



# LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

**HEARING DATE: November 21, 2024**

**AGENDA ITEM 3**

**Project Description**

**APN:** 3066-251-18  
**Applicant:** Tom Steeno  
**Community:** Phelan  
**Location:** Northeast corner of Sahara Road and Warbler Road, approximately 650 feet east of Sheep Creek Road  
**Project No:** PROJ-2022-00184  
**Staff:** Oliver Mujica  
**Rep:** Tom Steeno  
**Proposal:** Zoning Amendment from General Commercial to Rural Commercial, and Conditional Use Permit to construct and operate a public community park in two phases comprised of multi-purpose ball/play fields, pump track and skateboard area, equestrian area, dog parks, restrooms, and other associated features on 14.79 acres.



**32 Public Hearing Notices Sent on: November 7, 2024**

Report Prepared By: Oliver Mujica, Contract Planner III

**SITE INFORMATION:**

**Parcel Size:** Approximately 14.79 acres  
**Vegetation:** Scattered natural vegetation

**TABLE 1 – SITE AND SURROUNDING LAND USES AND ZONING:**

AREA	EXISTING LAND USE	LAND USE CATEGORY	LAND USE ZONING DISTRICT
SITE	Vacant	Commercial (C)	General Commercial (CG)
North	Phelan Elementary School and Vacant Properties	Commercial (C) and Public Facility (PF)	General Commercial (CG)
South	Single-Family Residence and Vacant Properties	Commercial (C)	General Commercial (CG)
East	Single-Family Residences and Vacant Properties	Low Density Residential (LDR)	Single Residential, 14,000 SF Minimum (RS-14M)
West	Phelan Community Center	Commercial (C)	General Commercial (CG)

	<u>Agency</u>	<u>Comment</u>
City Sphere of Influence:	N/A	N/A
Water Service:	Phelan Pinon Hills Community Service District	Will Serve
Sewer Service:	Private (OWTS)	N/A

**STAFF RECOMMENDATION:** That the Planning Commission recommends<sup>1</sup> the Board of Supervisors: **ADOPT** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; **ADOPT** the Findings in support of the Zoning Amendment and Conditional Use Permit; **APPROVE** an ordinance amending the Land Use Zoning District designation from General Commercial to Rural Commercial on 14.79 acres; **APPROVE** the Conditional Use Permit to construct and operate a public community park in two (2) phases comprised of multi-purpose ball/play fields, skateboard area, equestrian area, dog parks, restrooms, and other associated features on 14.79 acres, subject to the Conditions of Approval; and **DIRECT** the Land Use Services Department to file the Notice of Determination in accordance with CEQA.

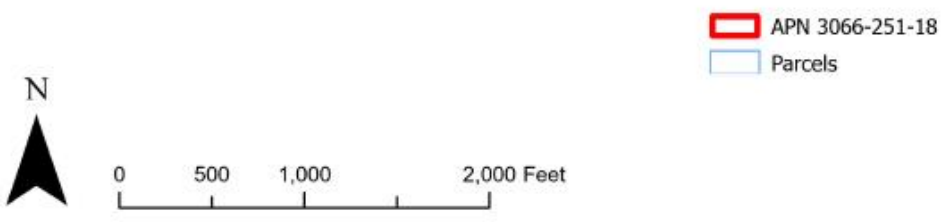
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<sup>1</sup> This is a recommendation item. A disapproval recommendation by the Planning Commission shall terminate the application unless appealed in compliance with Chapter 86.08.

