



# LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

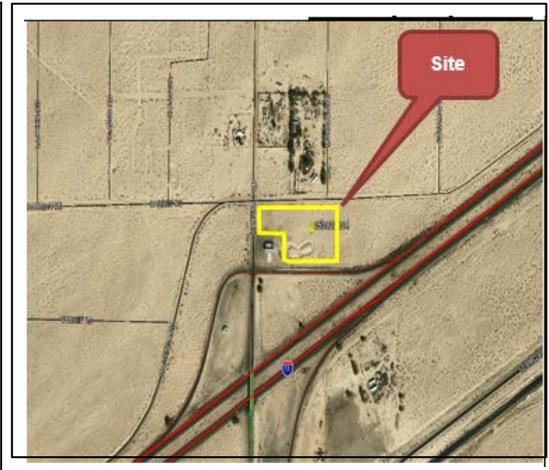
**HEARING DATE: August 23, 2018**

**AGENDA ITEM: 4**

Project Description:

Vicinity Map **N**

**APNs:** 0539-223-04  
**Appellant:** Sabbah Development Group LLC  
**Community:** Newberry Springs/1<sup>st</sup> Supervisorial District  
**Location:** 39281 Harvard Road, Newberry Springs  
**Project No.:** P201800375  
**Staff:** Reuben J. Arceo  
**Rep.:** Chris Sabbah, Capstone Builders  
**Proposal:** Appeal of Staff's Approval of a Minor Revision to An Approved Action to provide a vehicular driveway entry on Harvard Road.



**10 Hearing Notices Sent On: August 12, 2018**

**Report Prepared By: Reuben J. Arceo**

**SITE INFORMATION:**

Parcel Size: 3.78 Gross Acres  
 Terrain: The site is currently vacant and relatively flat  
 Vegetation: Indigenous desert plant life

**SURROUNDING LAND DESCRIPTION:**

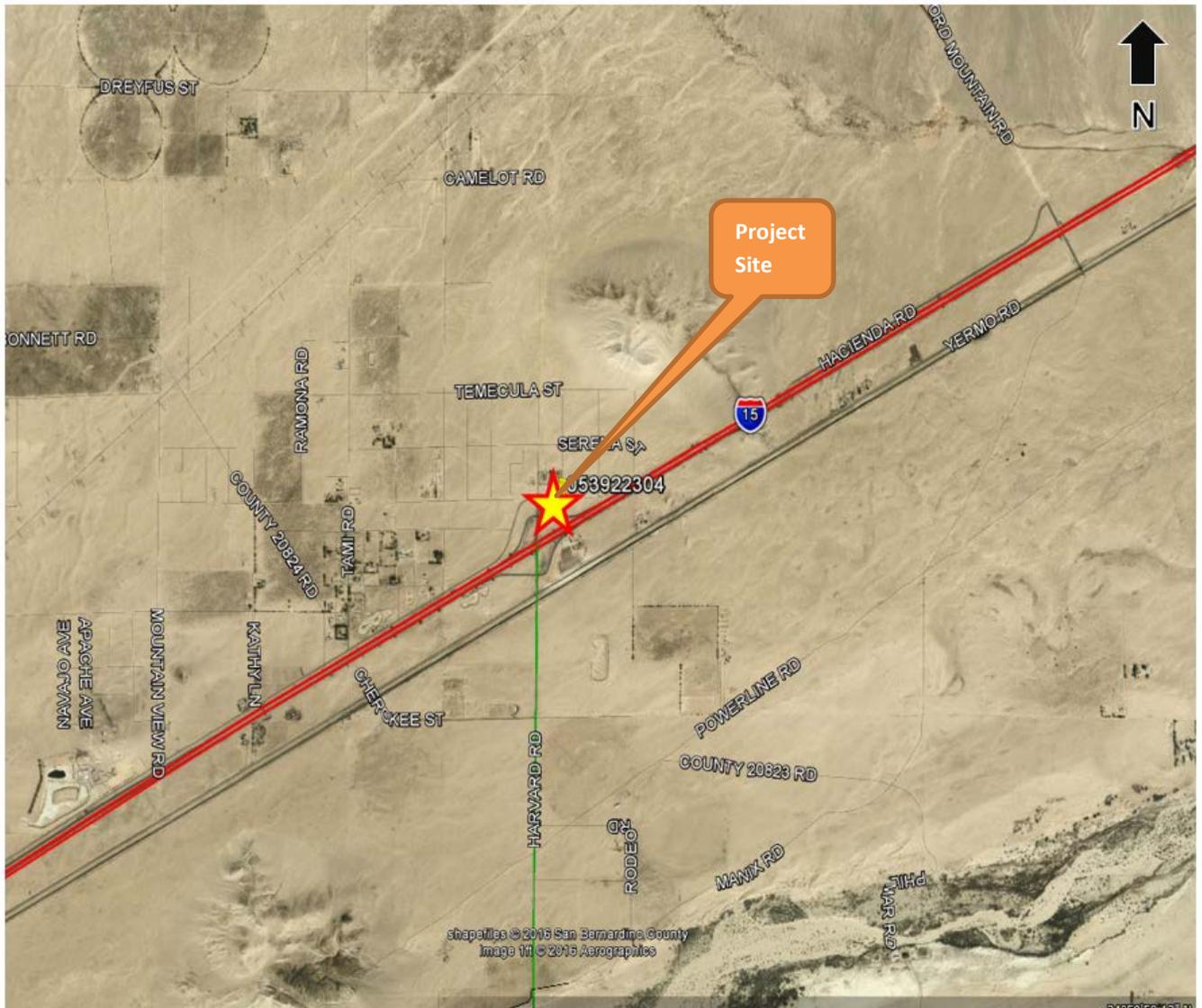
AREA	EXISTING LAND USE	LAND USE ZONING/OVERLAY DISTRICTS
Site	Vacant Land	Rural Commercial (CR)
North	Storage and Parking Yard Facility	Rural Commercial (CR)
South	Vacant Land	Rural Commercial (CR)/Interstate 15
East	Vacant Land/Commercial Development	Rural Commercial (CR)
West	Vacant Land	Rural Commercial (CR)

	<u>AGENCY</u>	<u>COMMENT</u>
City Sphere of Influence:	N/A	N/A
Water Service:	On-site Well	Proposed 30,000 Gallon 16 foot High Water Tank
Septic/Sewer Service:	Septic System	Percolation report required

**STAFF RECOMMENDATION:** That the Planning Commission **DENY** the appeal of the Minor Revision to an Approved Action to provide a vehicular driveway.

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

### VICINITY MAP

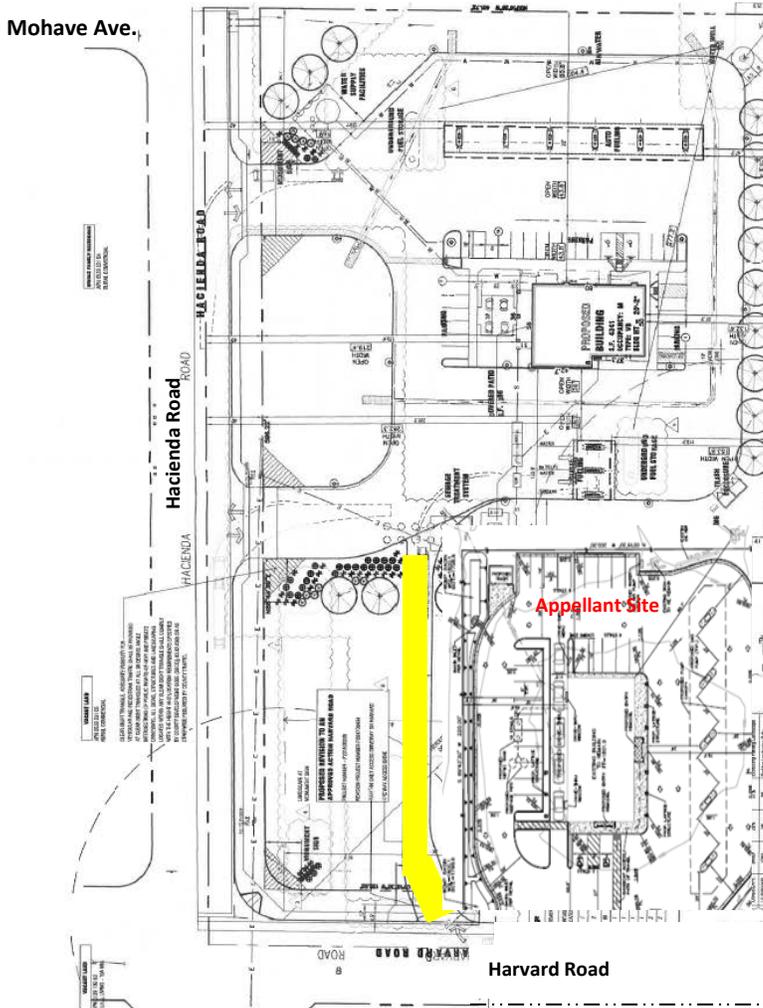


## OFFICIAL LAND USE DISTRICT MAP Rural Commercial (CR)





# DEVELOPMENT PLAN W/ PROPOSED DRIVEWAY AND ADJOINING PROPERTY WITH APPELLANT DEVELOPMENT PROJECT Figure 2





### Appellant and Project Parcels Figure 4



## Site photos

Street view facing east from Harvard Road



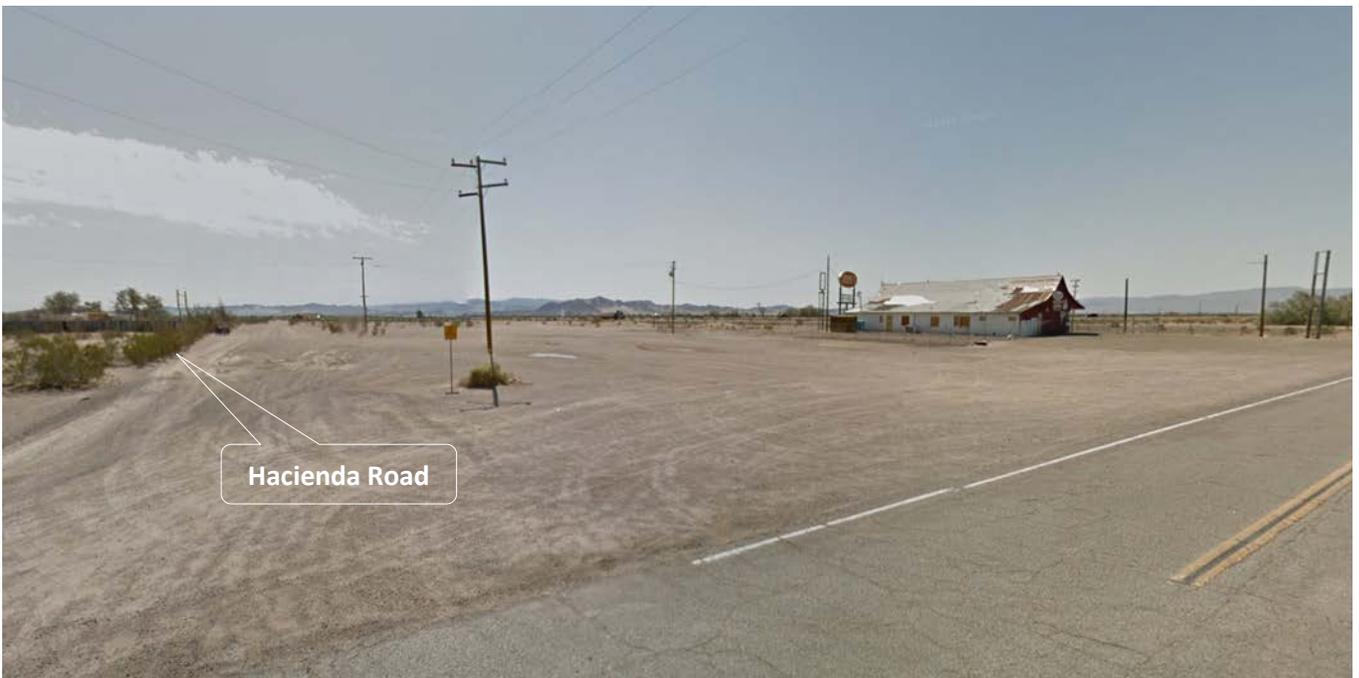
Street view facing northeast from Harvard Road



Northview from Project site



Southeast view from Harvard Road



## **PROJECT DESCRIPTION AND BACKGROUND:**

This is an appeal filed by Sabbah Development Group LLC (Appellant) challenging a staff-approved Revision to an Approved Action granted to Iqbal Hussain (Applicant).

On December 22, 2016, the Applicant's Development Plan (Project) was approved by the Planning Commission. The Project consisted of a Conditional Use Permit (CUP) to construct a 4,341 square foot retail/convenience store and fuel station on 2.22 acres of a 3.78 acre vacant property located at the southeast corner of Harvard Road and Hacienda Road in the Community of Newberry Springs. On April 6, 2018, staff approved a Revision to Approved Action (First Revision) to underground the fuel tanks. No appeals were filed for either the original Project approval or the First Revision.

On March 16, 2018, the Applicant submitted an application for a second Revision to an Approved Action (Second Revision), which was approved by staff action on July 2, 2018. The Second Revision proposed construction of a one-way access driveway off Harvard Road. The original Project design, as approved by the Planning Commission, included driveway access from Hacienda Road. No vehicular ingress/egress access was approved from Harvard Road. Hacienda Road, as shown in the Staff Report photos, is currently an unimproved, 40-foot wide road that has been conditioned to construct curbs, gutter and paving 26 feet in width along the entire street fronting the north boundary of the Project, as displayed in Figure 1 Development Plan. Hacienda Road street improvements extend from the intersection of Harvard and Hacienda Road to the intersection of Mohave Avenue. Two 50-foot wide driveway entries are designed to accommodate two-way vehicular and truck traffic onto the site off Hacienda Road.

Per Section 85.12.030 of the County Development Code, a Minor Revision may be used to approve changes to an approved project, ministerially, based on the following criteria:

1. An approved plot plan is on file in the Land Use Services Department;
2. The proposed use is consistent with the current land use zoning district regulations;
3. Parking and design standards are not affected; and,
4. The proposal provides for an expansion of the use of no more than 1,000 square feet or 10 percent of the ground area covered by the use or structure.

The Project has a current CUP approval from 2016 and a previously-approved Revision. The latest Revision to an Approved action proposes no substantive change in the approved use and is consistent with the current zoning regulations. Neither parking nor site design standards are affected by the Revision, nor is the square footage of structure being increased. Therefore the subject Second Revision meets the criteria to be processed as a Minor Revision.

## **BASES OF THE APPEAL:**

The Appellant submitted comments opposing the third driveway prior to staff's approval of the Second Revision application. In addition, the Appellant submitted additional arguments against the third driveway in his Appeal application. All of the Appellant's arguments are identified below, followed by staff's response to each argument.

Appellant's Argument No. 1: Certificate of Compliance. The Appellant Claims that a Certificate of Compliance and Parcel Map should be required for the subject property to properly document the legality of this parcel.

Staff's Response: The subject property is located within an area that was created upon the purchase and construction of the I-15 Freeway. Two Assessor Parcels are displayed in the area, including the

subject property, each with separate Assessor Parcel Numbers. However, a subdivision map was not recorded to reflect the Assessor's parcel configuration. The Project applicant initially submitted a Minor Use Permit application for the subject property that was elevated and approved as a CUP. The applicant subsequently proposed a modification to the CUP, which is the subject of this appeal. Typically, a Conditional Certificate of Compliance would be required in the event that the legal status of a parcel is in question, prior to approval of a use permit for new construction. Since the CUP was accepted and approved to permit development of real property, the Project has been determined to have met the County Development Requirements and the Project's parcel has been determined to have been legally created pursuant to Government Code Sections 66499.34 and 66499.35

Appellant's Argument No. 2: Driveway. The Appellant claims that a third driveway should be prohibited as the proposed driveway is not along the frontage of the property as shown in the Appellant's Project site plan, Figure 2 and 3, and is excessive for access requirements for this property. More importantly, the extra driveway creates a traffic hazard for access to the Appellant's property.

Staff's Response: The County Development Code, Section 810.01.140 Definitions, defines "Lot Frontage" as the dimension of a lot or portion of a lot that abuts a street or an approved road easement, except the side of a corner. As Figure 2 displays the building is "fronting" upon Hacienda Road and thus the front of the Project is technically off Hacienda Road. However the Development Code does not preclude providing alternative access to the site if the driveway is not fronting the project, provided the lot or "portion" abuts a street or an approved road easement. In this instance, a portion of the Applicant's lot is abutting Harvard Road, an approved road easement on which a driveway may be provided, with County approval.

As to a third driveway, pursuant to the Development Code, roads abutting a development project are required to be paved. Therefore improvements are required on Harvard Road and Hacienda Road. These improvements were identified by the approved traffic study dated June 22, 2016, and reflected in the Conditions of Approval for the original Project. The proposed right-in only driveway is acceptable as it does not create turning movement conflicts nor is queueing generated in the road, as vehicles can access the driveway with a continuous motion and are not required to stop prior to or during entry into the driveway. Moreover, design standards along with any appropriate modifications are reviewed during the plan review phase.

Appellant's Argument No. 3: Freeway Improvements. This project should be conditioned to provide any improvements to freeway on/off ramps.

Staff Response: Caltrans in its letter dated September 12, 2016, attached as Exhibit B, informed Planning Staff after the agency's review of the Traffic Impact Analysis, that the Agency has no further comment on the Project. The traffic study from Kunzman and Associates, dated June 22, 2016, was reviewed and approved by Caltrans on September 12, 2016. The referenced traffic study did not find deficiencies at the freeway on/off ramps and therefore did not recommend improvements. The Project was conditioned to require the Applicant to obtain an encroachment permit for any work or activity performed within the State right-of-way per Caltrans request. The Project has been conditioned to provide right-of-way improvements on Hacienda Road and Harvard Road.

Appellant's Argument No. 4: Right-of-Way Improvements.

Staff's Response: The Project was conditioned to construct right-of-way improvements on both Harvard and Hacienda Road.

Appellant's Argument No. 5: Drainage. The appellant contends that the Project should be designed so that no drainage from the Project is allowed to drain onto the Appellant's property.

Staff's Response: The Project was conditioned to prohibit drainage flow onto the Appellant's property. Two conditions on the original Project approval address this issue. One condition requires tributary drainage to be intercepted and conducted through the site in accordance with County standards, in a manner that will not adversely affect adjacent or downstream properties. Another condition states that any unanticipated drainage problems must be addressed in detailed improvement plans at the time of development. These are standard conditions of development approval.

Appellant's Argument No. 6: Establish a Water System. The Appellant claims that the Project should be required to establish a water system per current Environmental Health Department and State of California requirements.

Staff's Response. The Project has been conditioned by the Environmental Health Services Division (EHS) to procure a verification letter from the water agency that has jurisdiction, or in the absence of a water purveyor, an individual well may be authorized. The Project applicant will be drilling an individual well, subject to EHS approval. Plans will be required to demonstrate compliance with well and septic system location requirements.

Appellant's Argument No. 7: Expansion/Intensification. The Appellant contends that the proposed driveway constitutes an expansion and intensification of the Project.

Staff's Response. This comment eludes to review of the Second Revision under the California Environmental Quality Act (CEQA), which is not required.

Staff completed an Initial Study (IS) for the original Project that included a Traffic Impact Analysis (TIA) and update prepared by Kunzman Associates dated June 22, 2016. The TIA evaluated morning and evening peak inbound and outbound traffic, and mitigation measures proposed in the TIA were incorporated in the original Project's Conditions of Approval. In addition, Caltrans submitted comments on September 12, 2016, which comments were also addressed in the Conditions of Approval. Following appropriate noticing to the public, including property owners within 300 feet of the Project site, the Planning Commission adopted a Mitigated Negative Declaration (MND) for the original Project. During the noticing periods, no comments were received by staff.

Based on staff's review of the Second Revision, staff determined the proposed driveway did not constitute an expansion or intensification of the original Project. Therefore the driveway did not rise to a level of significance necessitating an addendum or subsequent environmental document. Specifically, Section 15162 cites that when a Negative Declaration has been adopted for a project, no subsequent Negative Declaration shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects:

3. New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the Negative declaration was adopted.

As the proposed driveway did not meet any of the aforementioned thresholds, the project was not considered an expansion or intensification warranting additional environmental review.

**Appellant's Argument No. 8: The Appellant contends the driveway will Affect Traffic Patterns and Flow**

**Staff's Response.** As mentioned in staff's response in Argument 2, the proposed driveway is right-in only and is acceptable as it does not create turning movement conflicts nor is queueing generated within the road as vehicles can access the driveway with continuous motion and are not required to stop prior to or during entrance into the driveway. Moreover, design standards along with any appropriate modifications are reviewed during the plan review phase.

**Appellant's Argument No. 9: The Appellant contends the driveway was not originally evaluated in the Project's Initial Study.**

**Staff's Response.** Although the specific driveway was not originally evaluated in the Transportation/Traffic element section of the IS for the original Project, it was determined by the traffic engineer in a letter dated May 22, 2018, that the driveway addition will not change the trip generation and will not add any trips to study intersections. Therefore a revision to the traffic study was not warranted and the approved traffic study dated June 22, 2016, remains valid.

**APPLICANT'S CLAIMS ON APPEAL:**

The Second Revision was submitted to address relatively minor changes in the Development Plan, as outlined previously in this report. The proposed driveway was evaluated by County staff responsible for reviewing driveway locations, and the Second Revision was approved to add the proposed driveway.

**RECOMMENDATION:** That the Planning Commission:

**DENY** the appeal of and **APPROVE** the Minor Revision to an Approved Action to permit the construction of a vehicular driveway.

