites from power towers, telephone poles, light posts, billboards, fences, freeway or railroad overpasses, abandoned vehicles, and buildings (Boarman 1993). 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 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 construction and operations and maintenance. 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 area and increase their numbers in the surrounding area. The presence of food waste during operations and maintenance at the trash enclosure and waste containers outside the convenience store and at the fuel islands would provide food subsidies for ravens and coyotes. The convenience store's roof and the fuel canopy could be used by ravens for roosting or nesting.

These subsidies of tortoise predators could be easily mitigated by requiring Best Management Practices (BMPs) that include using water for dust suppression so it does not form puddles, requiring waste containers that are predator-proof and wind-proof and are regularly maintained by the Owner of the property, and designing the building and canopy/installing deterrents so larger birds such as ravens cannot roost or nest on them.

We request that the County revise the CEQA document and include the analysis of increased predation and other indirect impacts to the tortoise that may occur from the construction, operations, and maintenance of the proposed Project. The County should require the Applicant/Owner to implement mitigation and BMPs to substantially reduce/eliminate these indirect impacts to the tortoise and other special status species and coordinate the development and implementation of these BMPs with CDFW and USFWS. In addition, the County should require the Owner/Applicant to contribute to the National Fish and Wildlife Foundation's Raven Management Fund for regional and cumulative impacts of projects that subsidize common ravens (USFWS 2010) and other predators of the tortoise and other wildlife, as other project proponents have done for projects on private property in San Bernardino County.

We request that the MND be revised to include the analysis of the indirect and cumulative impacts of the construction, operations, and maintenance of the proposed Project especially with respect to the tortoise and other special status species.

Environmental Factors Potentially Affected

This section includes a "standard list" of environmental factors in MND. In this section the County says, "[t]he environmental factors checked below will be potentially affected by this project."

However, none of the boxes are checked. This would indicate that a MND is not necessary for the proposed Project. However, under each of the 21 environmental factor/resource issues that follow this section, 20 have checkmarks saying there would be impacts from implementation of the proposed Project. Please correct this discrepancy in the CEQA document.

Specific Comments

Page 22, Air Quality: Under Resource Issue for Air Quality in the MND, the County says, “The [Mojave Desert Air Quality Management District] MDAQMD has adopted a series of Air Quality Management Plans (AQMPs) to meet the state and federal ambient air quality standards. The most recent AQMP for the [Mojave Desert Air Basin] MDAB was published in 2016 and demonstrates attainment of the federal 24-hour PM_{2.5} standard by 2027.”

The MND cites the Countywide Plan; San Bernardino Countywide Plan Draft EIR; Submitted Project Materials; Air Quality and Greenhouse Gasses Study, prepared March 27, 2020 as being the source of information for CEQA compliance with air quality standards. Please note that the U.S. Environmental Protection Agency (USEPA) recently published a proposed decision to revise the primary (health-based) annual PM_{2.5} standard from its current level of 12.0 µg/m³ to within the range of 9.0 to 10.0 µg/m³ (88 *Federal Register* 5558-5718). Please revise the MND to demonstrate how the proposed Project would comply with this proposed change by USEPA.

Page 27, Biological Resources: In the MND, the County says that according to the California Department of Fish and Wildlife (CDFW), “a number of threatened or endangered species, such as northern harrier, merlin, prairie falcon, yellow-headed blackbird, yellow-breasted chat, loggerhead shrike, burrowing owl, least Bell’s vireo, Mohave river vole, pallid San Diego Pocket mouse, Mohave ground squirrel, silver-haired bat, western pond turtle, desert tortoise, western Joshua Tree, Mojave fish-hook cactus, Beaver Dam breadroot, solitary blazing star, and Mojave monkeyflower” may occur near the proposed Project.

Not all of these species are listed as threatened or endangered under FESA or CESA. CDFW (2023a) has a list of Special Animals or “species at risk” or “special status species.” The species on this list include at least one of the following conditions:

- Officially listed or proposed for listing under state and/or federal endangered species acts
- Taxa considered by the Department of Fish and Wildlife to be a Species of Special Concern (SSC)
- Taxa which meet the criteria for listing, even if not currently included on any list, as described in Section 15380 of the California Environmental Quality Act Guidelines
- Taxa that are biologically rare, very restricted in distribution, or declining throughout their range, but not currently threatened with extirpation
- Population(s) in California that may be peripheral to the major portion of a taxon’s range but are threatened with extirpation in California
- Taxa closely associated with a habitat that is declining in California at a significant rate (e.g., wetlands, riparian, vernal pools, old growth forests, desert aquatic systems, native grasslands, valley shrubland habitats, etc.)
- Taxa designated as a special status, sensitive, or declining species by other state or federal agencies, or a non-governmental organization (NGO), and determined by the CNDDDB to be rare, restricted, declining, or threatened across their range in California

CDFW has a list of Special Plants (CDFW 2023b). “Special Plants” is a broad term used to refer to all the plant taxa inventoried by the CDFW’s California Natural Diversity Database (CNDDDB), regardless of their legal or protection status. The species on this list include at least one of the following conditions:

- Officially listed by California or the Federal Government as Endangered, Threatened, or Rare;
 - A candidate for state or federal listing as Endangered, Threatened, or Rare;
 - Taxa listed in the California Native Plant Society’s Inventory of Rare and Endangered Plants of California;
 - Taxa which meet the criteria for listing, even if not currently included on any list, as described in Section 15380 of the California Environmental Quality Act (CEQA) Guidelines; these taxa may indicate “None” under listing status, but note that all California Rare Plant Rank 1 and 2 and some Rank 3 and 4 plants may fall under Section 15380 of CEQA;
 - Taxa that are biologically rare, very restricted in distribution, or declining throughout their range but not currently threatened with extirpation;
 - A Bureau of Land Management, U.S. Fish and Wildlife Service, or U.S. Forest Service Sensitive Species/Species of Conservation Concern;
 - Population(s) in California that may be peripheral to the major portion of a taxon’s range but are threatened with extirpation in California; and
-
- Taxa closely associated with a habitat that is declining in California at a significant rate (e.g., wetlands, riparian, vernal pools, old growth forests, desert aquatic systems, native grasslands, valley shrubland habitats, etc.).