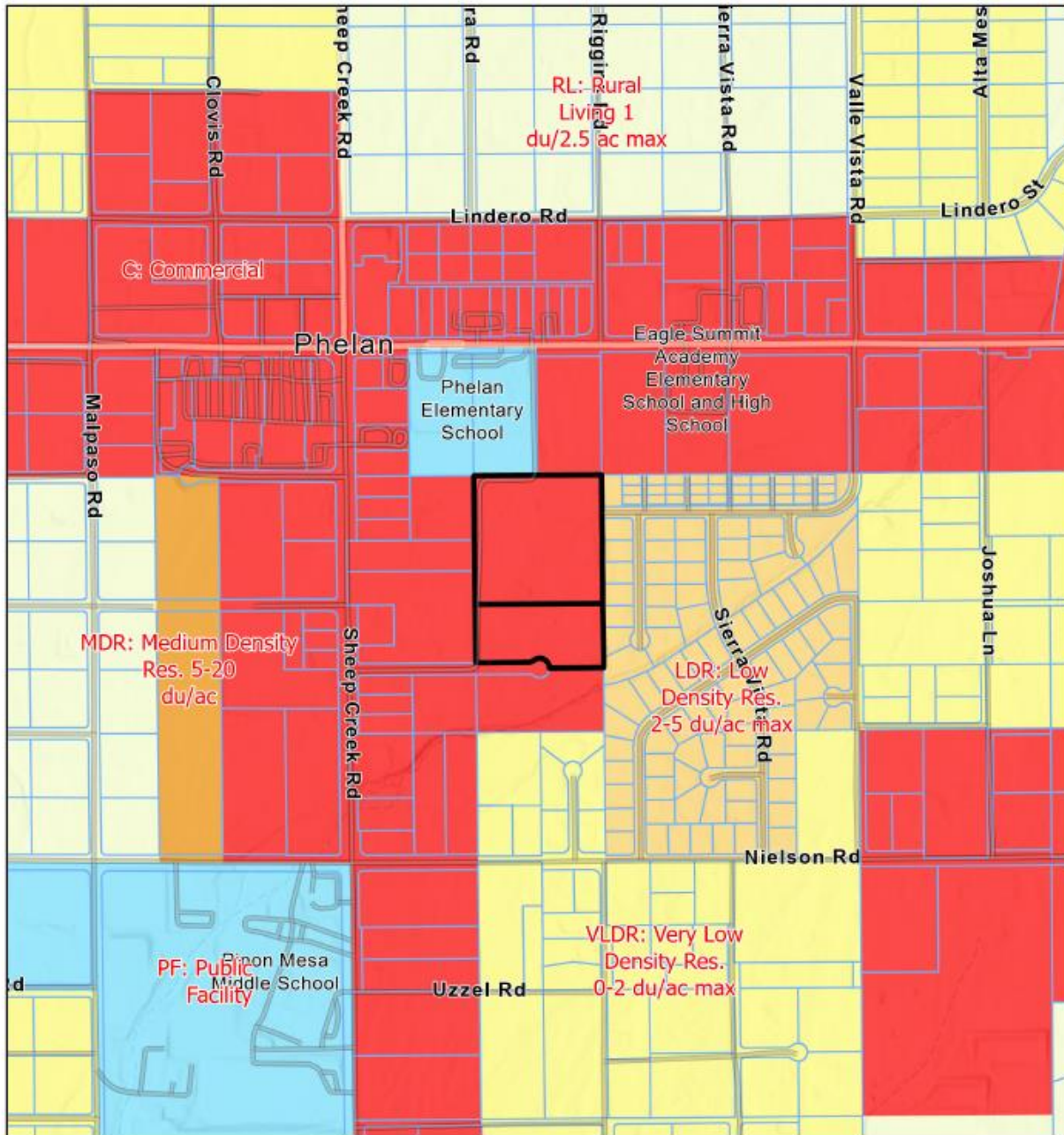
FIGURE 1 – VICINITY MAP



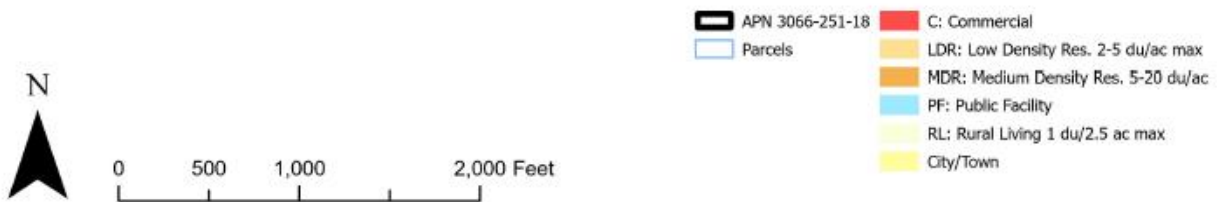
Vicinity Aerial Map



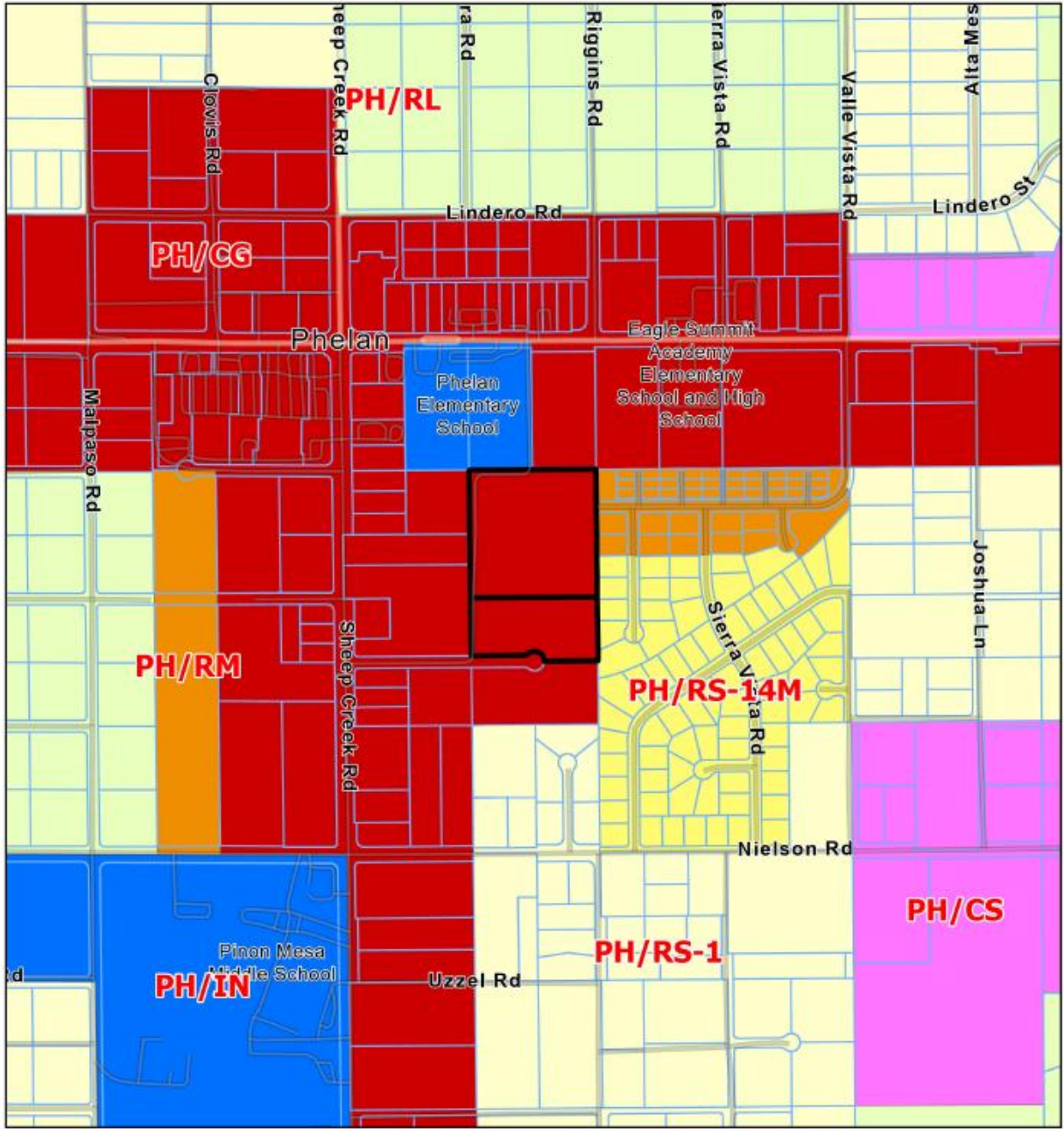
**FIGURE 2 – LAND USE CATEGORY MAP**



**Land Use Categories**



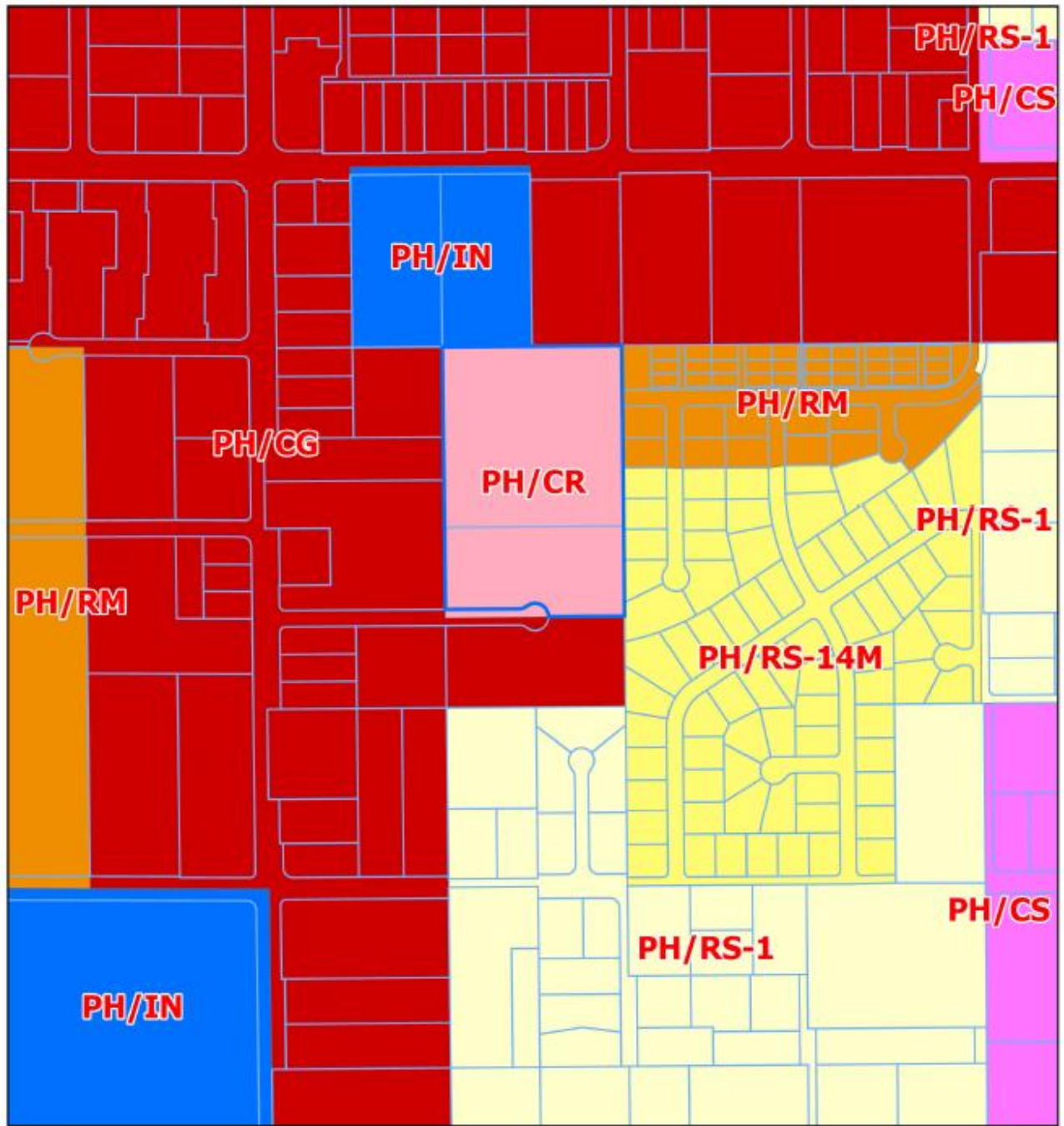
**FIGURE 3 – ZONING MAP (EXISTING)**



**Land Use Zoning Districts**



**FIGURE 4 – ZONING MAP (PROPOSED)**



**Land Use Zoning Districts**

PROJ-2022-00184 // PHELAN PINON HILLS PARK

<p>N</p> <p>Scale: 1:7,500</p> <p>0 250 500 1,000 Feet</p>	<p> PROJ-2022-00184</p> <p> Parcels</p> <p> PH/CG: Phelan/Pinon Hills/General Commercial</p> <p> PH/CR</p>	<p> PH/CS: Phelan/Pinon Hills/Service Commercial</p> <p> PH/IN: Phelan/Pinon Hills/Institutional</p> <p> PH/RM: Phelan/Pinon Hills/Multiple Residential</p>	<p> PH/RS-1: Phelan/Pinon Hills/Single Residential-1 ac min</p> <p> PH/RS-14M: Phelan/Pinon Hills/Single Residential-14,000 sf min</p>
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**FIGURE 5 - PROJECT SITE**  
View of site looking north from Sahara Road at Warbler Road