**ATTACHMENTS:**

- Exhibit A: Site Plan
- Exhibit B: Appellant comment letter- Dated May 21, 2018
- Exhibit C: Appeal Application

# **EXHIBIT A**

## **Site Plan**



**Utilities**

<b>WATER</b>	ON SITE WELL
<b>SEWER</b>	ON SITE SEWAGE DISPOSAL SYSTEM
<b>ELECTRICITY</b>	PACIFIC ELECTRIC & GAS 35683 PARKVIEW RD HAWLEY, CA (760) 254-2925
<b>OGS</b>	N/A

**Land Use**

<b>LAND USE DISTRICT</b>	CR, RURAL COMMERCIAL
<b>LAND USE CLASSIFICATION</b>	RETAIL, CONVENIENCE STORE
<b>OVERLAY DISTRICT</b>	AR-4, BIOTIC RESOURCES
<b>BUILDING COVERAGE</b>	3%

**Parking**

CATEGORY (LIST ALL APPLICABLE. MIN. 4 PARKING SPACES(SPF))	SQ FT	FACTOR	REQD PARKING
5. TOTAL EMPLOYEES (LARGEST SHOP (1 employer employee))			3
8. LOADING ZONE (1sq5000sq. ft.)	4352	5000	1
9. DISABLED PARKING (min. 1 Van accessible, 1TK, 19)	1		1
10. LIST OTHER PARKING STANDARDS HERE:			
CONVENIENCE STORE	4352	250	17
COVERED PATIO	459	250	2
<b>TOTAL PARKING REQUIRED (TOTAL MINUS DISABLED)</b>			<b>24</b>

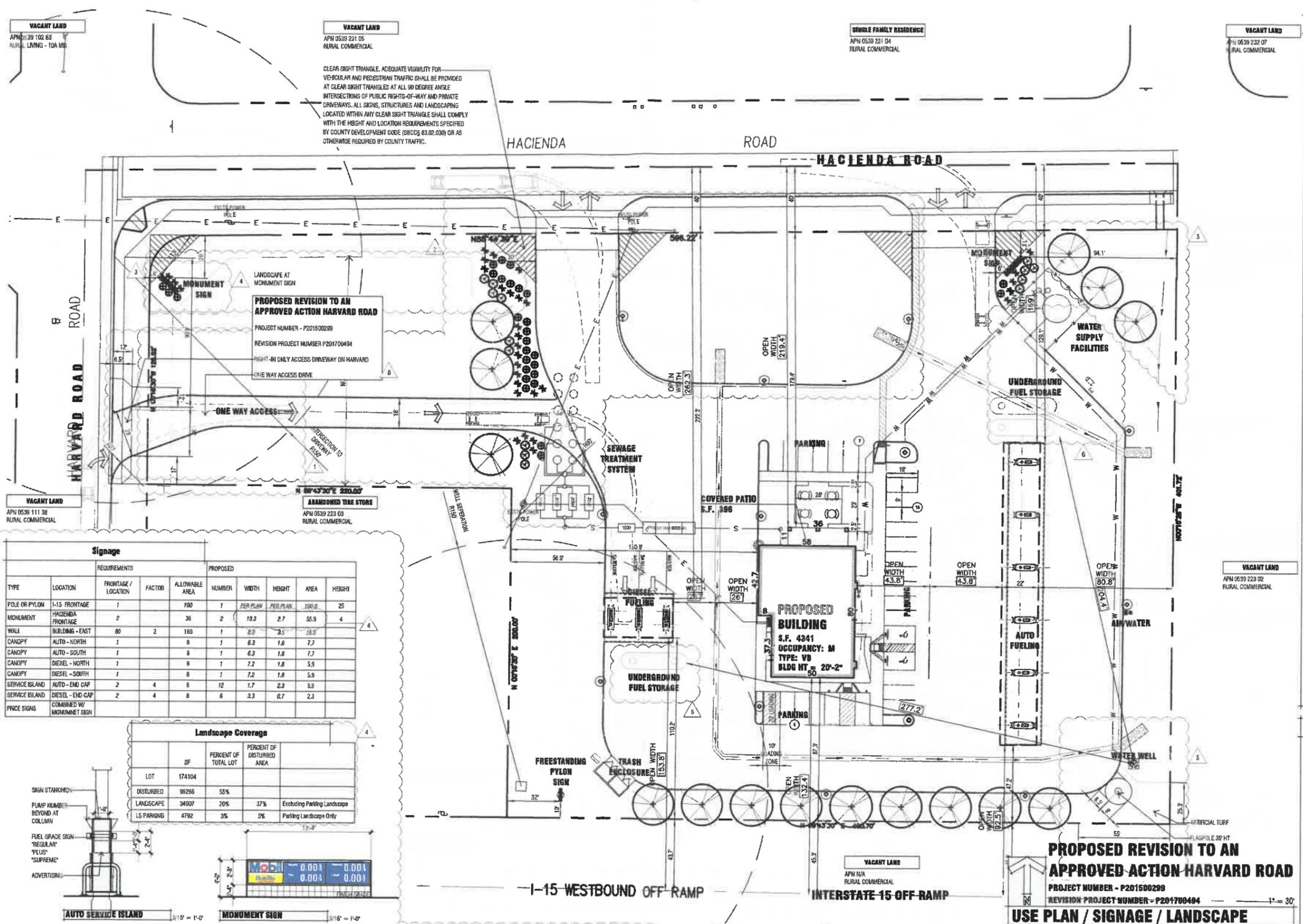
**PROPOSED PARKING**

1. Regular parking (minimum 9' x 19')	26		
2. Compact parking (no more than 25%, min. 7.5' x 15')	0		
3. Van accessible Disabled parking (min. 1sq. min. 17' x 19')	1		
4. Disabled parking (1sq. per 25. min. 14' x 19')	1		
5. Loading zone (min. 1sq5,000 sq. ft., min. 10' x 20')	1		
<b>TOTAL PARKING PROPOSED</b>	<b>29</b>		

Note: All parking must be double striped and all access drives shall be paved a minimum of 2'

**Lot Coverage**

<b>BUILDING</b>	3%
<b>PAVING</b>	41%
<b>LANDSCAPING</b>	20% EXCLUSIVE OF PARKING LS 3% PARKING LS ONLY 23% TOTAL
<b>OPEN SPACE</b>	56%

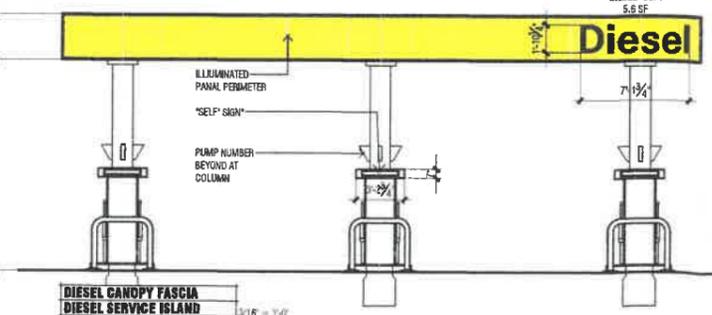
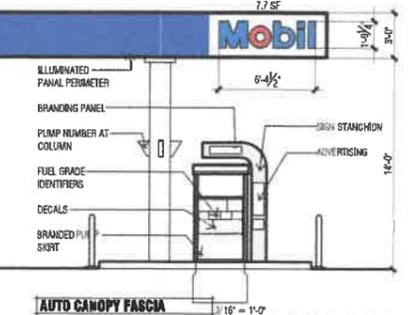
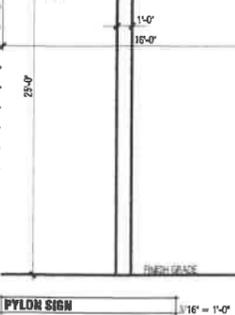


**Signage**

TYPE	LOCATION	FRONTAGE / LOCATION	FACTOR	ALLOWABLE AREA	NUMBER	WIDTH	HEIGHT	AREA	HEIGHT
POLE OR PYLON	I-15 FRONTAGE	1	700	7	7	7.0	25	100.0	25
MONUMENT	FRONTAGE	2	36	2	2	13.8	2.7	35.9	4
WALL	BUILDING - EAST	80	2	160	1	8.0	3.5	28.0	4
CANOPY	AUTO - NORTH	1	8	7	8.3	1.8	7.7		
CANOPY	AUTO - SOUTH	1	8	7	8.3	1.8	7.7		
CANOPY	DIESEL - NORTH	1	8	7	7.2	1.8	5.9		
CANOPY	DIESEL - SOUTH	1	8	7	7.2	1.8	5.9		
SERVICE ISLAND	AUTO - END CAP	2	4	8	12	1.7	2.3	3.9	
SERVICE ISLAND	DIESEL - END CAP	2	4	8	6	3.3	0.7	2.3	
PRICE SIGNS	COMBINED W/ MONUMENT SIGN								

**Landscape Coverage**

LOT	SF	PERCENT OF TOTAL LOT	PERCENT OF DISTURBED AREA
174104			
DISTURBED	95285	55%	
LANDSCAPE	34907	20%	37% Excluding Parking Landscape
LS PARKING	4792	3%	5% Parking Landscape Only



- LANDSCAPE LEGEND**
- PALE VERDE BLUE, MULTI TRUNK
  - DECOMPOSED ROCK
  - TEXAS RANGE AGAVE
  - RED YUCCA
  - ARTIFICIAL TURF
  - PLANT & TREE PROTECTION: NO JOSHUA, NO CENTURY PLANTS, NO HOLMUS, NO PROTECTED PLANTS ON SITE, NO NATIVE TREES, NO GACIT, NO YUCCAS, NO PALMS

**PROJECT NOTES**

CONVENIENCE STORE, MASONRY EXTERIOR BEARING WALL WITH EXTERIOR INSULATION FINISH SYSTEM ENTABLATURE BAND, ALUMINUM FACADE PANEL TRIM, WOOD TRUSS ROOF STRUCTURE

OUTDOOR LIGHTING, AREA LIGHT, POLE MOUNTED, 28 FT. MCCRAW EDITION, GLENN-4E-04-LED, FIELD FABRICATE SHIELDS AS REQUIRED TO CONTROL SPILL LIGHT

PROPERTY WILL BE OCCUPIED BY SINGLE TENANT, OPEN 24 HOURS PER DAY

PRODUCTS STORED WILL BE FOOD ITEMS INCLUDING WATER, SODA, SNACKS, JUICES, ETC.

**LEGAL DESCRIPTION**

REAL PROPERTY IN THE UNINCORPORATED AREA OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOT 65, TRACT 5655 IN THE COUNTY OF SAN BERNARDINO AS PER MAP RECORDED IN BOOK 72, PAGES 90 AND 91 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY,

EXCEPT THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY DEEDS RECORDED NOVEMBER 30, 1961 IN BOOK 5598, PAGES 13 AND 17, OFFICIAL RECORDS,

ALSO EXCEPT THEREFROM THAT PORTION LYING SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA BY DEEDS RECORDED NOVEMBER 30, 1961 IN BOOK 5598, PAGES 13 AND 17, OFFICIAL RECORDS,

ALSO EXCEPT THEREFROM THAT PORTION OF SAID LOT 65, DESCRIBED AS FOLLOWS:

**USE PLAN / SIGNAGE / LANDSCAPE AS1**

COMMENTS AT A FOUR-INCH SCALED POST MARKING THE WESTWEST CORNER OF SECTION 14, TOWNSHIP 10 NORTH, RANGE 3 EAST, SAN BERNARDINO MERIDIAN; THENCE SOUTH 0°19'30" EAST 350.41 FEET ALONG THE WEST LINE OF SAID SECTION 14; THENCE NORTH 89°43'30" EAST 40 FEET TO THE EAST LINE OF HARVARD ROAD AS SHOWN ON SAID MAP, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH 45°18'20" EAST 58.57 FEET; THENCE NORTH 89°43'30" EAST 186.00 FEET; THENCE WEST 0°19'30" WEST 200 FEET PARALLEL WITH THE EAST LINE OF SAID HARVARD ROAD; THENCE SOUTH 89°43'30" WEST 220 FEET TO THE EAST LINE OF SAID HARVARD ROAD; THENCE SOUTH 0°19'30" EAST 160.00 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT THEREFROM AN UNDIVIDED 1/2 INTEREST IN ALL MINERAL RIGHTS, AS RESERVED IN DEED RECORDED DECEMBER 15, 1959 IN BOOK 5610, PAGE 303, OFFICIAL RECORDS.

**Project Information**

<b>APN</b>	0539-223-04
<b>ADDRESS</b>	38281 HARVARD ROAD NEWBERRY SPRINGS, CA 92355
<b>APPLICATION TYPE</b>	CONDITIONAL USE PERMIT (CUP)
<b>PROPOSED LAND USE</b>	RETAIL, CONVENIENCE STORE
<b>BUILDING SIZE</b>	STORE = 4341SF / PATIO = 386SF
<b>CIP FOM</b>	
<b>APPLICANT</b>	NEWBERRY SPRINGS LAND INVESTMENT, LLC 738 DESARTES STREET HENDERSON, AZ 85002 702.845.9667
<b>REPRESENTATIVE</b>	RAYMOND STADLER 2504 ARFIELD COURT KINGMAN, AZ 86401 623.863.9778
<b>PROPERTY OWNER</b>	NEWBERRY SPRINGS LAND INVESTMENT, LLC 738 DESARTES STREET HENDERSON, AZ 85002 702.845.9667
<b>PLAN PREPARER</b>	SEABURY PRITZ ARCHITECTS, INC 5902 HWY 65, STE 106 FORT MOHAVE, AZ 86426 928.577.0077

preliminary  
not for  
construction

## **EXHIBIT B**

**Appellant comment letter- Dated May 21, 2018**

May 21, 2018

Chris Sabbah  
Capstone Builders  
30707 E. Sunset Drive S.  
Redlands, CA 92373  
(909) 583-4596

Mr. Reuben Arceo  
Mr. Jim Morrissey  
County of San Bernardino  
Planning Department  
385 Arrowhead Ave.  
San Bernardino, CA 92415-0187

**Re: APN 0539-223-04, Proposed Convenience Store and Service Station**

Dear Mr. Arceo and Mr. Morrissey,

I have some concerns regard the above referenced project that your department is processing at the above referenced location. As you are aware, I have application in for the property adjacent to this site, APN 0539-223-03. I request that the following issues be addressed:

- A Certificate of Compliance and Parcel Map be required for this property to properly document the legality of this parcel
- Do not allow a third driveway on Harvard Road as this proposed driveway is not along the frontage of the property and is excessive for the access requirements for this property. More importantly, this extra driveway creates a traffic hazard for the access to my property.
- This project should be conditioned to provide any improvements to the freeway on / off ramps as may be required by CALTRANS.
- Require this project to make improvements to the Hacienda Rd. / Harvard Rd. intersection.
- Require the project to be design so that no drainage from the project is allowed to drain onto our property.
- Require the project to establish a water system per current Environmental Heath Department and State of California requirements.

I am concerned that this project was originally approve in a different configuration then the current request, and is not being scrutinized with the same level of review as the original submittal. I am alarmed with the addition of the third driveway and the traffic hazards that this creates.

If you should have any questions or comments, please feel free to contact me at your convenience. I would be willing to meet with you to further discuss these issues. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Sabbah", with several overlapping strokes.

**Chris Sabbah**

**Appeal Application**



LAND USE SERVICES DEPARTMENT
Planning Division

San Bernardino Office
385 N. Arrowhead Ave., First Floor
San Bernardino, CA 92415

Hesperia Office
15900 Smoke Tree St.
Hesperia, CA 92345

Phone: (909) 387-8311
Fax: (909) 387-3223

Phone: (760) 995-8140
Fax: (760) 995-8167

APPEAL
INFORMATION SHEET AND APPLICATION

Prior to its effective date, any land use decisions made by any County agency, department, office or officer may be appealed to the Planning Commission and any land use decision made by the Planning Commission may be appealed to the Board of Supervisors, except those decisions exempted per Section 86.08.010(b)(2). Actions of the Board of Supervisors are final and may not be appealed.

The Planning officer's decision to require preparation of an Environmental Impact Report (EIR) may be appealed to the Planning Commission for final decision

An appeal must be filed prior to the effective date for the project action being appealed. Land use decisions made by the Planning Commission become effective 11 days after the action. Decisions made by a reviewing authority, other than the Planning Commission are effective 11 days after the written decision has been mailed.

FEES:

Fees must be submitted at the time of submittal of a completed Appeal Application and must be a check or money order made payable to "San Bernardino County." Fees for appeals submitted by persons other than the applicant and for applicants of average cost (set fee) projects are:

Table with 2 columns: Appeal type and Fee amount. Rows include Appeal to the Planning Commission (L695) at \$1,712.00, Appeal to the Board of Supervisors (L696) at \$1,331.00, and Appeal to the Chief Executive Officer (L696) at \$1,416.00.

Appeals by the applicant of actual cost projects will be charged to the actual cost deposit as follows:

"Actual Cost Initial Deposit" - If your Appeal is to be processed as an "actual cost" application, your money is deposited into an account and the reviewing staff records the time spent processing your application. Your account is then charged for the staff time at established hourly rates (\$63 to \$226/hr.). You are responsible for all charges made to the project account. If account funds are depleted an additional deposit will be required. If an additional deposit is required it must be paid to allow staff to continue processing. Any failure to pay the required deposit will result in suspension and possible termination of the review process. For more information on fees, please contact County Planning.

P201800375

### APPEAL APPLICATION

Complete all portions of this application. If you believe that an item does not apply to your appeal, mark it "N/A". Do not leave any blank spaces.

You may attach additional pages or other documentation to this application.

Project Action Date: 07/12/2018 (signed Ltr. 7/2/18)

File/Index #: N/A

Building Permit No.: Planning # P201800142

Project Applicant(s): Iqbal Hussain

Appellant's Name (s): Amer Sabbah

Appellant's Address: 30707 E. Sunset Dr. S.

City: Redlands Zip: 92373

Phone: (909) 583-4596 FAX No.: (909) 798-0938 E-Mail: asabbah3@aol.com

Assessor's Parcel No. of Subject Property: 0539-223-04

General Location of Property: Community of Neabury Springs (South East Corner of

Community/Area: Southeast Corner of Howard & Hacienda Rd.

1. I/We hereby appeal to the San Bernardino County: (check one)

**Planning Commission** from action by: (check one)

Director of Land Use Services

Division Chief of Environmental Health Services (EHS)

Director of Transportation/Flood Control/Surveyor

**Board of Supervisors** from action by the County Planning Commission.

**Chief Executive Officer** from action by the Directors of Land Use Services and Public Works.  
(Only for appeals of right-of-way dedication and/or street improvement waiver or modification decisions).

To be completed by County Staff: Filing Date: \_\_\_\_\_ Project No.: \_\_\_\_\_ JCS Project No.: \_\_\_\_\_

2. I/We are appealing the project action taken to:

- DENY the project/request
- APPROVE the project/request
- ADOPT a Negative Declaration
- DENY the project without prejudice
- APPROVE the project with conditions. (Attached a copy of the conditions, if they are the subject of the appeal).
- OTHER (specify) \_\_\_\_\_

3. Detail what is being appealed and what action or change you seek. Specifically address the findings, mitigation measure, conditions and/or policies with which you disagree. Also state exactly what action/changes you would favor.

*Proposed Driveway - Does not allow a third point of entry or intensification of the project. "Does not constitute an expansion."*

4. State why you are appealing. Be specific. Reference any errors or omissions. Attach any supporting documentation, including any Conditions of Approval that are being appealed.

*Could change traffic patterns/flow. Was not in initial studies. The effect of traffic flow on traffic property.*

I/We certify that I/we are the:

- Legal Owner(s)
- Authorized Legal Agent(s)
- Other Interested Person(s)

[Signature of Appellant(s)]

[Signature of Appellant(s)]

Date: *07-06-2018*



# Land Use Services Department Planning

Terri Rahhal  
Director

July 2, 2018

**Effective Date: July 12, 2018**  
**Expiration Date: July 12, 2021**

**Applicant**

Iqbal Hussain  
738 Descartes Avenue  
Henderson, NV 89002-8508

**Applicant Representative**

Greg Fritz  
5902 Highway 95, Suite 106  
Fort Mohave, Arizona 86426

**RE: REVISION TO AN APPROVED ACTION TO PROVIDE A VEHICULAR DRIVEWAY,  
PROJECT NUMBER: P201800142; APN; 0539-223-04**

Dear Mr. Hussain:

The Revision to an Approved Project has been **CONDITIONALLY APPROVED** by the San Bernardino County Planning Division subject to compliance with the attached Conditions of Approval. The conditions are categorized by a stage of development, indicating when the conditions must be completed, and by the Department or Agency requiring compliance.

The above-referenced Revision to an Approved Action has been determined to be in conformance with the County General Plan, and County Development Code. Moreover, based on staff's review of the proposed driveway the driveway does not constitute an expansion or intensification of the project approved on December 22, 2016, to develop a 4,341 square foot retail convenience store and fuel station and therefore does not rise to the level of significance as provided in Section 15162 (Subsequent EIR's & Negative Declaration), the initial study and mitigated negative declaration adopted at the time of the lead agency's determination on Project P201500299 continues to apply. This approval incorporates both the mitigation measures and updated Conditions of Approval. In the processing of the project, staff received an objection letter, raising concerns that the driveway could potentially impact the adjacent property. Based on staff's evaluation of the project's Conditions of Approval, it is staff's contention that the concerns raised in the letter have been satisfactorily addressed through the County's Land Development review process and by the assigned conditions.

The Planning Division considers your Conditions of Approval and site plan your final development criteria/design. This is not considered a conceptual design. Therefore, any modifications and/or alterations will require the submittal, review and approval of a "Revision to an Approved Action Application".

Pursuant to the San Bernardino County Development Code, any interested person may, within ten (10) days after the date of this notice, appeal in writing to the Planning Commission for consideration thereof. The appeal must be made in writing on forms available from the Public Information Counter.

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Revision to An Approved Action - Newbery Land Investment

Project No.: P201800142

Page 2

This approval shall become null and void if all conditions have not been satisfied or the use of the land has not taken place within thirty-six (36) months of the effective date of the conditional approval. Extensions of time, not to exceed twelve (12) months may be granted upon written application and the payment of the required fee to the County Planning Division not less than thirty (30) days prior to the date of the expiration. PLEASE NOTE: The expiration date is listed at the top of this letter and this is the only notice of that date. The applicant is responsible for initiating extension requests without any reminder.

If you have any questions or concerns regarding this matter, you may contact me directly at (909) 387-4387 or by e-mail at [reuben.arceo@lus.sbcounty.gov](mailto:reuben.arceo@lus.sbcounty.gov).

Sincerely,



Reuben J. Arceo, Contract Planner

RA/drp/mh

Attachments: Conditions of Approval  
Three (3) Sets of Stamp Approved Plans