We suggest that the County update the information in the MND that clarifies the status of the species listed in the MND, refines the list to those species that would be impacted, directly and indirectly, by the proposed Project, and add the regulatory requirements for when the proposed Project would impact a species with federal and/or state protection.

Page 54, Hydrology and Water Quality: The County says, “the Project must comply with the County’s conditions regarding construction erosion and dust control.” We request that the CUP specify that water discharged on the property during construction, operations, or maintenance not be allowed to form puddles. This restriction would help reduce water as a subsidy for predators of the tortoise and assist in reducing tortoise predation.

Page 82 and 83, Mandatory Findings of Significance: In this section, the County asks two questions –

1. Does the proposed 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?”

The County’s answer is “The proposed Project would not significantly impact any sensitive plants, plant communities, fish, wildlife, or habitat for any sensitive species.”

2. 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)

The County’s answer is “Construction of the Project in conjunction with other approved or pending projects in the region would not result in cumulatively considerable impacts to the physical environment. As concluded throughout the analysis above, the proposed Project would include both operation- and construction-related Project components whose adherence to applicable regulations would ensure that the proposed Project’s incremental contribution would be less than cumulatively considerable. Further, the proposed Project would not achieve short-term environmental goals to the disadvantage of long-term goals.”

The answer to question 2 does not appear to address biological resources.

To assist the County in answering these two questions regarding the impacts to the tortoise, we are attaching Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including 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, and the density of tortoises continues to decline in the Western Mojave Recovery Unit. 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 population are below the level needed to be self-sustaining and any additional impact to these populations would exacerbate this density below the level of self-sustaining. We conclude the answer to these two questions is yes and the impacts from the proposed Project would be significant.

**Comments on Mitigation Monitoring and Reporting Program,
Initial Study/Mitigated Negative Declaration,
Helendale Mobil Gas Station & Convenience Store, January 2023**

This document addresses only cultural resources, geology and soils, and tribal cultural resources. No mitigation is included for biological resources.

The Council has provided comments on the absence of analysis of indirect impacts from the proposed Project to the tortoise in the MND. The Council has provided data to the County on the demographic status and trend of the tortoise including that all populations in the Western Mojave Recovery Unit, where the proposed Project is located, as below the densities need for population viability (please see Appendix A, which is attached). Consequently, any proposed Project that would further reduce the density of the tortoise, especially in the Western Mojave Recovery Unit, would result in a significant impact to this species’ survival and recovery. The Council provided a brief analysis of one of several indirect impacts to the tortoise in which the proposed Project is likely to further reduce tortoise densities in the Western Mojave Recovery Unit. Consequently, we conclude the proposed Project would result in a significant impact by contributing to keeping tortoise densities below the population viability threshold unless the County requires effective

mitigation for all indirect impacts. We request that the County revise the MND so it includes (1) the data provided in this comment letter and (2) the analyses of the indirect and cumulative impacts to the tortoise from the proposed Project. To reduce the impacts below the level of significance, the County should then require the Owner/Applicant to implement effective mitigation to reduce these impacts below the level of significance.

We appreciate this opportunity to provide comments on this project and trust they will help protect tortoises during any resulting authorized activities. Herein, we reiterate that the Desert Tortoise 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 the Mojave desert tortoise, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we ask that you 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.

Ecosystems Advisory Committee, Chairperson
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Appendix A Demographic Status and Trend of the Mojave Desert Tortoise including 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 2021 (**Table 3**; USFWS 2016, 2018, 2019, 2020, 2022a, 2022b).

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 – Nevada and California

- This recovery unit had a 51 percent decline in tortoise density from 2004 to 2014.
- Tortoises 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 2021 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
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
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*
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
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
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
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
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
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
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
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

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
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
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
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
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	
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.

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 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 population viability threshold. 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 is not declining is on land managed by the National Park Service, which has increased 178 percent in 10 years.

Important points to note from the data from 2015 to 2021 in Table 3 are:

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

- Density of tortoises continues to decline in the Western Mojave Recovery Unit
- Density of tortoises continues to fall below the density needed for population viability from 2015 to 2021

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

- The population that had the highest density in this recovery unit had a continuous reduction in density since 2018 and fell substantially to the minimum density needed for population viability in 2021.

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.
- The most recent data from three of the four populations in this recovery unit have densities below the minimum density needed for population viability.
- The population that had the highest density in this recovery unit declined since 2014.

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 individual 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 Demographic Status and Trend of the Mojave Desert Tortoise Including 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>

EXHIBIT C

Mitigation Monitoring and Reporting Program

**Mitigation Monitoring and Reporting Program
Initial Study/Mitigated Negative Declaration
Helendale Mobil Gas Station & Convenience Store**

Prepared by:



County of San Bernardino, Land Use Services Department

385 N. Arrowhead Avenue, 1st Floor
San Bernardino, California 92415-0182
Contact: Reuben J. Arceo, Contract Planner

JANUARY 2023

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1 Introduction

The California Environmental Quality Act (CEQA) requires that a public agency adopting a Mitigated Negative Declaration (MND) take affirmative steps to determine that approved mitigation measures are implemented after project approval. The lead or responsible agency must adopt a reporting and monitoring program for the mitigation measures incorporated into a project or included as conditions of approval. The program must be designed to ensure compliance with the MND during project implementation (California Public Resources Code, Section 21081.6(a)(1)).

This Mitigation Monitoring and Reporting Program (MMRP) will be used by the County of San Bernardino (County) to ensure compliance with adopted mitigation measures identified in the MND for the proposed Helendale Mobil Gas Station & Convenience Store Project when construction begins. The County, as the lead agency, will be responsible for ensuring that all mitigation measures are carried out. Implementation of the mitigation measures would reduce impacts to below a level of significance for cultural resources, geology and soils, and tribal cultural resources.

The remainder of this MMRP consists of a table that identifies the mitigation measures by resource for each project component. Table 1 identifies the mitigation monitoring and reporting requirements, list of mitigation measures, party responsible for implementing mitigation measures, timing for implementation of mitigation measures, agency responsible for monitoring of implementation, and date of completion. With the MND and related documents, this MMRP will be kept on file at the following location:

County of San Bernardino
385 N. Arrowhead Avenue, First Floor
San Bernardino, California 92415

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2 Mitigation Monitoring and Reporting Program Table

Table 1 Mitigation Monitoring and Reporting Program

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
<i>Cultural Resources</i>				
<p>CUL-1 California Register of Historical Resources (CRHR) Eligibility. Prior to any ground-disturbing activity or demolition, the Lead Agency shall concur with the identification and evaluation of CRHR eligibility of the four (4) historic-period resources identified in the intensive pedestrian field study conducted on February 7, 2020. If the resources are not presumed eligible, then the process of evaluation requires archival research to assess the sites for eligibility for the CRHR. If the resources are found to be eligible for the CRHR, a determination would need to be made about whether the proposed Project would have a significant impact on the qualities that made the resources significant. If any significant resources would be impacted by the Project, then efforts to avoid, reduce, or mitigate those impacts would be needed.</p>	Prior to issuance of Land Disturbance or Grading Permit	Project applicant and the County of San Bernardino	County of San Bernardino	
<p>CUL-2 Archaeological Consulting. If subsurface deposits believed to be cultural or human in origin are discovered during construction, all work must halt within a 100-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeologist, shall be retained to evaluate the significance of the find, and shall have the authority to modify the no-work radius as appropriate, using professional judgement. The following notifications shall apply, depending on the nature of the find:</p> <ul style="list-style-type: none"> • If the professional archaeologist determines that the find does not represent a cultural resource, work may resume immediately, and no agency notifications are required. 	During construction	Project applicant and their construction contractor	County of San Bernardino	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
<ul style="list-style-type: none"> If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, he or she shall immediately notify the County of San Bernardino and the landowner. The agency shall consult on finding of eligibility and implement appropriate treatment measures, if the find is determined to be a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines. Work may not resume within the no-work radius until the Lead Agency, through consultation as appropriate, determines that the site either :1) is not a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines; or 2) that the treatment measures have been completed to its satisfaction. 				
<p>CUL-3 Inadvertent Discoveries. In the event that human remains are found, the archaeologist shall notify the San Bernardino County Coroner (per § 7050.5 of the Health and Safety Code). The provisions of § 7050.5 of the California Health and Safety Code, and § 5097.98 of the California PRC, and AB 2641 will be implemented. If the Coroner determines the remains are Native American and not the result of a crime scene, the Coroner will notify the NAHC, which then will designate a Native American Most Likely Descendant (MLD) for the project. The designated MLD will have 48 hours from the time access is granted to make recommendations concerning treatment of the remains. If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate. If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed. This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation</p>	During construction	Project applicant and their construction contractor	County of San Bernardino	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
<p>or easement; or recording a reinternment document with the County in which the property is located. Work may not resume within the no-work radius until the Lead Agency determines that the treatment measures have been completed to its satisfaction.</p>				
<i>Geology and Soils</i>				
<p>CUL-2 Archaeological Consulting. If subsurface deposits believed to be cultural or human in origin are discovered during construction, all work must halt within a 100-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior’s Professional Qualification Standards for prehistoric and historic archaeologist, shall be retained to evaluate the significance of the find, and shall have the authority to modify the no-work radius as appropriate, using professional judgement. The following notifications shall apply, depending on the nature of the find:</p> <ul style="list-style-type: none"> • If the professional archaeologist determines that the find does not represent a cultural resource, work may resume immediately, and no agency notifications are required. <p>If the professional archaeologist determines that the find does represent a cultural resource form any time period or cultural affiliation, he or she shall immediately notify the County of San Bernardino and the landowner. The agency shall consult on finding of eligibility and implement appropriate treatment measures, if the find is determined to be a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines. Work may not resume within the no-work radius until the Lead Agency, through consultation as appropriate, determines that the site either :1) is not a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines; or 2) that the treatment measures have been completed to its satisfaction.</p>	<p>During construction</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
<p>CUL-3 Inadvertent Discoveries. In the event that human remains are found, the archaeologist shall notify the San Bernardino County Coroner (per § 7050.5 of the Health and Safety Code). The provisions of § 7050.5 of the California Health and Safety Code, and § 5097.98 of the California PRC, and AB 2641 will be implemented. If the Coroner determines the remains are Native American and not the result of a crime scene, the Coroner will notify the NAHC, which then will designate a Native American Most Likely Descendant (MLD) for the project. The designated MLD will have 48 hours from the time access is granted to make recommendations concerning treatment of the remains. If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate. If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed. This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the County in which the property is located. Work may not resume within the no-work radius until the Lead Agency determines that the treatment measures have been completed to its satisfaction.</p>	During construction	Project applicant and their construction contractor	County of San Bernardino	
<i>Tribal Cultural Resources</i>				
<p>TCR-1 SMBMI Resource Discovery. The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed in CUL-2, of any pre-contact and/or post-contact cultural resources discovered during project implementation and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resource Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with SMBMI, and all</p>	During construction	Project applicant and their construction contractor	County of San Bernardino	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI for the remainder of the project, should SMBMI elect to place a monitor on-site.				
TCR-2 SMBMI Consultation. Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI throughout the life of the project.	Prior to issuance of Land Disturbance or Grading Permit	Project applicant and their construction contractor	County of San Bernardino	

EXHIBIT D

Conditions of Approval



Conditions of Approval

Record:	PROJ-2020-00135	System Date:	05/11/2023
Record Type:	Project Application	Primary APN:	0467101020000
Record Status:	In Review	Application Name:	ABRAHAM MAIDA & SALEM MAIDA
Effective Date:		Expiration Date:	

Description: CONDITIONAL USE PERMIT (CUP) TO ESTABLISH A NEW CONVENIENCE STORE TO INCLUDE 3,705 SQFT OF RETAIL SPACE AND A 2,724 SQFT FUEL CANOPY; AND TO BRING INTO FULL COMPLIANCE ALL STRUCTURES AND OPERATIONS INCLUDING EXISTING RETAIL STRUCTURES, A 1,768 SQFT PUB AND AN 804 SQFT SALON, ON 3.71 ACRES, IN THE COMMUNITY OF SILVER LAKE, WITHIN FIRST SUPERVISORIAL DISTRICT; ASSESSOR PARCEL NUMBER: 0467-101-02; PROJECT NUMBER: P201900229

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/MUP)** - Status: Outstanding
 This Conditional Use Permit is conditionally approved to develop and operate a new convenience store containing 3,705 square-feet of new retail space and construct a 2,724 square-foot fuel canopy; and to bring into full compliance all structures and operations on site including existing retail structures that consist of a 1,768 square-foot pub and an 804 square-foot salon, and type 20 alcohol license, 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.

- 2 **Project Location** - Status: Outstanding
 The Project site is located 15444 Vista Road, Helendale, CA 92342

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 **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.

6 **Continous Effect/Revocation** - 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.

7 **Extension of Time** - 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)

8 Project Account - Status: Outstanding

The Project account number is Proj-2020-00135. 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 expenses 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.

9 Development Impact Fees - Status: Outstanding

Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances.

10 Performance Standards - 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.

11 Continous Maintenance - 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.

- 12 **Lighting** - 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.
- 13 **Construction Hours** - 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.
- 14 **Cultural Resources** - 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.

Public Health– Environmental Health Services

- 15 **Noise Levels** - Status: Outstanding
Noise level shall be maintained at or below County Standards, Development Code Section 83.01.080. For information, please call EHS at 1-800-442-2283.
- 16 **Refuse Storage and Disposal** - 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. For information, please call EHS/LEA at: 1-800-442-2283.
- 17 **Septic System Maintenance** - Status: Outstanding
The septic system shall be maintained so as not to create a public nuisance and shall be serviced by a EHS permitted pumper. For information, please call EHS/Wastewater Section at: 1-800-442-2283.

INFORMATIONAL

County Fire - Community Safety

- 18 **Access – 150+ feet** - Status: Outstanding
Roadways exceeding one hundred fifty (150) feet in length shall be approved by the Fire Department. These 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.

- 19 **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.
- 20 **Additional Requirements** - Status: Outstanding
In addition to the Fire requirements stated herein, other onsite and offsite 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.
- 21 **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 status, codes, ordinances and standards of the Fire Department.
- 22 **Permit Expiration** - Status: Outstanding
Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred with 180 days of any previous inspection. After a construction permit or Fire Condition Letter, becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one-half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be made in writing PRIOR TO the expiration date justifying the reason that the Fire Condition Letter should be extended.

Land Use Services - Land Development

- 23 **Additional Drainage Requirements** - 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.
- 24 **Erosion Control Installation** - 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.
- 25 **Tributary Drainage** - Status: Outstanding
Adequate provisions should be made to intercept and conduct the tributary off site - on site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties at the time the site is developed.

Public Works - Solid Waste Management

26 **Informational Condition** - Status: Outstanding

Recycling Storage Capacity – 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 Assembly Bill (AB) 2176. Mandatory Commercial Recycling – Beginning July 1, 2012 all businesses defined to include a commercial or public entity that generates 4 or more cubic yards of commercial waste a week or is a multi-family residential dwelling of 5 units or more are required to arrange for recycling services. The County is required to monitor commercial recycling and will require businesses to provide recycling information. This requirement is to assist the County in compliance with AB 341. Mandatory Commercial Organics Recycling – As of January 1, 2019, AB 1826 (Enacted October 2014) requires businesses that generate four (4) cubic yards of solid waste per week to recycle their organic waste. A business generating organic waste shall arrange for the recycling services in a manner that is consistent with state and local laws and requirements, including a local ordinance or local jurisdiction's franchise agreement, applicable to the collection, handling, or recycling of solid and organic waste or arrange for separate organic waste collection and recycling services, until the local ordinance or local jurisdiction's franchise agreement includes organic waste recycling services. 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 on efforts to recycle organics materials once operational

Public Works - Traffic

27 **On-going Condition** - Status: Outstanding

The Project site has specific driveway restrictions. Vista Road access shall restrict trucks to right out only and National Trails Highway access shall be restricted to right in - right out only for passenger vehicles and trucks shall be restricted to right in only. It shall be the responsibility of the owner and operator of the site to ensure proper signage is posted and maintained outside the public road right-of-way or, if signage is insufficient, to modify their driveway designs accordingly.

PRIOR TO LAND DISTURBANCE

Land Use Services - Building and Safety

28 **Geotechnical (Soil) Report Required Before Grading** - 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.

29 **Wall Plans** - Status: Outstanding

Submit plans and obtain separate building permits for any required retaining walls.

Land Use Services - Land Development

30 **Drainage Improvements** - Status: Outstanding

A Registered Civil Engineer (RCE) shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site drainage flows around and through the site in a safety manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$750 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.

31 **FEMA Flood Zone** - Status: Outstanding

The project is located within Flood Zone X-Unshaded according to FEMA Panel Number 06071C5150J dated 9/2/2016. No elevation requirements. 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.

32 **Grading Plans** - Status: Outstanding

Grading and Erosion control plans shall be submitted for review and approval obtained, prior to construction. All Drainage improvements shall be shown on the Grading plans according to the approved 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.

33 **NPDES Permit** - Status: Outstanding

An NPDES permit - Notice of Intent (NOI) - is required on all grading of one (1) acre or more prior to issuance of a grading/construction permit. Contact your Regional Water Quality Control Board for specifics. www.swrcb.ca.gov

34 **On-site Flows** - Status: Outstanding

On-site flows need to be directed to the nearest drainage facilities unless a drainage acceptance letter is secured from the adjacent property owners and provided to Land Development.

35 **Regional Board Permit** - Status: Outstanding

Construction projects involving one or more acres must be accompanied by Regional Board permit WDID #. Construction activity includes clearing, grading, or excavation that results in the disturbance of at least one (1) acre of land total.

Public Health– Environmental Health Services

36 **Vector Control Requirement** - Status: Outstanding

The project area has a high probability of containing vectors. EHS Vector Control Section will determine the need for vector survey and any required control programs. A vector clearance letter shall be submitted to EHS/Land Use. For information, contact Vector Control at (800) 442-2283.

PRIOR TO BUILDING PERMIT ISSUANCE

Land Use Services - Planning

37 **GHG - Building Design** - Status: Outstanding

Building Design. Building design and construction shall incorporate the following elements: - Orient building locations to best utilize natural cooling/heating with respect to the sun and prevailing winds/natural convection to take advantage of shade, day lighting and natural cooling opportunities. - Utilize natural, low maintenance building materials that do not require finishes and regular maintenance. - Roofing materials shall have a solar reflectance index of 78 or greater. - All supply duct work shall be sealed and leak-tested. Oval or round ducts shall be used for at least 75 percent of the supply duct work, excluding risers. - Energy Star or equivalent appliances shall be installed. - A building automation system including outdoor temperature/humidity sensors will control public area heating, vent, and air conditioning units.

38 **GHG - Design Standards** - Status: Outstanding

The developer shall submit for review and obtain approval from County Planning evidence that the conditioned measures have been incorporated into the design of the project. These are intended to reduce potential project greenhouse gas (GHGs) emissions. Proper installation of the approved design features and equipment shall be confirmed by County Building and Safety prior to final inspection of each structure.

39 Mitigation Measures - Status: Outstanding

Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to building permit issuance.

County Fire - Community Safety**40 Building Plans** - Status: Outstanding

Building plans shall be submitted to the Fire Department for review and approval.

41 Combustible Protection - 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.

42 Fire Fee - Status: Outstanding

The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division.

43 Fire Flow Test - Status: Outstanding

Your submittal did not include a flow test report to establish whether the public water supply is capable of meeting your project fire flow demand. You will be required to produce a current flow test report from your water purveyor demonstrating that the fire flow demand is satisfied. This requirement shall be completed prior to combination inspection by Building and Safety.

44 Haz-Mat Approval - 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.

45 Primary Access Paved - 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.

46 Secondary Access Paved - 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.

47 Surface - 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.

48 Water System - 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: 1,750 GPM for a TWO hour duration at 20 psi residual operating pressure. Fire Flow is based on a 3,705 sq.ft. structure.

49 **Water System Commercial** - 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.

Land Use Services - Building and Safety

50 **Construction Plans** - 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.

51 **Permits** - Status: Outstanding

Obtain permits for all structures located on site and all work done without a permit.

52 **Temporary Use Permit** - 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

53 **Construction Permits** - Status: Outstanding

Prior to installation of road and drainage improvements, a construction permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, 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.

54 **Encroachment Permits** - Status: Outstanding

Prior to installation of driveways, sidewalks, etc., an encroachment permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, as well as other agencies prior to work within their jurisdiction.

55 **Road Dedication/Improvements** - 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. National Trails Highway (Major Divided – 120') • Road Dedication. A 8 foot grant of easement is required to provide a half-width right-of-way of 60 feet. • Street Improvements. Design AC dike with match up paving 47 feet from centerline. • Curb Returns. An AC dike curb return with radius of 50 feet shall be designed per County Standard 110 at the intersection of National Trails Highway and Vista Road. Adequate easement shall be provided to ensure any future sidewalk improvements are within Public right-of-way. • Driveway Approach. Design driveway approach per San Bernardino County Standard 129B, and located per San Bernardino County Standard 130. Vista Road (Secondary Highway- 88') • Street Improvements. Design AC dike with match up paving 32 feet from centerline. • Driveway Approach. Design driveway approach per San Bernardino County Standard 129B, and located per San Bernardino County Standard 130.

56 **Road Standards and Design** - 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

- 57 **Slope Easements** - Status: Outstanding
Slope rights shall be dedicated, where necessary.
- 58 **Slope Tests** - Status: Outstanding
Slope stability tests are required for road cuts or road fills per recommendations of the Geotechnical Engineer to the satisfaction of County Public Works.
- 59 **Soils Testing** - 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 San Bernardino County and a written report shall be submitted to the Transportation Operations Division, Permits Section of County Public Works, prior to any placement of base materials and/or paving.
- 60 **Street Gradients** - 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 County Public Works confirming the adequacy of the grade.
- 61 **Street Type Entrance** - Status: Outstanding
Street type entrance(s) with curb returns shall be constructed at the entrance(s) to the development.
- 62 **Transitional Improvements** - Status: Outstanding
Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing, shall be required as necessary.
- 63 **Utilities.** - 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

- 64 **Demolition Inspection Required** - 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 such premises. For information, contact EHS Vector Section at 1-800-442-2283.
- 65 **Existing OWTS** - Status: Outstanding
Existing onsite wastewater treatment system can be used if applicant provides certification from a qualified professional (i.e., Professional Engineer (P.E.), Registered Environmental Health Specialist (REHS), C42 contractor, Certified Engineering Geologist (C.E.G.), etc.) that the system functions properly, meets code, and has the capacity required for the proposed project. Applicant shall provide documentation outlining methods used in determining function.
- 66 **Existing Wells** - 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 shall be submitted to DEHS for approval.
- 67 **Food Establishment Plan Check Required** - Status: Outstanding
Plans for food establishments shall be reviewed and approved by EHS. For information, call EHS/Plan Check at: 1-800-442-2283.

68 **New OWTS** - Status: Outstanding

If sewer connection and/or service are unavailable, onsite wastewater treatment system(s) may then be allowed under the following conditions: A soil percolation report per June 2017 standards shall be submitted to EHS for review and approval. If the percolation report cannot be approved, the project may require an alternative OWTS. For information, please contact the Wastewater Section at 1-800-442-2283.

69 **Preliminary Acoustical Information** - Status: Outstanding

Submit preliminary acoustical information demonstrating that the proposed project maintains noise levels at or below San Bernardino County Noise Standard(s), San Bernardino Development Code Section 83.01.080. The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be required. Submit information/analysis to the DEHS for review and approval. For information and acoustical checklist, contact DEHS at 1-800-442-2283.

70 **Sewage Disposal** - Status: Outstanding

Method of sewage disposal shall be an EHS approved onsite wastewater treatment system (OWTS).

71 **Technical Report Requirements** - Status: Outstanding

Technical report should include the following: a) The name of each public water system for which any service area boundary is within three miles, as measured through existing public rights-of-way, of any boundary of the applicant's proposed public water system's service area. b) A discussion of the feasibility of each of the adjacent public water systems identified pursuant to paragraph (1) annexing, connecting, or otherwise supplying domestic water to the applicant's proposed new public water system's service area. The applicant shall consult with each adjacent public water system in preparing the report and shall include in the report any information provided by each adjacent public water system regarding the feasibility of annexing, connecting, or otherwise supplying domestic water to that service area. c) A discussion of all actions taken by the applicant to secure a supply of domestic water from an existing public water system for the proposed new public water system's service area. d) All sources of domestic water supply for the proposed new public water system. e) The estimated cost to construct, operate, and maintain the proposed new public water system, including long-term operation and maintenance costs and a potential rate structure. f) A comparison of the costs associated with the construction, operation and maintenance, and long-term sustainability of the proposed new public water system to the costs associated with providing water to the proposed new public water system's service area through annexation by, consolidation with, or connection to an existing public water system. g) A discussion of all actions taken by the applicant to pursue a contract for managerial or operational oversight from an existing public water system. h) An analysis of whether a proposed new public water system's total projected water supplies available during normal, single dry, or multiple dry water years during a 20-year projection will meet the projected water demand for the service area. i) Any information provided by the local agency formation commission (LAFCO). The applicant shall consult with the LAFCO if any adjacent public water system identified pursuant to paragraph (1) is a local agency as defined by Section 56054 of the Government Code.

72 **Water and Sewer Service Verification** - Status: Outstanding

Water and/or Sewer Service Provider Verification. Please provide verification that the parcel(s) associated with the project is/are within the jurisdiction of the water and/or sewer service provider. If the parcel(s) associated with the project is/are not within the boundaries of the water and/or sewer service provider, submit to DEHS verification of Local Agency Formation Commission (LAFCO) approval of either: (1) Annexation of parcels into the jurisdiction of the water and/or sewer service provider; or, (2) Out-of-agency service agreement for service outside a water and/or sewer service provider's boundaries. Such agreement/contract is required to be reviewed and authorized by LAFCO pursuant to the provisions of Government Code Section 56133. Submit verification of LAFCO authorization of said Out-of-Agency service agreement to DEHS.

73 **Water Purveyor** - Status: Outstanding

Water purveyor shall be Helendale CSD or EHS approved.

74 **Water Service Verification Letter** - 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. For information, contact the Water Section at 1-800-442-2283.

75 **Water System Permit** - Status: Outstanding

A water system permit may/will be required and concurrently approved by the State Water Resources Control Board – Division of Drinking Water. Applicant shall submit preliminary technical report to EHS and the State Water Resources Control Board. Application must be approved prior to initiating construction of any water-related development. Source of water shall meet water quality and quantity standards. Test results, which show source meets water quality and quantity standards shall be submitted to the Division of Environmental Health Services (EHS). For information, contact the Water Section at 1-800-442-2283 and SWRCB-DDW at 916-449-5577.

Public Works - Solid Waste Management

76 **CDWMP Part I** - Status: Outstanding

CDWMP Part I must be submitted prior to issuance of the permit. For waste hauler information, please contact Helendale Community Services District: (760) 951-0006. For questions related to the submittal of this plan please call (909) 386-8701 or visit the EZOP website at <http://wp.sbcounty.gov/ezop/permits/construction-waste-management-plan-part-1/>

Public Works - Traffic

77 **Issuance/Building Permit Condition** - Status: Outstanding

Improvements: The applicant shall design their street improvement plans to include the following: • Driveway. The driveway located on Vista Road shall restrict trucks to right out only. Developer shall install outside the public road right-of-way and maintain, at all times, the appropriate retroreflective signage to clearly communicate and enforce this restriction. • Driveway access on National Trails Hwy is limited to right in - right out only. Trucks shall only be right-in. Developer shall install outside the public road right-of-way and maintain, at all times, the appropriate retroreflective signage to clearly communicate and enforce this restriction.