**FIGURE 6 - PROJECT SITE**  
View of site looking west from Sunrise Boulevard



**FIGURE 7 - PROJECT SITE**  
View of Sahara Road looking west

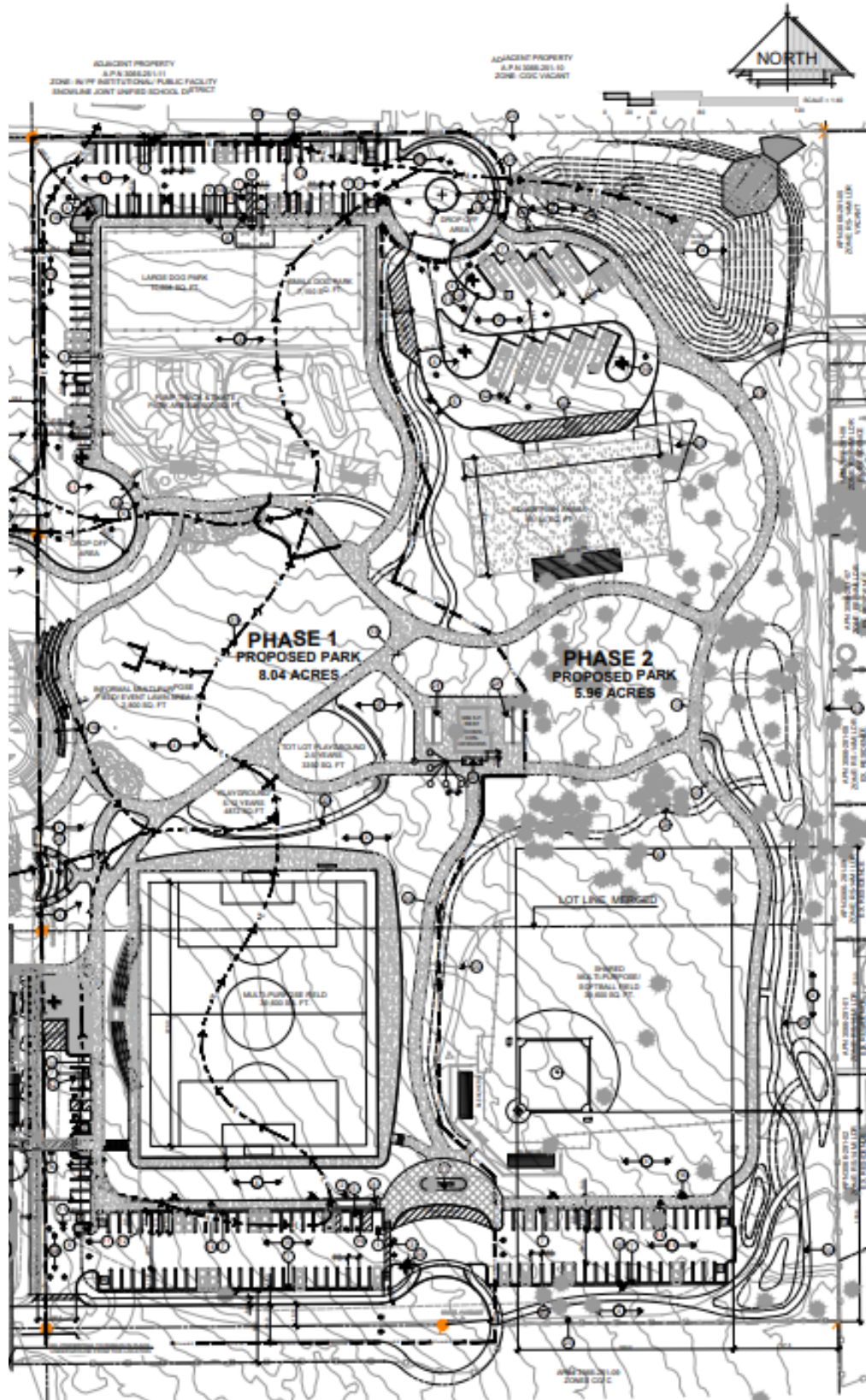


**FIGURE 8 - PROJECT SITE**  
View of Sahara Road looking east





FIGURE 9 – SITE PLAN



## **PROJECT DESCRIPTION AND BACKGROUND**

The Phelan Pinon Hills Community Services District (Applicant) requests approval of a Zoning Amendment of approximately 14.79 from the Commercial General (CG) to Rural Commercial (CR), and a Conditional Use Permit to construct and operate the proposed Phelan Pinon Hills Community Park. This community park will be developed in two (2) phases comprised of multi-purpose ball/play fields, pump track and skateboard area, equestrian area, dog parks, bicycle trails, restrooms, public parking, electric vehicle charging stations, and other associated features.

Development Code Section 82.01.020(c)(2)(A) states: “the Rural Commercial (CR) land use zoning district provides sites for retail trade and personal services, repair services, lodging services, recreation and entertainment services, transportation services, and similar and compatible uses.” Correspondingly, Section 82.05.040(b) states: “rural sports and recreation” is permitted within the Rural Commercial (CR) zoning district subject to the approval of a Conditional Use Permit.

## **PROJECT ANALYSIS.**

Land Use: The proposed community park will be funded by the Phelan Pinon Hills Community Services District and will be developed over two (2) phases.

Phase I: Construction of the first phase (8.04 acres) will commence within two (2) to three (3) years and is comprised of the following:

- Multi-Purpose Field (39,600 Square Feet)
- Informal Multi-Purpose Field Event Lawn Area (2,800 Square Feet)
- Playground 5-12 Years (4,872 Square Feet)
- Playground 2-5 Years (3,392 Square Feet)
- Pump track and Skate Park Area (26,000 Square Feet)
- Large Dog Park (10,608 Square Feet)
- Small Dog Park (7,150 Square Feet)
- Restrooms and Concessions Building (989 Square Feet)
- Bicycle Trails
- 137 Parking Spaces

Phase II: Construction of the second phase (5.96 acres) will commence within three (3) to six (6) years and is comprised of the following:

- Multi-Purpose/Softball Field (39,600 Square Feet)
- