



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: August 3, 2023

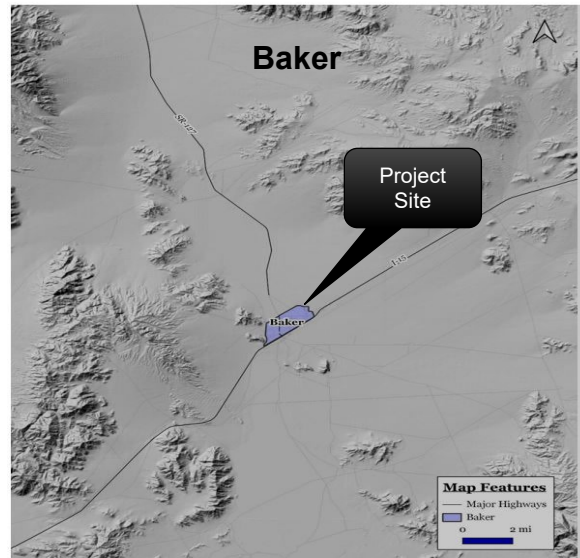
AGENDA ITEM #2

Project Description:

APNs: 0544-311-42
Applicant: Luis Ramallo
Community: Baker 1st Supervisory District
Location: 72252 Baker Boulevard.

Project No.: PROJ-2022-00038
Staff: Reuben J. Arceo, Contract Planner
Rep.: N/A

Proposal: Conditional Use Permit to construct and operate a 20-pump fueling station, a 20,400 square foot convenience store, a 3,864 square foot coffee shop with a drive through lane on a 4.99-acre parcel located on the northwest side of Baker Boulevard.



Newspaper Publication Date: July 23, 2023

Report Prepared By: Reuben J. Arceo

SITE INFORMATION

Parcel Size 4.99 acres
 Terrain: primarily flat, containing vacant structures
 Vegetation: Sparse existing palm tree landscaping

SURROUNDING LAND DESCRIPTION:

AREA	EXISTING LAND USE	LAND USE CATEGORY	LAND USE ZONING DISTRICT
Site	Abandoned motel site	Commercial	Highway Commercial (CH)
North	Vacant	Commercial	Highway Commercial (CH)
South	Fast Food/Del Taco Restaurant	Commercial	Highway Commercial (CH)
East	Storm Wash & Truck Lot	Commercial & Public Facility	Rural Commercial (CR)
West	Commercial Center/Alien Fresh Jerky Novelty Store	Commercial	Highway Commercial (CH)

AGENCY

COMMENT

City Sphere of Influence:	Baker	N/A
Water Service:	Baker Community District	Subject to EHS Approval
Sewer Service:	On-site septic system/Package Treatment Plant	Subject to EHS/Lahontan Water Board

STAFF RECOMMENDATION: That the Planning Commission **ADOPT** the Mitigated Negative Declaration, **ADOPT** the findings contained in the Staff Report, **APPROVE** the Conditional Use Permit, subject to the conditions of approval and **FILE** a Notice of Determination.

Figure 1 - VICINITY MAP
Alien Commercial Center

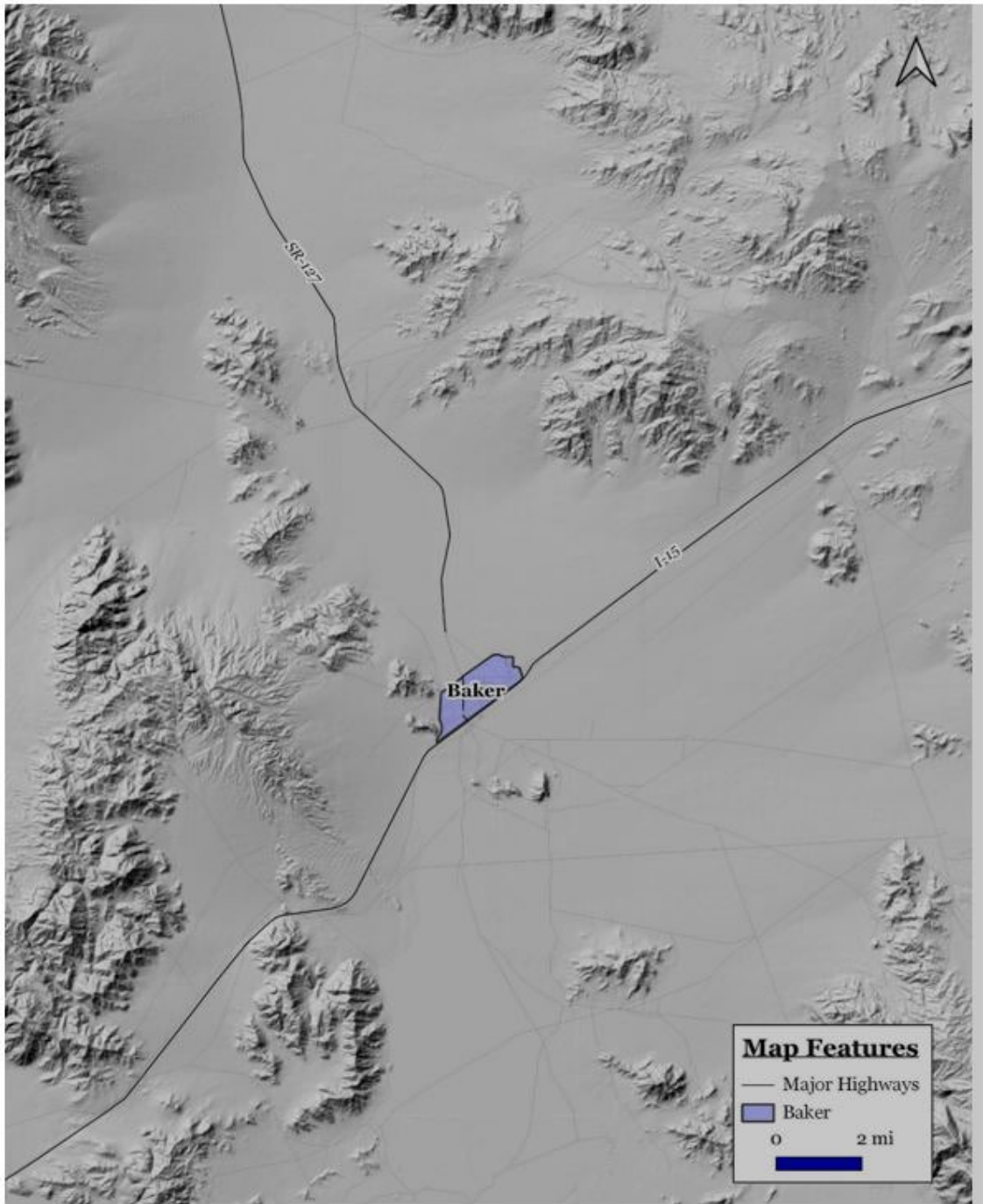


Figure 2 – LOCATION MAP
Alien Commercial Center

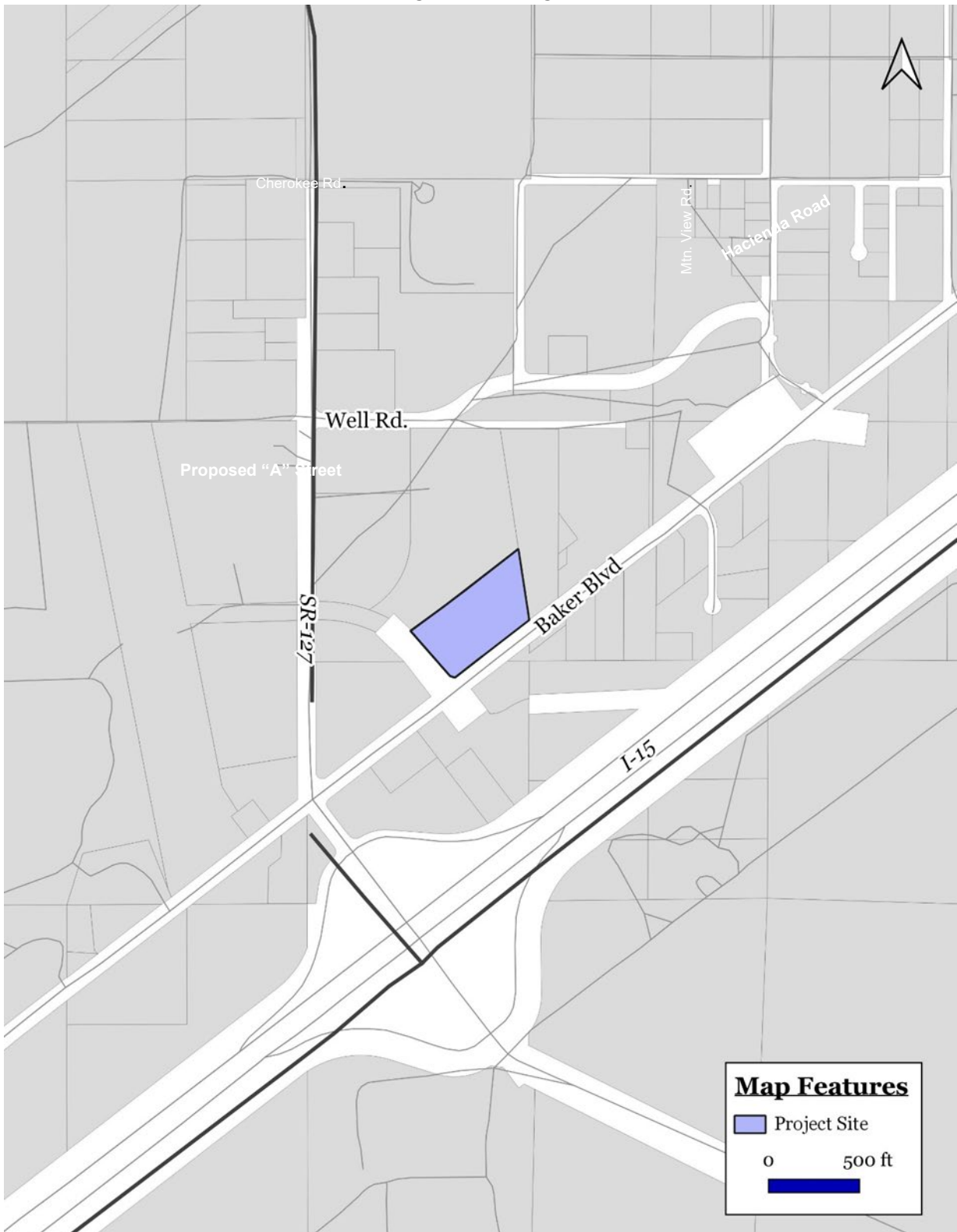


FIGURE 3 - LAND USE MAP
LAND USE CATEGORY DESIGNATION
Commercial (C)
Alien Commercial Center

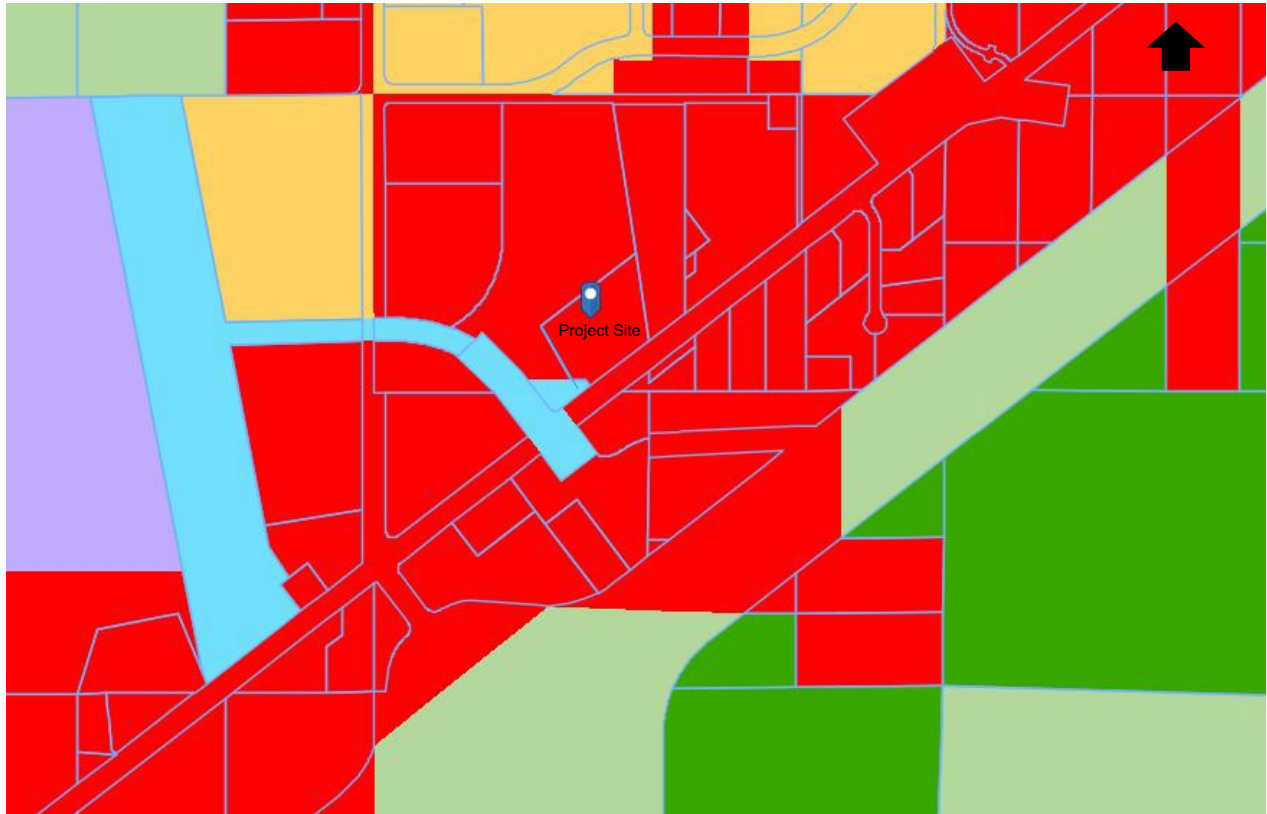


FIGURE 4 - ZONING MAP
ZONING DESIGNATION
Highway Commercial (CH)
Alien Commercial Center

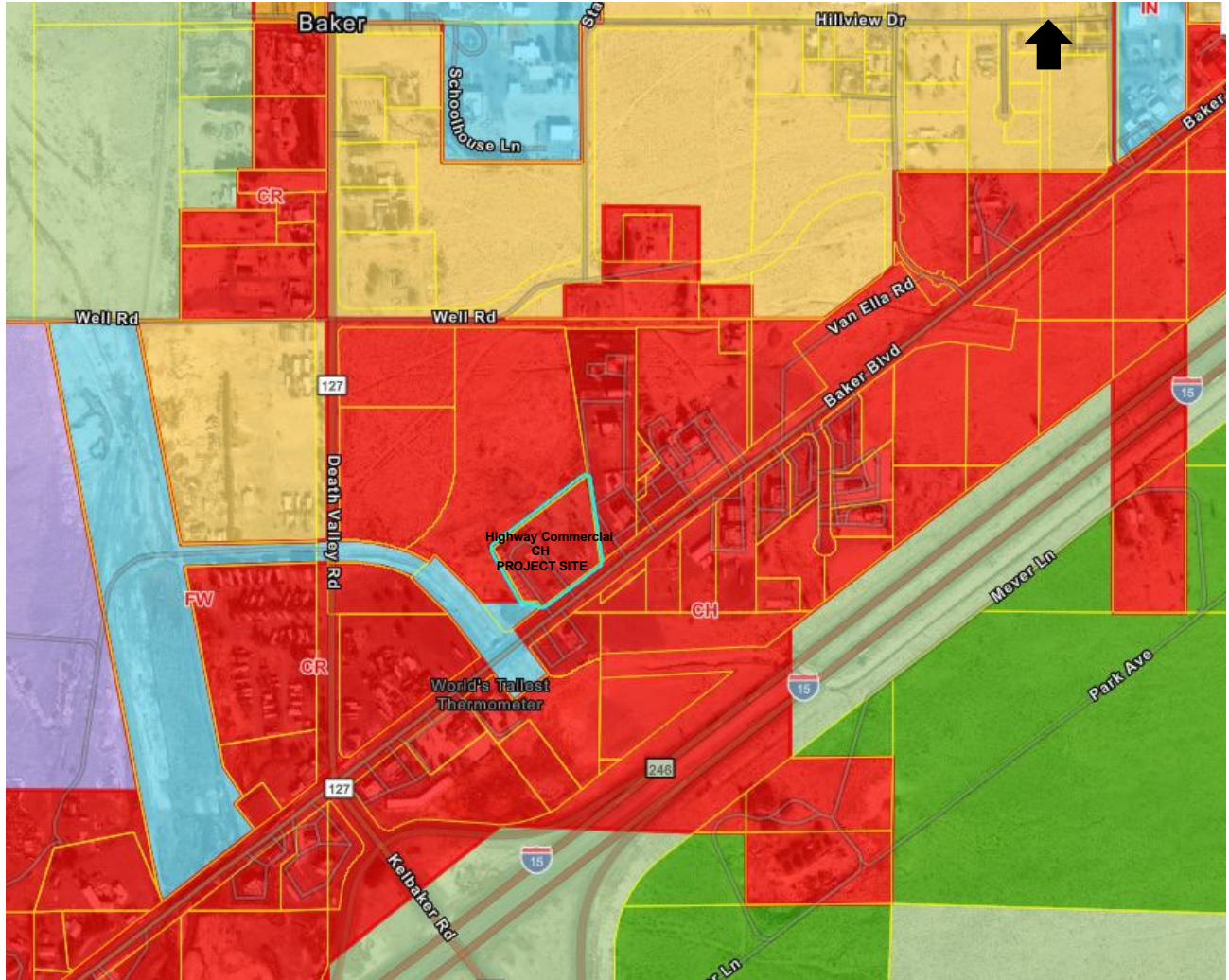


FIGURE 5
 Project Master Site Plan
 Alien Commercial Center

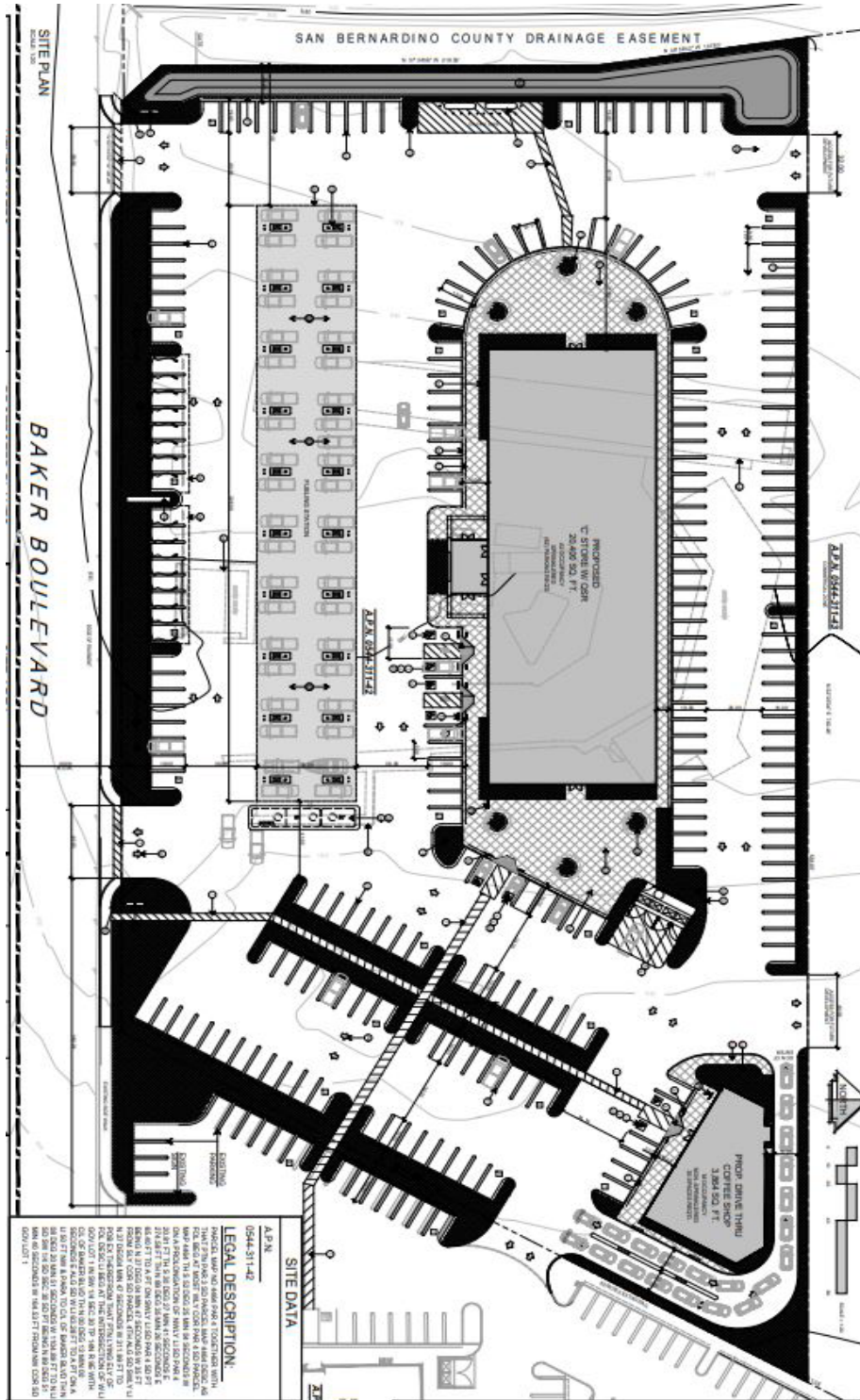
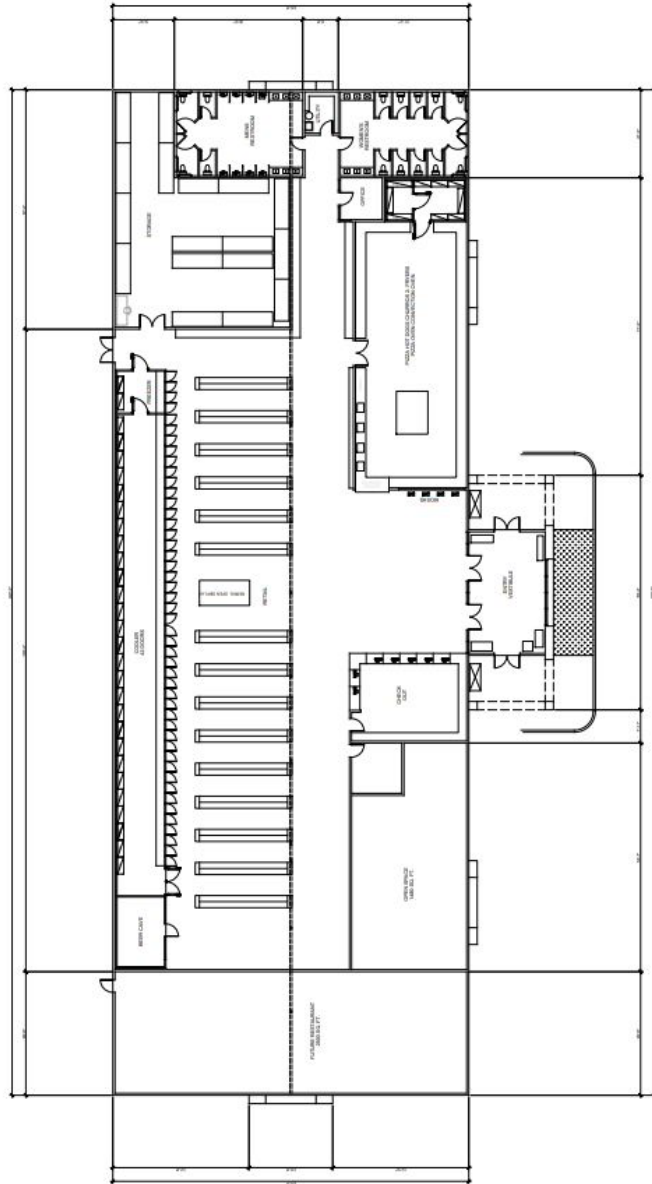


FIGURE 6
Alien Commercial Center
Commercial Store/Quick Service Restaurant (QSR)
20,400 Sq. Feet
Floor Plan



FLOOR PLAN - 4,085 SQ. FT.
1/1/2023

FIGURE 7
Alien Commercial Center
Drive Thru Coffee Shop
3,864 Sq. Feet
Floor Plan

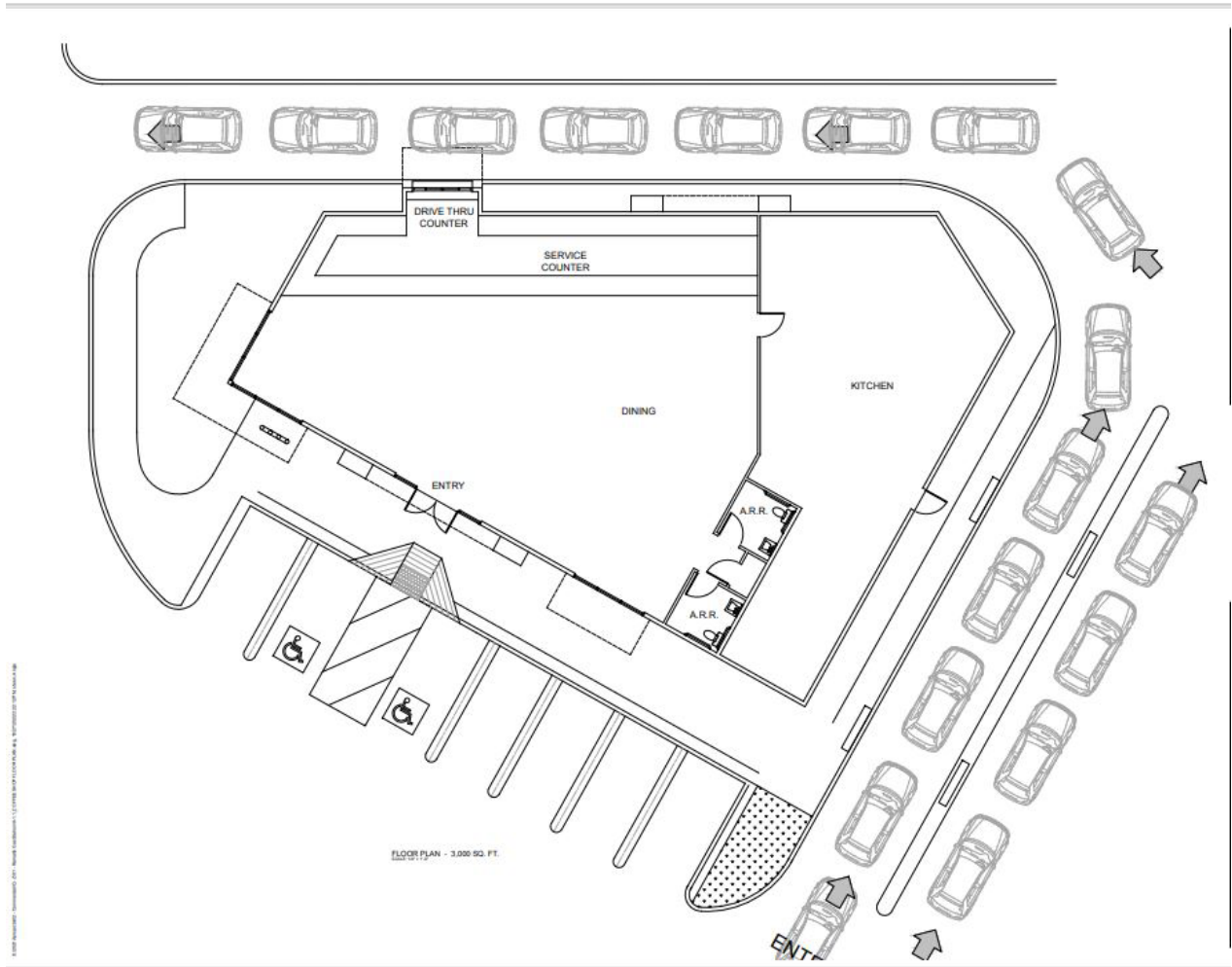


FIGURE 8
Alien Commercial Center
Commercial Store and QSR
Building Elevations



Front South Elevation



West Side Elevation



East side Elevation

FIGURE 8 (Cont.)
Alien Commercial Center
Commercial Store and QSR
Building Elevations



Rear Building Elevations



West Side Perspective

FIGURE 9
Alien Commercial Center
Drive Thru Coffee Shop
Building Elevations



Front Elevation Coffee Shop Drive-thru

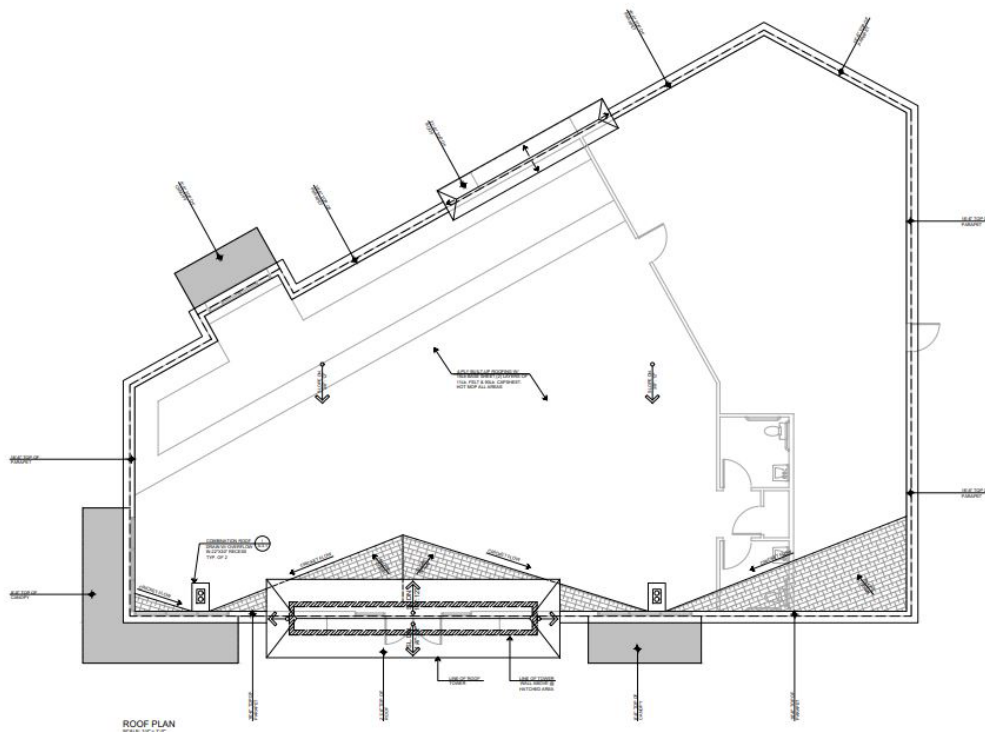


Coffee Shop Perspective

FIGURE 9 (Cont.)
Alien Commercial Center
Drive Thru Coffee Shop
Building Elevations



Coffee Shop rear side



Coffee Drive thru Floor Plan

PROJECT DESCRIPTION AND BACKGROUND:

The applicant requests approval of a Conditional Use Permit (CUP) to construct and operate a 20-pump fueling station, a 20,400 square foot convenience store, and a 3,864 square foot coffee shop with a drive through lane (collectively referred to as the Project) on a 4.99-acre (217,369 square feet) parcel located on the northwest side of Baker Boulevard, at 72252 Baker Boulevard (Project Site) with access provided by two 40-foot-wide driveways on Baker Boulevard as shown in Figure 5. The parcel has a Land Use Category designation of Commercial (C) and is zoned Highway Commercial (CH).. The applicant is proposing to demolish the existing non-operating motel as shown in Figure 10 to accommodate the Project.

The Project development components are summarized below.

- *Existing Buildings to be Demolished.* The existing motel buildings (five buildings that were part of the former Santa Fe Motel) totaling 16,630 square feet, and a concrete in-ground pool would be demolished in order to accommodate the proposed project.
- *Underground Storage Tanks.* Two underground storage tanks (USTs) would be installed. One UST for the storage of 91 octane and 87 octane gasoline and one UST would be installed for the storage of diesel fuel.
- *Fueling Area.* The fuel dispensing area would be located under a 16,400 square foot canopy with solar panels installed on the canopy roof. This area would include a total of 20 fuel dispensers providing a total of 40 fueling positions.
- *Convenience Store.* The proposed project would include a new a 20,400 square foot convenience store. The proposed convenience store would be located adjacent and north of the fueling area. The south elevation would be the main public entry way and would face the fuel dispensing area. Secondary entryways would be located at the building's east and west ends. The inside of the convenience store would include the retail sales area, the cash registers, restrooms and the quick-service restaurant (QSR).
- *Drive-Thru Coffee Shop.* A coffee shop, with a drive through lane, would be constructed in the site's northeast corner. The coffee shop would have a total floor area of 3,864 square feet. The drive through lane would have a capacity of between 19 and 20 vehicles.
- *Access and Circulation.* Vehicular access would be provided by five new driveway connections. Two driveways would be located along Baker Boulevard frontage to the south of the Project Site. Two driveways located on the north portion of the Project Site would connect to a future site on the north. Finally, one driveway will be located to the east of the Project Site.
- *Parking.* A total of 226 standard parking spaces would be provided in addition to 8 ADA accessible parking spaces, and 16 electric vehicle charging stations. A total of 250 surface parking spaces would be provided.
- *Landscaping.* Landscaping would total 31,173 square feet and would extend along the southern and western frontages of the project site and around the new buildings and in the parking spaces. A San Bernardino County drainage easement would also extend along the site's west side.

Table 1 below summarizes the project elements.

Table 1 - Project Summary Table	
Project Element	Description
Total Site Area	4.99-acres (217,369 sq. ft.)
Total Building Floor Area	24,264 sq. ft.
Coffee Shop (with Drive Through)	3,864 sq. ft.
Fuel Sales Area	20 pumps (40 fueling positions)
Convenience Store	20,400 sq. ft.

Background:

The Project Site has been commercially developed since the 1960's and is occupied by a closed motel facility as shown in photos below. The motel contains thirty-three (33) rental rooms distributed between Buildings 1 and 2. Each tenant room contains approximately 308 square feet. Building 1 contains approximately 1,178 square feet with Building 2 containing 4,963 square feet.

FIGURE 11 - Vacant Motel Facility



FIGURE 12 - Building 1



FIGURE 13 - Building 2



FIGURE 14 - Viewing East Along Baker Boulevard



FIGURE 15 - Viewing West Along Baker Boulevard



The applicant purchased the Project Site in January 2017. After having been closed, the motel reopened in June 2018 and closed thereafter in 2019. The motel was constructed in the 1960's. The existing motel buildings (five buildings were originally part of the former Santa Fe Motel) contained a total of 16,630 square feet, and was furnished with an in-ground pool. The entire site as noted in Figure 16 below will be demolished to accommodate the Project.

FIGURE 16



The rental office and the café/gas station were known to be in place by 1939 and operating as Hardy's Baker, where "modern air-conditioned cabins" were advertised. By 1949-1950 Joe and Rae Ostrenger were identified as the owners. The pool was constructed in 1961. As shown in Figures 17 - 19 below, the inn and café were intended to serve as a "base" for frequent prospecting excursions in Death Valley. By 1983 and 1994 the Café/gas station were removed, and newer motel buildings were constructed from this time period.

FIGURE 17 – Post card

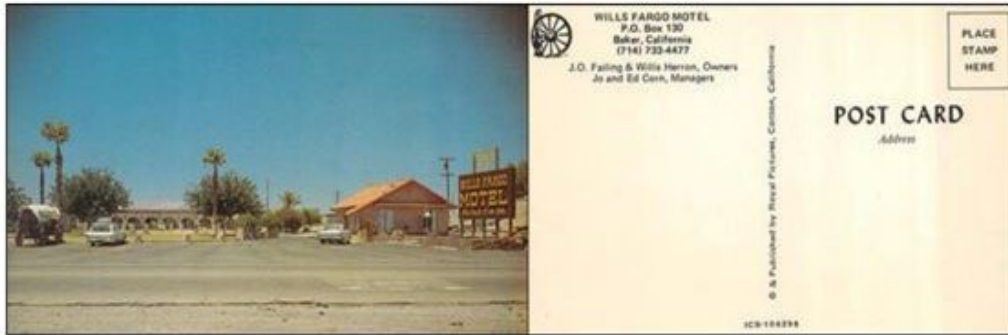


FIGURE 18 - Motel office and former office Gift Shop Buildings



FIGURE 19 - Pool and Tenant building facilities



PROJECT ANALYSIS:

Development Code Compliance Summary: The Project satisfies all applicable standards of the Development Code for development in the Highway Commercial (CH) Zoning District within the Desert Region, as shown in Table 2 below.

Table 2:

Project Code Compliance Highway Commercial (CH) Valley Region				
Project Component	Development Code Standard		Project Plans	
Alien Commercial Center	CUP		CUP	
Building Setbacks	Front	25'	137'	
	Street side	25'	47'	
	Interior	10'	72'	
	Rear	10'	24'	
Lot Coverage	80%		12%	
Maximum Height	60'		24'	
Required Parking G.F.A	Ratio	S.F	Req'd Pkng	Provided
Convenience Store	1:250	20,400	82	250
Drive Thru Coffee Shop	1:100	3,864	38	
Total Parking Required			121	
				226- 9' x 19' 8 - Handicap 16- EV Stalls
Landscape Area	20%		19%	

Operational Evaluation Parameters:

Fencing: No fencing is proposed for this Project.

Hours of Operation: The fuel dispensers and the convenience store will be open 24 hours a day, 7 days a week. The coffee shop may be open 24 hours a day though the actual hours of operation will be determined once the tenant is identified. The proposed convenience store component is anticipated to employ up to 25 persons while the potential employment for the coffee shop is anticipated to be up to 20 persons.

Water Service: Water service will be provided by the Baker Community District pursuant to the will serve letter provided.

Sewer System: Sewer service will be provided by the Baker Community District pursuant to the will serve letter provided.

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), with the exception of a proposed 100' high pylon sign in which the applicant intends to apply for a Variance for the sign's approval.

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 4.99-acre (217,369 square feet) parcel located on the northwest side of Baker Boulevard. The construction for the Project is estimated to begin in 2023 and would take approximately ten months to complete. The key construction phases include:

- Demolition Phase. The existing onsite improvements would be demolished and removed from the site during this phase. Construction equipment that would be used onsite during this phase would include heavy bulldozers, back hoes, front loaders, graders, dump trucks, and water trucks. This phase would require one month to complete.
- 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. This phase would require one month to complete.
- Building Construction Phase. The new buildings would be constructed during this phase. Construction equipment that would be used onsite during this phase would include fork lifts, trucks, back hoes, front loaders, and compressors/generators. This phase would take approximately five months to complete.

Building Design/ Architectural Characteristics

The commercial store, quick service restaurant and coffee shop incorporate modern, contemporary architectural elements. The primary characteristic of this theme is to blend unconventional elements to break with the past using innovation and imagination rather than replicating older design styles. The building’s contemporary theme also references the adjacent Alien Fresh Jerkey design without all the extensively intergalactic themes.

The buildings incorporate the following features:

- Halo lit accent panels in Lime Green
- Wainscot – Pro Ledgestone Carbon Color
- Perforated backlit metal accent panels
- 96” Tall LED wall light sconces.
- Custom Light Sconce Fixture
- Metal Canopy and Tie backs
- Stucco exterior – in Castle Rock color
- Black Anodized Aluminum Storefront windows and doors

Environmental Characteristics:

Regionally, the site is located in the Mojave Desert Province of California. The subject motel site has been significantly altered by past development. The site is mostly flat with soils consistent with the southwestern Mojave Desert physiographic Desert environment. There are no heritage trees or protected trees located within the Project Site boundaries. The nearest active faults are located within the San Jacinto Fault Zone, approximately 5 miles to the east of the Project Site. The Project would comply with the 2022 California Building Standards code, which is effective in minimizing

any potential seismic-related impacts to structures. No active faults are known to cross through the site and the site is not located within an Alquist-Priolo Earthquake Fault Zone, established by the State of California to restrict the construction of new habitable structures across identifiable traces of known active faults.

Noise: Noise will include noise emanating from the fuel dispensing area, the coffee shop drive through lanes, 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 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'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. Two underground storage tanks (USTs) will be provided. One UST will contain 87 and 89 octane unleaded gasoline. The second UST will contain diesel fuel. The chemicals that will be transported and stored on-site are regulated by the US EPA and the CalEPA.

Transportation /Traffic: The Project's Traffic Study prepared by Davis Evans and Associates dated August 5, 2022, was screened from requiring a VMT analysis 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 Alien Commercial Center is highway-oriented and relies on the I-15 freeway travel patterns to and from Las Vegas, the peak periods are Friday PM (4 - 6 PM) and Sunday PM (1 - 3 PM) with traffic primarily comprised of diverted link trips.

Diverted-link trips are trips passing by the site but not on an immediately adjacent street and alter their path to visit the site. A diverted trip requires a diversion from a roadway not adjacent to the site to another roadway to gain direct access to the site. The total daily trips would be 19,070 trips and the PM peak hour trips would be 1,467 PM trips. When discounting the pass-by trips, the proposed Project is estimated to generate 3,814 primary daily trips, 293 primary Friday PM and 293 primary Sunday PM peak hour trips during the adjacent street peak hours.

The traffic analysis determined that the proposed Project caused a project-specific deficiency to the Level of Service (LOS) of the intersection of Baker Boulevard and Death Valley Rd (SR 127) under the existing + project scenario resulting in cumulative level of service deficiencies.

The Traffic study mitigation recommended:

1. The Installation of a traffic signal and widening of the south leg (Death Valley Rd (SR 127)) to accommodate exclusive left and right turn lanes, and the realignment and widening of the north leg (Death Valley Rd (SR 127) to accommodate an exclusive left turn lane and for the development to pay its fair share of the cost of these improvements.
2. Construct project frontage improvements. The Project will be conditioned to construct access driveways and construct the required half-width improvements to the north side of Baker Boulevard along its frontage consistent with the county's standard for Major Highway with a 104-foot right of way and 80-foot curb separation.

AB 52 CONSULTATION

In accordance with AB52, Indian tribes were notified of the Project on July 22, 2022. Yuhaaviatam San Manuel Nation's (formerly known as the San Manuel Band of Mission Indians [YSMN]) representative Ryan Nordness responded with comments on July 25, 2025 stating that the Project is located outside of Serrano ancestral territory and, as such, YSMN will not be requesting to receive consulting party status with the lead agency or to participate in the scoping, development, or review of documents created pursuant to legal and regulatory mandates. No further tribal comments were received during the consultation period.

ENVIRONMENTAL ANALYSIS

An Initial Study/Mitigated Negative Declaration (MND), attached as Exhibit C, 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 MND was circulated to the State Clearinghouse for the required 30-day comment and review period (SCH# 2022120416) and concludes that the Project will have less than a significant impact on the environment with incorporation of the recommended mitigation measures.

A comment from the Desert Tortoise Council (Council) dated January 16, 2023 was received and is attached as Exhibit D. A summary of the Council's comments and staff's response are summarized below:

1. Consultation with California Native American Tribes – Consultation is necessary to identify and address potential adverse impacts to tribal cultural resources.

Staff Response: As explained above, YSMN has concluded the proposed project is located outside of Serrano ancestral territory and, as such, YSMN will not be requesting to receive consulting party status with the lead agency or to participate in the scoping, development, or review of documents created pursuant to legal and regulatory mandates

2. Supporting Evidence – The Council requests 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.

Staff Response: As cited in the MND, the Project Site has been graded and significantly disturbed as part of the existing development. The Project Site is located on a 4.99-acre

parcel that is currently occupied by a vacant motel (the former Santa Fe Motel) consisting of five buildings, parking area and a concrete in-ground pool. All of the buildings are one-story structures set on concrete slab foundations. The entire site is fully disturbed with no natural or man-made drainages that would require a Streambed Alteration Agreement or the issuance of a permit by either the Army Corps of Engineers or the State of California.

3. Climate Change – The Council found no section that analyzed the impacts of the proposed action, including the construction and operation phases, on climate change and effects on wildlife and habitats. Cumulative impacts should be analyzed and presented with referenced or supporting data in this CEQA document.

Staff Response: The impacts on climate change were analyzed in the MND under the Greenhouse Gas Emissions section. The MND evaluated both short-term (construction) and long-term (operational) emissions and concludes that the Project will have a less than significant impact on the environment.

4. Impacts to Biological Resources - The MND made no mention of indirect impacts or cumulative impacts to biological resources including the tortoise.

Staff Response: The Project Site is located within an area that has been converted from undeveloped habitats to urban development. As a result, the Project Site does not contain any naturally occurring habitats and associated flora and fauna. The entire site has been disturbed due to the previous development and the subsequent disturbance related to the site's ongoing maintenance (weed control) and grubbing.

5. Hazardous Materials – The Council has concerns of underground storage tank leaks or if cleanup measures from a spill are not immediately and effectively implemented, contamination from a leak or spill may eventually migrate via subsurface flow to the west side of Soda Dry Lake and would contaminate the water bodies where the Mohave tui chub occurs and result in their injury or death. Consequently, the Council request that the County analyze the current US EPA and Cal EPA requirements and determine whether their maintenance and spill cleanup requirements would effectively prevent any migration of fuel to the west side of Soda Dry Lake.

Staff Response: The applicant will also 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. This plan will be reviewed and approved by the County prior to the issuance of the Occupancy Permit. The underground storage tanks will be installed and operated to comply with standard regulations sufficient to mitigate environmental concerns.

Mitigation Measures: A list of mitigation measures as analyzed in the MND has been incorporated into the Project's conditions of approval to eliminate or reduce potential Project impacts and address environmental and project concerns. The mitigation measures include, but are not limited to, the following:

- Traffic Mitigation Measure: TR-1 and TR-2 related to traffic signal and frontage improvements.
- Cultural Resources Mitigation Measure: CUL-1(B), CUL-2(B), and CUL-3(B) related to archaeological resources.
- Aesthetic Mitigation Measure: AES-1 (D) related to light and glare impacts.

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 (Exhibit C);
2. **ADOPT** the Findings as contained in the Staff Report (Exhibit A);
3. **APPROVE** the Conditional Use Permit for the development and operation a 20-pump fueling station, a 20,400 square foot convenience store, a 3,864 square foot coffee shop with a drive through lane on a 4.99-acre parcel, subject to the conditions of approval (Exhibit B); and
4. **DIRECT** staff to file the Notice of Determination.

ATTACHMENTS:

Exhibit A: Findings

Exhibit B: Conditions of Approval

Exhibit C: Mitigated Negative Declaration/Initial Study /MMRP

www.sbcounty.gov/uploads/LUS/Desert/AlienCommercialCenter/Alien%20Commercial%20Center%20ISMND_PROJ-2022-00038.pdf

Exhibit D: Desert Tortoise Council letter, Dated January 16, 2023

EXHIBIT A

Findings

FINDINGS:

The following are the required findings, per the San Bernardino County Development Code (Development Code) Section 85.06.040 and supporting facts for the Project's Conditional Use Permit (PROJ-2022-00038) to construct and operate a 20-pump fueling station, a 20,400 square foot convenience store, a coffee shop with a drive through lane consisting of 3,864 square feet on a 5-acre parcel located on the north side of Baker Boulevard.

- 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, and landscaping. The project is condition to provide right-of-way improvements i.e., sidewalks driveway approaches and street and gutter improvements along Baker Boulevard. Road and street improve are further required to comply with latest San Bernardino County Road Planning and Desert Road Design Standards.

- 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 from Baker Boulevard, 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 Project is required to comply with all requirements of the County Development Code 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 Countywide Plan/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 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-1.2 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 within a predominantly highway commercial (CH) zoned sector along Baker Boulevard containing a variety of both retail and service uses.
- 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.

- **Goal/Policy Implementation:** The Project is located in a corridor with other compatible commercial uses within the Highway Commercial (CH) zone which provides sites for, office, professional services, commercial retail uses, and similar and compatible uses. Considering features of the site design and proposed lot expansion, 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 Baker Avenue per Land Development requirements.

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.

8. The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

All components of the Project were analyzed by the appropriate County departments and determined to be physically suitable in terms of design, location, shape, size, operating characteristics. As well as the provision of public and emergency vehicle access and public services and utilities, to ensure that the proposed or anticipated uses and/or development would not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

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 (MND) will be adopted, and a Notice of Determination (NOD) will be filed. . The MND represents the independent judgment and analysis of the County acting as lead agency for the Project.

EXHIBIT B

Conditions of Approval



Conditions of Approval

Record:	PROJ-2022-00038	System Date:	07/27/2023
Record Type:	Project Application	Primary APN:	0544311420000
Record Status:	In Review	Application Name:	CONDITIONAL USE PERMIT
Effective Date:		Expiration Date:	
August 14, 2023		August 14, 2026	
Description:	CONDITIONAL USE PERMIT - Demo of existing/closed motel and replace with new construction of 3864 Drive-thru Coffee Shop, 20,400 sf C-Store with sales of Type21 Offsite Liquor sales, Beer/Wine and Tobacco sales with QSR, 20 pump fuel sales with two 1,000 gal propane tanks for propane sales use, site included 16 car charging stations		

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 Demo an existing/closed motel and replace with new construction of 3864 Drive-thru Coffee Shop, 20,400 sf C-Store with sales of Type21 Offsite Liquor sales, Beer/Wine and Tobacco sales with QSR, 20 pump fuel sales with 2-1000 gal propane tanks for propane sales use, site included 16 car charging stations, 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 at 72252 Baker Boulevard_.

3 **Revisions** - Status: Outstanding

Any proposed change to the approved Project and/or conditions of approval shall require that an additional land use application (e.g. Revision to an Approved Action) be submitted to County Land Use Services for review and approval.

4 **Indemnification** - Status: Outstanding

In compliance with SBCC §81.01.070, the developer shall agree, to defend, indemnify, and hold harmless the County or its "indemnitees" (herein collectively the County's elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval. Any condition of approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the developer of any claim, action, or proceeding and that the County cooperates fully in the defense. The developer shall reimburse the County and its indemnitees for all expenses resulting from such actions, including any court costs and attorney fees, which the County or its indemnitees may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the developer of their obligations under this condition to reimburse the County or its indemnitees for all such expenses. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The developer's indemnification obligation applies to the indemnitees' "passive" negligence but does not apply to the indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.

5 **Additional Permits** - Status: Outstanding

The developer shall ascertain compliance with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies that may apply for the development and operation of the approved land use. These may include but are not limited to: a. FEDERAL: b. STATE: c. COUNTY: d. LOCAL:

6 **Expiration** - Status: Outstanding

This project permit approval shall expire and become void if it is not "exercised" within three (3) of the effective date of this approval, unless an extension of time is approved. The permit is deemed "exercised" when either: (a.) The permittee has commenced actual construction or alteration under a validly issued building permit, or (b.) The permittee has substantially commenced the approved land use or activity on the project site, for those portions of the project not requiring a building permit. (SBCC §86.06.060) (c.) Occupancy of approved land use, occupancy of completed structures and operation of the approved and exercised land use remains valid continuously for the life of the project and the approval runs with the land, unless one of the following occurs: - Construction permits for all or part of the project are not issued or the construction permits expire before the structure is completed and the final inspection is approved. - The land use is determined by the County to be abandoned or non-conforming. - The land use is determined by the County to be not operating in compliance with these conditions of approval, the County Code, or other applicable laws, ordinances or regulations. In these cases, the land use may be subject to a revocation hearing and possible termination. PLEASE NOTE: This will be the ONLY notice given of this approval's expiration date. The developer is responsible to initiate any Extension of Time application.

7 **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.

8 **Project Account** - Status: Outstanding

The Project account number is PROJ-2023-00038. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works, and County Counsel). Upon notice, the "developer" shall deposit additional funds to maintain or return the account to a positive balance. The "developer" is responsible for all expense charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$1,000.00 must be in the project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use.

9 **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

10 **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.

11 **Clear Sight Triangle** - Status: Outstanding

Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90 degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic

- 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 **Underground Utilities** - Status: Outstanding
No new above-ground power or communication lines shall be extended to the site. All required utilities shall be placed underground in a manner that complies with the California Public Utilities Commission General Order 128, and avoids disturbing any existing/natural vegetation or the site appearance.
- 14 **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.
- 15 **Construction Noise** - Status: Outstanding
The following measures shall be adhered to during the construction phase of the project: - All construction equipment shall be muffled in accordance with manufacturer's specifications. - All construction staging shall be performed as far as possible from occupied dwellings. The location of staging areas shall be subject to review and approval by the County prior to the issuance of grading and/or building permits. - All stationary construction equipment shall be placed in a manner so that emitted noise is directed away from sensitive receptors (e.g. residences and schools) nearest the project site.
- 16 **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

- 17 **Noise Levels** - Status: Outstanding
Noise level shall be maintained at or below County Standards, Development Code Section 83.01.080.
- 18 **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.

Public Works - Solid Waste Management

- 19 **On-going Condition** - Status: Outstanding
Hauler Service Area – This project falls within the Permit Area #10. If subscribing for the collection and removal of construction and demolition waste from the project site, all developers, contractors, and subcontractors shall be required to receive services through the Permitted hauler.

- 20 **On-going 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
- 21 **On-going Condition** - Status: Outstanding
Mandatory Commercial Recycling – As of July 1, 2012, AB 341 (Enacted October 5, 2011) requires businesses defined to include a commercial or public entity that generate 4 or more cubic yards of solid waste per week or is a multi-family residential dwelling of 5 units or more to arrange for recycling services. The County is required to monitor commercial recycling and will require businesses to provide recycling information. This requirement is to assist the County in compliance with AB 341
- 22 **On-going Condition** - Status: Outstanding
Mandatory Commercial Organics Recycling – As of September 15, 2020, AB 1826 (Enacted September 28, 2014) requires businesses that generate two (2) cubic yards or more 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 or contract waste hauler on efforts to recycle organics materials once operational
- 23 **On-going Condition** - Status: Outstanding
Recycling and Organic Waste Collection Container Information – As of July 1, 2020, AB 827 (Enacted October 2, 2019) requires those MCR and MORE-covered businesses that sell products meant for immediate consumption and currently provide trash collection containers for their customers to provide recycling and/or organics collection containers adjacent to trash containers at front-of-house, except in restrooms. Full-service restaurants are exempt from these requirements as long as they provide containers for employees to separate post-consumer recyclables and organic waste purchased on the premise for customers

Public Works - Traffic

- 24 **Access** - Status: Outstanding
The access point to the facility shall remain unobstructed at all times, except a driveway access gate which may be closed after normal working hours.
- 25 **Back Out Into Public Roadways** - Status: Outstanding
Project vehicles shall not back up into the project site nor shall they back out into the public roadway.

INFORMATIONAL

County Fire - Community Safety

- 26 **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.

27 **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.

28 **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.

29 **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.

30 **Standard F-1 FIRE SPRINKLER SYSTEMS IN COMMERCIAL AND INDUSTRIAL BUILDINGS** - Status: Outstanding

This standard, in conjunction with the latest edition of NFPA 13, shall apply to the design and installation of, and the modification to, all fire sprinkler systems in commercial and industrial occupancies. This standard and its interpretation is not intended to be applied or enforced where there is any conflict with NFPA 13 or the California Fire Code.

31 **Standard F-4 POST INDICATOR VALVES AND FIRE DEPARTMENT CONNECTIONS** - Status: Outstanding

This standard, in conjunction with the latest edition of NFPA 13, NFPA 13R and NFPA 24, shall apply to the design and installation of, and the modification to, all new and existing fire sprinkler systems in commercial and industrial buildings and multi-family dwellings. This standard and its interpretation shall take NOT precedent where there is any conflict with NFPA standards.

32 **Standard F-5 DESIGN, INSTALLATION AND MAINTENANCE OF FIRE ALARM SYSTEMS** - Status: Outstanding

This standard applies to all new installations and modifications of existing fire alarm systems, within new construction as well as building additions and tenant improvements within existing buildings. This standard and its interpretation is not intended to be applied or enforced where there is any conflict with NFPA 72 or the California Fire Code.

33 **Standard W-2 ONSITE FIRE PROTECTION WATER SYSTEMS** - Status: Outstanding

This standard establishes minimum requirements for installation and maintenance of all private fire hydrants and appliances related to an onsite fire protection system.

Land Use Services - Land Development

34 **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.

- 35 **BMP Enforcement** - Status: Outstanding
In the event the property owner/"developer" (including any successors or assigns) fails to accomplish the necessary BMP maintenance within five (5) days of being given written notice by the County Department of Public Works, then the County shall cause any required maintenance to be done. The entire cost and expense of the required maintenance shall be charged to the property owner and/or "developer", including administrative costs, attorney's fees, and interest thereon at the rate authorized by the County Code from the date of the original notice to the date the expense is paid in full.
- 36 **Continuous BMP Maintenance** - Status: Outstanding
The property owner/"developer" is required to provide periodic and continuous maintenance of all Best Management Practices (BMP) devices/facilities listed in the County approved final Water Quality Management Plan (WQMP) for the project. Refer to approved WQMP maintenance section.
- 37 **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.
- 38 **Tributary Drainage** - Status: Outstanding
Adequate provisions should be made to intercept and conduct the tributary off-site and on-site 100-year drainage flows around and through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed.

PRIOR TO LAND DISTURBANCE

Land Use Services - Building and Safety

- 39 **Demolition Permit** - Status: Outstanding
Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.
- 40 **Geotechnical Report** - 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.
- 41 **Wall Plans** - Status: Outstanding
Submit plans and obtain separate building permits for any required retaining walls.

Land Use Services - Land Development

- 42 **Drainage Easements** - Status: Outstanding
Adequate San Bernardino County Drainage Easements (minimum fifteen [15] feet wide) shall be provided over the natural drainage courses, drainage facilities, and/or concentration of runoff from the site. The hydrologic/hydraulic calculations supporting the size of the easement(s) shall be submitted for review/approval by the Land Development Division prior to recording the easement. Proof of recordation shall be provided to the Land Development Division.

- 43 **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 100-year drainage flows around and through the site in a safe manner that will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. 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.
- 44 **FEMA Flood Zone** - Status: Outstanding
The project is located within Flood Zone X-Unshaded according to FEMA Panel Number 06071C2325H dated 08/28/2008. 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.
- 45 **Grading Plans** - Status: Outstanding
Grading and erosion control plans shall be prepared in accordance with the County's guidance documents (which can be found here: <https://lus.sbcounty.gov/land-development-home/grading-and-erosion-control/>) and submitted for review with approval obtained prior to construction. All drainage improvements shall be shown on the grading plans according to the approved final drainage study. Fees for grading plans will be collected upon submittal to the Land Development Division and are determined based on the amounts of cubic yards of cut and fill. Fee amounts are subject to change in accordance with the latest approved fee schedule.
- 46 **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
- 47 **On-site Drainage Easement** - Status: Outstanding
On-site flows shall be directed within a drainage easement.
- 48 **On-site Flows** - Status: Outstanding
On-site flows need to be directed to the nearest County maintained road or drainage facilities unless a drainage acceptance letter is secured from the adjacent property owners and provided to Land Development.
- 49 **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

- 50 **Vector Control Requirement** - Status: Outstanding
The project area has a high probability of containing vectors. A vector survey shall be conducted to determine the need for any required control programs. A vector clearance application shall be submitted to the appropriate Mosquito & Vector Control Program. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.

PRIOR TO BUILDING PERMIT ISSUANCE

County Fire - Community Safety

- 51 **Building Plans** - Status: Outstanding
Building plans shall be submitted to the Fire Department for review and approval.

- 52 **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.
- 53 **Fire Fee** - Status: Outstanding
The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division.
- 54 **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.
- 55 **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.
- 56 **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.
- 57 **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.
- 58 **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.
- 59 **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: 1875 GPM for a 2 hour duration at 20 psi residual operating pressure. Fire Flow is based on a 20,400 sq.ft. structure.
- 60 **Water System Certification** - Status: Outstanding
The applicant shall provide the Fire Department with a letter from the serving water company, certifying that the required water improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the job site.

County Fire - Hazardous Materials

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

1. Prior to Occupancy a business or facility that handles hazardous materials in quantities at or exceeding 55 gallons, 500 pounds, 200 cubic feet (compressed gas) or at any one time generates any amount of hazardous waste shall obtain hazardous material permits from this department. 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. 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: 2. 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.

Land Use Services - Building and Safety

62 **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.

63 **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

64 **Construction Permits** - Status: Outstanding

Prior to installation of road and drainage improvements, a construction permit is required from the County Department of Public Works, Permits/Operations Support Division, Transportation Permits Section (909) 387-1863 as well as other agencies prior to work within their jurisdiction. Submittal shall include a materials report and pavement section design in support of the section shown on the plans. Applicant shall conduct classification counts and compute a Traffic Index (TI) Value in support of the pavement section design.

65 **Encroachment Permits** - Status: Outstanding

Prior to installation of driveways, sidewalks, etc., an encroachment permit is required from the County Department of Public Works, Permits/Operations Support Division, Transportation Permits Section (909) 387-1863 as well as other agencies prior to work within their jurisdiction.

66 **Road Improvements** - Status: Outstanding

The developer shall submit for review and obtain approval from the Land Use Services Department the following plans for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California: Baker Boulevard (Major Highway Per Master Plan Variation – 104 feet): •Street Improvements. Design curb and gutter with match up paving 40 feet from centerline. •Sidewalks. Design sidewalks per County Standard 109 Type "C". •Driveway Approach. Design driveway approach per County Standard 129B and located per County Standard 130.

67 **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 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.

68 **Slope Easements** - Status: Outstanding

Slope rights shall be dedicated where necessary.

69 **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 the County and a written report shall be submitted to the Permits/Operations Support Division, Transportation Permits Section of the County Department of Public Works prior to any placement of base materials and/or paving.

70 **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 the County Department of Public Works confirming the adequacy of the grade.

71 **Street Type Entrance** - Status: Outstanding

Street type entrance(s) with curb returns shall be constructed at the entrance(s) to the development.

72 **Transitional Improvements** - Status: Outstanding

Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing sections shall be required as necessary.

73 **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

74 **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 premises. For information, contact EHS Mosquito & Vector Control Program at (800) 442-2283 or West Valley Mosquito & Vector at (909) 635-0307.

75 **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, such as a well certification, shall be submitted to EHS for approval.

- 76 **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: (800) 442-2283.
- 77 **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 EHS for review and approval. For information and acoustical checklist, contact EHS at (800) 442-2283.
- 78 **Sewage Disposal** - Status: Outstanding
Method of sewage disposal shall be sewer service provided by Baker CSD.
- 79 **Sewer Service Verification Letter** - Status: Outstanding
Applicant shall procure a verification letter from the sewer service provider identified. This letter shall state whether or not sewer connection and service shall be made available to the project by the sewer provider. The letter shall reference the Assessor's Parcel Number(s).
- 80 **Water Purveyor** - Status: Outstanding
Water purveyor shall be Baker CSD or EHS approved.
- 81 **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.

Public Works - Solid Waste Management

- 82 **Issuance/Building Permit Condition** - Status: Outstanding
Construction Waste Management Plan (CWMP) Part 1 – The developer shall prepare, submit, and obtain approval from SWMD of a CDWMP Part 1 for each phase of the project. The CWMP shall list the types and weights of solid waste materials expected to be generated from construction. The CWMP shall include options to divert waste materials from landfill disposal, materials for reuse or recycling by a minimum of 65% of total weight or volume. More information can be found on the San Bernardino County Solid Waste Management Division (SWMD) website at <http://cms.sbcounty.gov/dpw/SolidWasteManagement/ConstructionWasteManagement.aspx>. An approved CDWMP Part 1 is required before a permit can be issued. There is a one-time fee of \$150.00 for residential projects/\$530.00 for commercial/non-residential projects.

Public Works - Traffic

- 83 **Caltrans Comment/Conditions** - Status: Outstanding
Approvals: The applicant shall obtain written approval and acceptance from Caltrans for all project related traffic impacts and encroachments.

84 **Street Improvements** - Status: Outstanding

Transportation Mitigation Fee: The Project's traffic impact study evaluated the intersection of Death Valley Rd (SR-127) at Baker Blvd and identified the need for a traffic signal to be constructed. Caltrans is responsible for the maintenance and overseeing any improvements at this intersection and has stated the installation of a traffic signal is not currently feasible. Pursuant to County Code 83.05.070 a reasonable and equitable mitigation substitute was determined to allow the Project to be responsible for transportation impacts and offset the cost of future signal improvements. A transportation mitigation fee has been determined accordingly as the proportion of new project traffic at this intersection and the County's share of \$300,000 (\$600,000 total) to install a signal minus \$171,000 of previously developer fees for this location. Therefore, consistent with Caltrans mitigation requirements, transportation mitigation fee of \$100,440 is required ($90.48\% \times 300,000 - 171,000 = \$100,440$).

PRIOR TO OCCUPANCY

Land Use Services - Planning

85 **GHG - Installation/Implementation Standards** - Status: Outstanding

The developer shall submit for review and obtain approval from County Planning of evidence that all applicable GHG performance standards have been installed, implemented properly and that specified performance objectives are being met to the satisfaction of County Planning and County Building and Safety. These installations/procedures include the following:

- a) Design features and/or equipment that cumulatively increases the overall compliance of the project to exceed Title 24 minimum standards by five percent.
- b) All interior building lighting shall support the use of fluorescent light bulbs or equivalent energy-efficient lighting.
- c) Installation of both the identified mandatory and optional design features or equipment that have been constructed and incorporated into the facility/structure.

County Fire - Community Safety

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 **Occupancy Condition** - Status: Outstanding

1. Prior to Occupancy a business or facility that handles hazardous materials in quantities at or exceeding 55 gallons, 500 pounds, 200 cubic feet (compressed gas) or at any one time generates any amount of hazardous waste shall obtain hazardous material permits from this department. 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. 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/>

Land Use Services - Building and Safety

88 **Condition Compliance Release Form Sign-off** - Status: Outstanding

Prior to occupancy all Department/Division requirements and sign-offs shall be completed.

Land Use Services - Land Development

89 **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. Certification letter shall be submitted to Land Development.

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

Public Health– Environmental Health Services

- 94 **New Retail Food Facility Permit** - Status: Outstanding
A Retail Food Facility annual permit for food facility shall be required. For information, contact EHS at: (800) 442-2283.

Public Works - Solid Waste Management

- 95 **Occupancy Condition** - Status: Outstanding
Construction Waste Management Plan (CDWMP) Part 2 – The developer shall complete SWMD's CDWMP Part 2 for construction and demolition. The CDWMP Part 2 shall provide evidence to the satisfaction of SWMD that demonstrates that the project has diverted from landfill disposal, material for reuse or recycling by a minimum of 65% of total weight or volume of all construction waste. The developer MUST provide ALL receipts and/or backup documentation for actual disposal/diversion of project waste. More information can be found on the San Bernardino County Solid Waste Management Division (SWMD) website at <http://cms.sbcounty.gov/dpw/SolidWasteManagement/ConstructionWasteManagement.aspx>.

Public Works - Traffic

- 96 **Improvements** - Status: Outstanding
The applicant shall construct, at 100% cost to the applicant all roadway improvements as shown on their approved street improvement plans. This shall include any software and/or hardware to implement the approved signal plan. Improvements must be inspected and approved by the County Department of Public Works.

PRIOR TO RECORDATION

County Fire - Community Safety

97 **Access** - Status: Outstanding

The development shall have a minimum of 2 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

98 **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.

99 **Commercial Large Facility Addressing** - Status: Outstanding

Commercial and industrial developments in excess of 100,000 sq. ft. shall have the street address installed on the building with numbers that are a minimum twelve (12) inches in height and with a one and one half (1 ½) 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.

100 **Fire Alarm - Automatic** - Status: Outstanding

An automatic fire sprinkler monitoring fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm contractor. The fire alarm contractor shall submit detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.

101 **Fire Extinguishers** - Status: Outstanding

Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.

102 **Fire Sprinkler-NFPA #13** - Status: Outstanding

An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit plans to the with hydraulic calculation and manufacturers specification sheets to the Fire Department for approval and approval. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal.

- 103 **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.

- 104 **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.

- 105 **Key Box** - Status: Outstanding
 An approved Fire Department key box is required. In commercial, industrial and multi-family complexes, all swing gates shall have an approved fire department Knox Lock.

- 106 **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.

- 107 **Roof Certification** - Status: Outstanding
 A letter from a licensed structural (or truss) engineer shall be submitted with an original wet stamp at time of fire sprinkler plan review, verifying the roof is capable of accepting the point loads imposed on the building by the fire sprinkler system design.

- 108 **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 combustibile material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed.

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

Department/Agency	Office/Division	Phone Number
Land Use Services Dept.	San Bernardino Govt. Center	(909) 387-8311
(All Divisions)	High Desert Govt. Center	(760) 995-8140
Web Site	https://lus.sbcounty.gov/	
County Fire	San Bernardino Govt. Center	(909) 387-8400
(Community Safety)	High Desert Govt. Center	(760) 995-8190
Web Site	https://www.sbcfire.org/	
County Fire	Hazardous Materials	(909) 386-8401
	Flood Control	(909) 387-7995

Dept. of Public Works	Solid Waste Management	(909) 386-8701
	Surveyor	(909) 387-8149
	Traffic	(909) 387-8186
Web Site	https://dpw.sbcounty.gov/	
Dept. of Public Health	Environmental Health Services	(800) 442-2283
Web Site	https://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	
<i>External Agencies (Caltrans, U.S. Army, etc.)</i>		<i>See condition text for contact information...</i>

EXHIBIT C

Mitigated Negative Declaration/Initial Study /MMRP

www.sbcounty.gov/uploads/LUS/Desert/AlienCommercialCenter/Alien%20Commercial%20Center%20ISMND_PROJ-2022-00038.pdf

**Mitigation Monitoring and Reporting Program
Initial Study/Mitigated Negative Declaration**

**ALIEN COMMERCIAL CENTER
BAKER, CALIFORNIA
72252 BAKER BOULEVARD
APN 0544-311-42**

Prepared by:



County of San Bernardino, Land Use Services Department

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

DECEMBER 7, 2022

Table of Contents

<u>SECTION</u>	<u>PAGE NO.</u>
1 INTRODUCTION.....	1
2 MITIGATION MONITORING AND REPORTING PROGRAM TABLE.....	3

TABLES

1 Mitigation Monitoring and Reporting Program.....	3
--	---

INTENTIONALLY LEFT BLANK

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 Star Point Properties Sixth Street Warehouse 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 aesthetics (light and glare), cultural resources, public services, transportation, 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