County Fire - Hazardous Materials

78 **Condition Compliance** - Status: Outstanding

Prior to issuance of building permits. Underground storage tank (UST) systems storing hazardous substances in the County of San Bernardino shall conform to standards issued by the San Bernardino County Fire Protection District. Written approval shall be obtained from this Department prior to the installation of any new UST system(s) and/or modifications to an existing UST system. Plans for underground storage tank systems shall be reviewed and approved by Office of the Fire Marshal, Hazardous Materials Division. For additional information please contact (909) 386-8401. "Hazardous Material" means any material that because of its quantity, concentration, physical characteristics or chemical characteristics poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace. Hazardous Materials include but are not limited to, hazardous substances, hazardous waste, or any material which the administering agency has a reasonable basis for believing would be injurious to human health or the environment. Additional information can be found at <http://www.sbcfire.org/ofm/Hazmat/PoliciesProcedures.aspx> or you may contact The Office of the Fire Marshal, Hazardous Materials Division at (909) 386-8401.

PRIOR TO OCCUPANCY

Land Use Services - Planning

- 79 **Fees Paid** - 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-2020-00135.
- 80 **Installation of Improvements** - Status: Outstanding
All required on-site improvements shall be installed per approved plans.
- 81 **Landscaping/Irrigation** - 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.
- 82 **Mitigation Measures** - Status: Outstanding
Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to occupancy permit issuance.
- 83 **Screen Rooftop** - Status: Outstanding
All roof top mechanical equipment is to be screened from ground vistas.
- 84 **Shield Lights** - 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").
- 85 **Condition Compliance** - 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.

County Fire - Community Safety

- 86 **Inspection by the Fire Department** - Status: Outstanding
Permission to occupy or use the building (certificate 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

- 87 **Informational Condition** - Status: Outstanding
Permit Requirements: 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 Permit, Hazardous Waste Permit, Aboveground Storage Tank Permit, Underground Storage Tank Permit) or apply for exemption from permitting requirements. Reporting Requirements: 2. Prior to Occupancy an application for one or more of these permits shall occur by submitting a hazardous materials business plan using the California Environmental Reporting System (CERS) <http://cers.calepa.ca.gov/> Plan Submittal Requirements: 3. Prior to Occupancy a businesses or facilities handling greater than 1320 gallons of petroleum products in aboveground storage tanks (shell capacity) shall prepare and implement a Spill Prevention, Control, and Countermeasures Plan (SPCC) in accordance with 40 CFR 112.3 and CHSC 25270.4.5(a). The SPCC plan shall be maintained on site.

Land Use Services - Land Development

- 88 **Drainage Improvements** - 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.
- 89 **LDD Requirements** - Status: Outstanding
All LDD requirements shall be completed by the applicant prior to occupancy.
- 90 **Parkway Planting** - Status: Outstanding
Trees, irrigation systems, and landscaping required to be installed on public right-of-way shall be approved by County Public Works and Current Planning and shall be maintained by the adjacent property owner or other County-approved entity.
- 91 **Road Improvements** - Status: Outstanding
All required on-site and off-site improvements shall be completed by the applicant, inspected and approved by County Public Works.
- 92 **Structural Section Testing** - Status: Outstanding
A thorough evaluation of the structural road section, to include parkway improvements, from a qualified materials engineer, shall be submitted to County Public Works.

Public Works - Traffic

- 93 **Occupancy Condition** - Status: Outstanding
This project falls within the Helendale Local Area Transportation Facilities Fee Plan. This fee shall be paid by a cashier's check to the Department of Public Works Business Office. These fees are subject to change. Based on the ITE Trip Generation Manual (11th Edition) and a 6278 sq. ft. building as shown on the site plan, this project generates approximately 861 vehicle trips daily. This fee is \$128.81 per trip multiplied by the number of vehicle trips (861) and multiplied by an induced trip adjustment factor of 30% as shown in the fee plan. Therefore, the total estimated Local Transportation Fees for this project is \$33,271.62. The current Local Area Transportation Facilities plan can be found at the following website: http://www.sbcounty.gov/dpw/transportation/transportation_planning.asp

County Fire - Community Safety

- 94 **Access** - 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. Other recognized standards may be more restrictive by requiring wider access provisions. b. Multi-Story Road Access Width. Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height.

PRIOR TO FINAL INSPECTION

County Fire - Community Safety

- 95 **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.
- 96 **Commercial Addressing** - 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 six (6) inches in height and with a three quarter (3/4) 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 contrasting six (6) inch numbers shall be displayed at the property access entrances.
- 97 **Fire Extinguishers** - Status: Outstanding
Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.
- 98 **Fire Lanes** - Status: Outstanding
The applicant shall submit a fire lane plan to the Fire Department for review and approval. Fire lane curbs shall be painted red. The "No Parking, Fire Lane" signs shall be installed on public/private roads in accordance with the approved plan.
- 99 **Hood and Duct Suppression** - Status: Outstanding
An automatic hood and duct fire extinguishing system is required. A Fire Department approved designer/installer shall 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.
- 100 **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.
- 101 **Material Identification Placards** - 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.

102 **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.

Public Works - Solid Waste Management103 **CDWMP Part II** - Status: Outstanding

CDWMP Part II must be submitted prior to the Final Inspection. For waste hauler information, please contact Helendale Community Services District: (760) 951-0006. For questions related to the submittal of this plan please call (909) 386-8701 or visit the EZOP website at <http://wp.sbcounty.gov/ezop>

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.sbcounty.gov/	
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://dph.sbcounty.gov/programs/ehs/	
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 E

Findings

FINDINGS: Conditional Use Permit

The following are the required findings, per the San Bernardino County Development Code (Development Code) Section 85.06.040 and supporting facts for the Conditional Use Permit to construct and establish a new convenience store to include 3,705 of retail space and a 2,724 square-foot fuel canopy; and to bring into full compliance all structures and operations including existing retail structures, a 1,768 square-foot pub and an 804 square-foot salon, and a type 20 alcohol license (Project).