INTENTIONALLY LEFT BLANK

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>Aesthetics</i>				
AES-1 (D). Light and Glare Mitigation. The area of illumination from any lighting source must be confined to within the site boundaries so as to minimize impacts to night sky views from surrounding properties. On-site lighting will be fully shielded, diffused, or directed in a manner to avoid glare directed at adjacent properties, roadways or any light spill into any wildland areas surrounding the site that might affect nocturnal animals. No light will be permitted to project onto adjacent roadways in a manner that interferes with on-coming traffic. All lighting will be limited to that necessary for maintenance activities, security, and safety purposes. All signs proposed by this project will only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign or by direct stationary neon lighting.	Over the operational life of the project. Prior to Issuance of Occupancy Permit	Project applicant	County of San Bernardino	
<i>Cultural Resources</i>				
CUL-1(B): Archaeological Resources. In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the Chemehuevi Indians shall be contacted, as detailed within TCR-1, regarding any pre-contact finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.“	Prior to Issuance of Demolition Permit and during ground disturbance activities	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
CUL-2(B): Archaeological Resources. If significant pre-contact cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to SMBMI for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.	Prior to Issuance of Demolition Permit and during ground disturbance activities	Project applicant and their construction contractor	County of San Bernardino	
CUL-3(B): Archaeological Resources. If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.	Prior to Issuance of Demolition Permit and during ground disturbance activities	Project applicant and their construction contractor	County of San Bernardino	
Public Services				
PS-1(A): Law Enforcement. The convenience store and coffee shop's windows must remain un-obstructed and free from any window signs or writing. This is to allow for clear visibility of the store's interior from the patrol vehicles outside.	Prior to issuance of an Occupancy Permit and over the operational life of the project	Project applicant and business management	County of San Bernardino	
PS-2(A): Law Enforcement. Internal security cameras must be installed throughout the proposed convenience store and coffee shop to provide a comprehensive view of the buildings' interior and exterior. Cameras will be monitored by the cashiers.	Prior to issuance of an Occupancy Permit and over the operational life of the project	Project applicant and business management	County of San Bernardino	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
PS-3(A): Law Enforcement. A silent alarm system that will be monitored at a central station must be installed.	Prior to issuance of an Occupancy Permit and over the operational life of the project	Project applicant and business management	County of San Bernardino	
PS-4(A): Law Enforcement. Hold up buttons or remote transmitters must be provided.	Prior to issuance of an Occupancy Permit and over the operational life of the project	Project applicant and business management	County of San Bernardino	
PS-5(A): Law Enforcement. Doorway access to the restrooms must be visible to the cashiers or security cameras monitored by the cashiers.	Prior to issuance of an Occupancy Permit and over the operational life of the project	Project applicant and business management	County of San Bernardino	
PS-6(A): Law Enforcement. No long-term parking (more than one hour), other than that required by employees, will be permitted. This provision will be monitored by employees with appropriate signage posted within the parking area.	Prior to issuance of an Occupancy Permit and over the operational life of the project	Project applicant and business management	County of San Bernardino	
PS-7(A): Law Enforcement. Appropriate signage must be posted indicating that loitering and/or the drinking of alcoholic beverages on-site are prohibited.	Prior to issuance of an Occupancy Permit and over the operational life of the project	Project applicant and business management	County of San Bernardino	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
PS-8(A): Law Enforcement. The site frontage from Baker Boulevard and the parking and circulation areas must be visible to outside surveillance. Landscaping and other architectural treatments must not inhibit surveillance of the site from these areas.	Prior to issuance of an Occupancy Permit and over the operational life of the project	Project applicant and business management	County of San Bernardino	
PS-9(A): Law Enforcement. The site must be properly illuminated.	Prior to issuance of an Occupancy Permit and over the operational life of the project	Project applicant and business management	County of San Bernardino	
Transportation				
TR-1: Traffic. Install traffic signal and widen intersection for additional lanes a. Traffic signal is proposed to be an 8-phase signal (providing protected left-turn phasing with overlap in the east-west and north-south directions). b. Widening of the south leg (Death Valley Rd (SR 127)) to accommodate exclusive left and right turn lanes c. Realignment and widening of the north leg (Death Valley Rd (SR 127) to accommodate an exclusive left turn lane. d. Set back of the east leg (Baker Boulevard) to accommodate the widening of the Death Valley Rd (SR 127) approaches. The installation of the traffic signal and the reconfiguring of approach lanes should be initiated by the County and Caltrans. The development will pay its fair share of the cost of these improvements. Table 9-2 of the Traffic Study presents the project's calculated percentage of the growth in traffic at the intersection of Baker Boulevard and Death Valley Road (SR 127). The project's percentage of growth shown in the table multiplied by the cost of implementing the intersection improvements described above minus any fees or fair share development contributions previously	Prior to the issuance of a Building Permit	Project applicant	County of San Bernardino	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
collected by the County towards the cost of signaling this intersection would be the project's share of funding the improvement.				

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
<p>TR-2: Traffic. Construct project frontage improvements The project will be conditioned to construct its access driveways and construct the required half-width improvements to the north side of Baker Boulevard along its frontage consistent with the county’s standard for Major Highway with a 104-foot right of way and 80-foot curb separation. These improvements include but are not limited to the following:</p> <p>a. Dedicate right of way (if required) for the full half width of Baker Boulevard. 127)</p> <p>b. Remove old asphalt and repave the required half width of Baker Boulevard along the project’s frontage.</p> <p>c. Mark the pavement of the widened side of Baker Boulevard as a single southbound lane using white edge lines that transition and channelize southbound traffic into the lane at the beginning of the project’s frontage and out of the lane at the end of the project’s frontage.</p> <p>d. Extend the existing two way left turn lane to the south along Baker Boulevard for the length of the project’s frontage plus any required transition to match existing centerline south of the project’s frontage improvements.</p> <p>e. Construct standard curb, gutter, and sidewalk frontage improvements on Baker Boulevard.</p> <p>f. Construct the two project access driveways at the locations shown on the site plan (see Figure 2 included in the traffic study).</p>	<p>Prior to the issuance of a Building Permit</p>	<p>Project applicant</p>	<p>County of San Bernardino</p>	



Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
Noise				
<p>TCR-1: Tribal Resources. The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted of any pre-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 Resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with SMBMI, and all 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.</p>	<p>Prior to Issuance of Demolition Permit and during ground disturbance activities</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>TCR-2: Tribal Resources. 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.</p>	<p>Prior to Issuance of Demolition Permit and during ground disturbance activities</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>TCR-3: Tribal Resources. Retain a Native American Monitor/Consultant: Prior to the commencement of any ground disturbing activity at the project site, the project applicant shall retain a Native American Monitor approved by the Gabrieleno Band of Mission Indians-Kizh Nation – the tribe that consulted on this project pursuant to Assembly Bill AB52 - SB 18 (the “Tribe” or the “Consulting Tribe”). A copy of the executed contract shall be submitted to the Lead Agency prior to the issuance of any permit necessary to commence a ground-disturbing activity. The Tribal monitor will only be present on-site during the construction</p>	<p>Prior to Issuance of Building Permit</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>phases that involve ground-disturbing activities. Ground disturbing activities are defined by the Tribe as activities that may include, but are not limited to, pavement removal, potholing or auguring, grubbing, tree removals, boring, grading, excavation, drilling, and trenching, within the project area. The Tribal Monitor will complete daily monitoring logs that will provide descriptions of the day's activities, including construction activities, locations, soil, and any cultural materials identified. The on-site monitoring shall end when all ground-disturbing activities on the Project Site are completed, or when the Tribal Representatives and Tribal Monitor have indicated that all upcoming ground-disturbing activities at the Project Site have little to no potential for impacting Tribal Cultural Resources. Upon discovery of any Tribal Cultural Resources, construction activities shall cease in the immediate vicinity of the find (not less than the surrounding 50 feet) until the find can be assessed. All Tribal Cultural Resources unearthed by project activities shall be evaluated by the Tribal monitor approved by the Consulting Tribe and a qualified archaeologist if one is present. If the resources are Native American in origin, the Consulting Tribe will retain it/them in the form and/or manner the Tribe deems appropriate, for educational, cultural and/or historic purposes. If human remains and/or grave goods are discovered or recognized at the Project Site, all ground disturbance shall immediately cease, and the county coroner shall be notified per Public Resources Code Section 5097.98, and Health & Safety Code Section 7050.5. Human remains and grave/burial goods shall be treated alike per California Public Resources Code section 5097.98(d)(1) and (2). Work may continue in other parts of the Project site while evaluation and, if necessary, mitigation takes place (CEQA Guidelines Section 15064.5[f]). Preservation in place (i.e., avoidance)</p>				



Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
<p>is the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any historic archaeological material that is not Native American in origin (non-TCR) shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, it shall be offered to a local school or historical society in the area for educational purposes.</p>				
<p>TCR-4: Tribal Resources. Native American human remains are defined in PRC 5097.98 (d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in PRC 5097.98, are also to be treated according to this statute. Health and Safety Code 7050.5 dictates that any discoveries of human skeletal material shall be immediately reported to the County Coroner and excavation halted until the coroner has determined the nature of the remains. If the coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the NAHC and PRC 5097.98 shall be followed.</p>	<p>Prior to Issuance of Demolition Permit and during ground disturbance activities</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>TCR-5: Tribal Resources. Upon discovery of human remains, the tribal and/or archaeological monitor/consultant will immediately divert work at minimum of 100 feet and place an exclusion zone around the discovery location. The monitor/consultant(s) will then notify the Tribe, the qualified</p>	<p>Prior to Issuance of Demolition Permit and during ground disturbance activities</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>lead archaeologist, and the construction manager who will call the coroner. Work will continue to be diverted while the coroner determines whether the remains are human and subsequently Native American. The discovery is to be kept confidential and secure to prevent any further disturbance. If the finds are determined to be Native American, the coroner will notify the NAHC as mandated by state law who will then appoint a Most Likely Descendent (MLD).</p>				
<p>TCR-6: Tribal Resources. If the Gabrieleno Band of Mission Indians – Kizh Nation is designated MLD, the Koonas-gna Burial Policy shall be implemented. To the Tribe, the term “human remains” encompasses more than human bones. In ancient as well as historic times, Tribal Traditions included, but were not limited to, the preparation of the soil for burial, the burial of funerary objects with the deceased, and the ceremonial burning of human remains. The prepared soil and cremation soils are to be treated in the same manner as bone fragments that remain intact. Associated funerary objects are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later; other items made exclusively for burial purposes or to contain human remains can also be considered as associated funerary objects.</p>	<p>Prior to Issuance of Demolition Permit and during ground disturbance activities</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	
<p>TCR-7: Tribal Resources. Prior to the continuation of ground disturbing activities, the landowner shall arrange a designated site location within the footprint of the project for the respectful reburial of the human remains and/or ceremonial objects. In the case where discovered human remains cannot be fully documented and recovered on the same day, the remains will be covered with muslin cloth and a steel plate that can be moved by heavy equipment placed</p>	<p>Prior to Issuance of Demolition Permit and during ground disturbance activities</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	

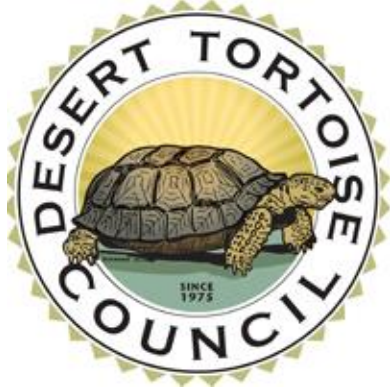
Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
<p>over the excavation opening to protect the remains. If this type of steel plate is not available, a 24-hour guard should be posted outside of working hours. The Tribe will make every effort to recommend diverting the project and keeping the remains in situ and protected. If the project cannot be diverted, it may be determined that burials will be removed. The Tribe will work closely with the qualified archaeologist to ensure that the excavation is treated carefully, ethically and respectfully. If data recovery is approved by the Tribe, documentation shall be taken which includes at a minimum detailed descriptive notes and sketches. Additional types of documentation shall be approved by the Tribe for data recovery purposes. Cremations will either be removed in bulk or by means as necessary to ensure completely recovery of all material. If the discovery of human remains includes four or more burials, the location is considered a cemetery and a separate treatment plan shall be created. Once complete, a final report of all activities is to be submitted to the Tribe and the NAHC. The Tribe does NOT authorize any scientific study or the utilization of any invasive and/or destructive diagnostics on human remains. Each occurrence of human remains and associated funerary objects will be stored using opaque cloth bags. All human remains, funerary objects, sacred objects and objects of cultural patrimony will be removed to a secure container on site if possible. These items should be retained and reburied within six months of recovery. The site of reburial/repatriation shall be on the project site but at a location agreed upon between the Tribe and the landowner at a site to be protected in perpetuity. There shall be no publicity regarding any cultural materials recovered.</p>				

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible For Monitoring	Date of Completion/Notes
<p>TCR-8: Tribal Resources. Native American and Archaeological monitoring during construction projects will be consistent with current professional standards. All feasible care to avoid any unnecessary disturbance, physical modification, or separation of TCR's shall be taken. The Native American monitor must be approved by the Gabrieleno Band of Mission Indians-Kizh Nation. Principal personnel for Archaeology must meet the Secretary of Interior standards for archaeology and have a minimum of 10 years of experience as a principal investigator working with Native American archaeological sites in southern California.</p>	<p>Prior to Issuance of Demolition Permit and during ground disturbance activities</p>	<p>Project applicant and their construction contractor</p>	<p>County of San Bernardino</p>	



EXHIBIT D

Desert Tortoise Council letter, Dated January 16, 2023



DESERT TORTOISE COUNCIL

3807 Sierra Highway #6-4514

Acton, CA 93510

www.deserttortoise.org

eac@deserttortoise.org

Via email only

16 January 2023

Attn: Reuben J. Arceo, Contract Planner
County of San Bernardino, Land Use Services Department - Planning Division
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415-0187
reuben.arceo@lus.sbcounty.gov

RE: Comments on Draft Initial Study and Mitigated Negative Declaration for the Alien Commercial Center, Baker, California

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 providing future correspondence to us. When given a choice, we prefer that San Bernardino 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 San Bernardino County (County) for contacting us directly about the availability of this document prepared under the California Environmental Quality Act (CEQA), and 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 San Bernardino County, which we assume will be added to the Decision Record for this project as needed. Please accept, carefully review, and include in the relevant project file the Council's following comments for the proposed project.

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 (MND) for the Alien Commercial Center in Baker, California and offer the following comments for your consideration and incorporation into the final document.

Description of Proposed Action

According to the MND, Steeno Design Studio Inc. (Proponent) is proposing to construct and operate a 20-pump fueling station, a 20,400 square-foot convenience store, a 3,864 square-foot coffee shop with a drive-through lane, entry ways, and parking for 226 standard parking spaces, 8 Americans with Disabilities Act-accessible parking spaces, and 16 electric vehicle charging stations on a 4.99-acre (217,369 square feet) parcel. Landscaping would total 31,173 square feet. Three underground storage tanks (USTs) would be installed (one for the storage of 91 octane, another for 87 octane gasoline, and one for diesel fuel). The fueling station and convenience store would be open 24 hours a day.

The parcel is bordered by Baker Boulevard to the south, a drainage easement to the west, open desert to the north, and commercial development to the east. It is on the north side of Soda Dry Lake in San Bernardino County, located entirely on private lands. Some of the parcel is currently occupied by the vacant Santa Fe Motel. The motel's buildings occupy 16,630 square feet plus an in-ground concrete pool. The motel would be demolished and the parcel regraded.

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

We believe the purpose of a CEQA document is to (1) conduct an analysis using the best available data of the direct, indirect, and cumulative impacts of a proposed action on the environment and use this analysis to adopt, modify with mitigation, or reject the proposed action; and (2) document compliance with applicable environmental laws, regulations, policies, and plans. Unfortunately, the MND does not appear to have accomplished these purposes.

For example, in the MND, the Proponent indicates that a National Pollutant Discharge Elimination System permit is needed from the State of California. However, we found no information in the MND that consultation with California Department of Fish and Wildlife (CDFW) had occurred to determine whether a Streambed Alteration Agreement under California Fish and Game Code 1600 is needed. We note that a waterway or drainage is located on the west side of the parcel. We were unable to determine from the project description whether this waterway would be affected by the proposed action. So, please be sure that appropriate field analyses are conducted by experienced personnel and CDFW contacted to see if a 1600 Streambed Alteration Agreement is required.

Additionally, there is section in the MND entitled “Consultation with California Native American Tribes” in which consultation is required to identify and address potential adverse impacts to tribal cultural resources from the proposed action. However, we saw no such requirement for consultation regarding biological resources with the U.S. Fish and Wildlife Service (USFWS) and CDFW for compliance with the Federal Endangered Species Act (FESA), Migratory Bird Treaty Act (MBTA), California Endangered Species Act (CESA), or California Fish and Game Codes (e.g., streambeds, migratory birds, etc.).

Please include information in the CEQA document that (1) the Proponent or the County has consulted with these agencies regarding these protected/regulated biological resources, and report in the CEQA document the results of these consultations; and (2) the be sure the proposed action complies with these legal, regulatory, and policy requirements, or state that these requirements are not applicable and why. Absent this information, the public does not know if these requirements were overlooked by the County or Proponent.

Compliance with California Executive Order

On October 7, 2020, Governor Newsom issued Executive Order N-82-20¹ to combat the biodiversity crisis and climate change crisis. To demonstrate compliance with the purpose and intent of this executive order, we request that the County include information in subsequent environmental document(s) how the MND complies with this executive order and other relevant executive orders.

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 action, including the construction and operation phases, on climate change and effects on wildlife and habitats. When looking at each project individually, 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 resource topic (e.g., Executive Order N-82-20) 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 action on climate change and wildlife including the tortoise be included in the MND.

Using Science to Substantiate Environmental Impacts

Under each resource issue is a section with this title. In the MND, several determinations regarding impacts to resources are made with little or no data to support these determinations. In Executive Order N-82-20, the Governor called on agencies to use the “best available science” in dealing with the biodiversity 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, preferably the best available science, to analyze each impact to each resource issue and then make a determination based on the cited data. 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 the proposed action.

¹ <https://www.dropbox.com/s/wytoq87u36xhaya/%24Climate%20Change%20Eecutive%20Order%2010.07.2020-EO-N-82-20-.pdf?dl=0>

For example, under Biological Resources (pages 30-32), the MND says, “the project site and the adjacent properties do not contain any naturally occurring habitats and associated flora and fauna.” To us, this statement means that a qualified biologist conducted protocol surveys approved by the CDFW and USFWS on the project site and adjacent properties. Yet no citations of the results of survey reports or other citations are provided in the MND, leaving us to believe that no surveys, particularly in adjacent areas to the north, have been performed, where Google Earth shows naturally occurring habitats. Consequently, we conclude the this statement in the Biological Resources section is not supported, nor are the best available data or any data provided. Rather, the MND provides opinion apparently based on assumptions

The MND then concludes that “no impacts will occur” to biological resources. We were unable to find references to scientific journal articles or results from protocol or scientific surveys of the project site and adjacent areas that support this conclusion. Please note that tortoises and tortoise signs have been found in disturbed areas and urban areas (CH2M Hill Engineers 2017, USFWS 2017). We request that the CEQA document be amended with data that support statements such as “no impacts will occur.” Relevant documentation would include a description of the approved methodologies to survey the parcel and adjacent areas [USFWS (2019) for desert tortoise and CDFG (2012) for burrowing owl, among others], and measures that are to be implemented to protect biological resources found (or not) during those surveys.

We do not agree that no impacts will occur. For example, in the MND we found no mention of indirect impacts or cumulative impacts to biological resources including the tortoise. The proposed action would likely increase the availability of subsidies for predators of the tortoise (Boarman 1993, Boarman et al. 2006, Kristan and Boarman 2003) during construction and operation. The indirect and cumulative impacts should be analyzed in the CEQA document and mitigation required to fully offset these impacts. Such mitigation during construction and operations of the proposed action would include, but is not limited to, ensuring that all discarded food and garbage/trash is promptly deposited in wind-proof and raven/coyote-proof containers; prohibiting the feeding of wildlife; and ensuring that water from sources supplied by humans would not be allowed to form puddles.

The County should require that the Proponent 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. Please update the MND to include this and other indirect and cumulative impacts to the tortoise and other wildlife and appropriate mitigation to offset these impacts.

Hazardous Materials

The project description includes underground storage tanks for storage and dispensing of gasoline and diesel fuels. Impacts from the use and maintenance of these tanks and the fuels is considered less than significant because they are regulated by the U.S. Environmental Protection Agency (US EPA) and California Environmental Protection Agency (Cal EPA). Please note that the Mojave tui chub (*Siphateles bicolor mohavensis* = *Gila bicolor mohavensis*) is a species listed as endangered under FESA and CESA and is a fully protected species. This species occurs in three water bodies on the west side of Soda Dry Lake and their water is provided by subsurface waters from Soda Dry Lake.

We are concerned that if an underground storage tank leaks or if cleanup measures from a spill are not immediately and effectively implemented, contamination from a leak or spill may eventually migrate via subsurface flow to the west side of Soda Dry Lake. It would contaminate the water bodies where the Mohave tui chub occurs and result in their injury or death. Consequently, we request that the County analyze the current US EPA and Cal EPA requirements and determine whether their maintenance and spill cleanup requirements would effectively prevent any migration of fuel to the west side of Soda Dry Lake and into water bodies of the Mohave tui chub.

We suggest coordinating with U.S. Geological Survey to obtain information on subsurface groundwater flows in the Baker area and coordination with USFWS, CDFW, and Mojave National Preserve on this issue. The USFWS and CDFW have regulatory responsibilities for the tui chub and the National Park Service at Mojave National Preserve is the land manager for these three water bodies and habitat for the tui chub.

We are confused by the inclusion of the following document – Mitigation Monitoring and Reporting Program Initial Study/Mitigated Negative Declaration Alien Commercial Center, Baker, California. Although this is the title, the document is about another project, identified as the proposed “Star Point Properties Sixth Street Warehouse Project.” Please clarify this discrepancy.

We appreciate this opportunity to provide comments on this project and trust they will help protect tortoises and other special status biological resources 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 San Bernardino 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
Desert Tortoise Council

cc: California State Clearinghouse state.clearinghouse@opr.ca.gov
Rollie White, Assistant Field Supervisor, Palm Spring Fish and Wildlife Office, U.S. Fish and Wildlife Office, rollie_white@fws.gov
Heidi Calvert, Regional Manager, Region 6 – Inland and Desert Region, California Department of Fish and Wildlife, Heidi.Calvert@wildlife.ca.gov
Brandy Wood, Region 6 – Desert Inland Region, California Department of Fish and Wildlife, brandy.wood@wildlife.ca.gov
Debra Hughson, Mojave National Preserve, debra_hughson@nps.gov

Literature Cited

- Berry, K.H., L.J. Allison, A.M. McLuckie, M. Vaughn, and R.W. Murphy. 2021. *Gopherus agassizii*. The IUCN Red List of Threatened Species 2021: e.T97246272A3150871. <https://dx.doi.org/10.2305/IUCN.UK.2021-2.RLTS.T97246272A3150871.en>
- Boarman, W.I. 1993. When a native predator becomes a pest—A case study, in Majumdar, S.K., Miller, E.W., Baker, D.E., Brown, E.K., Pratt, J.R., and Schmalz, R.F., eds., Conservation and resource management: Easton, Pennsylvania Academy of Science, p. 186–201.
- Boarman, W.I., M.A. Patten, R.J. Camp, and S.J. Collis. 2006. Ecology of a population of subsidized predators: Common ravens in the central Mojave Desert, California. *Journal of Arid Environments* 67 (2006) 248–261. <https://www.sciencedirect.com/science/article/abs/pii/S0140196306003016>
- [CDFG] California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. The 7 March 2012 memo replacing 1995 staff report, State of California Natural Resources Agency, Department of Fish and Wildlife. Sacramento, CA.
- California Executive Order. 2020. Executive Order N-82-20. Executive Department State of California. <https://www.gov.ca.gov/wp-content/uploads/2020/10/10.07.2020-EO-N-82-20-signed.pdf>
- CH2M HILL Engineers. 2017. Hinkley Groundwater Remediation Project Habitat Conservation Plan. San Bernardino County, California. August 1, 2017.
- Defenders of Wildlife, Desert Tortoise Preserve Committee, and Desert Tortoise Council. 2020. A Petition to the State of California Fish And Game Commission to move the Mojave desert tortoise from listed as threatened to endangered. Formal petition submitted 11 March 2020. https://defenders.org/sites/default/files/2020-03/Desert%20Tortoise%20Petition%203_20_2020%20Final_0.pdf
- Kristan III, W.B., and W.I. Boarman. 2003. Spatial pattern of risk of common raven predation on desert tortoises. *Ecology* 84(9) September 2003: 2432–2443. <https://esajournals.onlinelibrary.wiley.com/doi/abs/10.1890/02-0448>
- Smith, C.I., L.C. Sweet, J. Yoder, M.R. McKain, K. Heyduk, and C. Barrows. 2023. Dust storms ahead: Climate change, green energy development and endangered species in the Mojave Desert. *Biological Conservation* 277 (2023) 109819. https://www.researchgate.net/profile/Cameron-Barrows/publication/365925179_Dust_storms_ahead_Climate_change_green_energy_development_and_endangered_species_in_the_Mojave_Desert/links/6388e3fd7d9b40514e045c01/Dust-storms-ahead-Climate-change-green-energy-development-and-endangered-species-in-the-Mojave-Desert.pdf
- [USFWS] U.S. Fish and Wildlife Service. 2010. Common raven predation on the desert tortoise. USFWS, Ventura Fish and Wildlife Office, Ventura, CA.
- [USFWS] U.S. Fish and Wildlife Service. 2017. Draft Hinkley HCP Environmental Assessment. August 2017.
- [USFWS] U.S. Fish and Wildlife Service. 2019. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Reno, NV.