- 1. The site for the proposed use is adequate in terms of shape and size to accommodate the proposed use and all landscaping, open space, setbacks, walls and fences, yards, and other required features pertaining to the application.**

The Project site plan indicates compliance with Development Code standards in terms of setbacks, parking, landscaping, walls, and fences. A 6-foot block wall shall be constructed along the parcel north boundary line located behind the convenience building and will also function to deter wildlife from encroaching onto the site when operating.

- 2. The site for the proposed use has adequate legal and physical access, which means that the site design incorporates appropriate street and highway characteristics to serve the proposed use.**

The site for the proposed use has adequate access, which means that the design and proposed conditions of approval provide for the streets surrounding the site to be fully improved to provide legal and physical access to the site.

- 3. The proposed use will not have a substantial adverse effect on abutting property or the allowed use of the abutting property, which means the use will not generate excessive noise, traffic, vibration, lighting, glare, or other disturbance.**

The proposed use will not generate excessive noise, traffic, vibration, lighting, glare, or other disturbance. The project is required to comply with all requirements of the County Development Code standards in Section 83.01 with respect to noise, vibration, lighting, and glare. In addition, the use will not interfere with the present or future ability to use solar energy systems.

- 4. 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.**

The proposed use and manner of development are consistent with the goals, maps, policies, and standards of the Countywide Plan/Policy Plan and any applicable Community or Specific Plan. The proposed Conditional Use Permit site plan, together with the provisions for its design and improvement are consistent with the Countywide Plan/Policy Plan. The Project specifically implements the following goals:

Goal LU-1: *Growth and development that builds thriving communities, contributes to our Complete County, and is fiscally sustainable.*

Policy LU-1.1 Growth: *We support growth and development that is fiscally sustainable for the County. We accommodate growth in the unincorporated county when it benefits existing communities, provides a regional housing option for rural lifestyles, or supports the regional economy.*

Policy LU-1.2 Infill Development: *We prefer new development to take place on existing vacant and underutilized lots where public services and infrastructure are available.*

- Goal/Policy Implementation: The proposed Project is located on a partially developed and semi-vacant lot in a well-traveled area along National Trails Highway that would

provide economic benefit to the community as well as to travelers. The Project is appropriately sited and compatible with the surrounding area.

Goal LU-2 Land Use Mix and Compatibility: *An arrangement of land uses that balances the lifestyle of existing residents, the needs of future generations, opportunities for commercial and industrial development, and the value of the natural environment.*

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.*

- Goal/Policy Implementation: The Project is located in a corridor with other compatible commercial uses within the General Commercial zoning district which provides sites for retail trade and personal services, lodging services, office and professional services, recreation and entertainment services, wholesaling and warehousing, contract/construction services, transportation services, open lot services, and similar and compatible uses. The property adjacent to the proposed Project, south of Vista Road, contains a gas station and convenience store, such that the proposed Project would be consistent with the existing development in the vicinity. Considering features of the site design, the arrangement of land uses within the vicinity, and data included in the supporting studies, the Project is appropriately sited and compatible with the surrounding area.

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

The developer will be required to construct road improvements along National Trails Highway and Vista Road, water service is provided by an existing well that is subject to EHS approval and sewer service will be provided by an on-site septic system also subject to EHS approval.

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

The conditions of approval include measures that require the developer to comply with the performance measures outlined in the County Development Code.

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

Through the orientation and design of the buildings, the Project will be able to take advantage of passive solar heating capabilities.

ENVIRONMENTAL FINDINGS:

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

Pursuant to provisions of the California Environmental Quality Act (CEQA) and the San Bernardino County Environmental Review guidelines, the above referenced Project has been determined to not have a significant adverse impact on the environment with the implementation of all the required Conditions of Approval and mitigation measures. A Mitigated Negative

Declaration is adopted and represents the independent judgment and analysis of the County acting as lead agency for the Project.

EXHIBIT F

Notice of Determination

Notice of Determination

To:

Office of Planning and Research
U.S. Mail: Street Address:
P.O. Box 3044 1400 Tenth St., Rm 113 Sacramento,
CA 95812-3044 Sacramento, CA 95814

Clerk of the Board
County of: San Bernardino
Address: 385 North Arrowhead Avenue, Second Floor
San Bernardino, CA 92415-0130

From:

Public Agency: San Bernardino County, LUSD
Address: 385 North Arrowhead Ave, First Floor San
Bernardino, CA 92415-0187

Contact: Reuben J. Arceo
Phone: 909-387-4110

Lead Agency (if different from above): _____

Address: _____

Contact: _____

Phone: _____

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): _____

Project Title: Helendale Fuel and Convenience Center

Project Applicant: Abraham Maida & Salam Maida

Project Location (include county): The project site is located at 15444 Vista Road, Helendale, CA 92342

Project Description:

A Conditional Use Permit (CUP) to construct a new convenience store to include 3,705 square-foot of retail space and a 2,724 square-foot fuel canopy; to bring into full compliance all structures and operations including existing retail structures, a 1,768 square-foot pub and an 804 square-foot salon; and a type 20 alcohol license on 3.71 acres.

This is to advise that the San Bernardino County Planning Commission has approved the above (Lead Agency or Responsible Agency)

described project on May 18, 2023 and has made the following determinations regarding the above (date) described project.

1. The project [will will not] have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
 A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [were were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [was was not] adopted for this project.
5. A statement of Overriding Considerations [was was not] adopted for this project.
6. Findings [were were not] made pursuant to the provisions of CEQA.

This is to certify that the final and record of project approval are the Mitigated Negative Declaration are available to the General Public at:

385 N. Arrowhead Ave., San Bernardino, CA 92415

Signature (Public Agency): _____ Title: Contract Planner

Reuben J. Arceo

Date: _____ Date Received for filing at OPR: _____

Authority cited: Sections 21083, Public Resources Code.
Reference Section 21000-21174, Public Resources Code.

Revised 2011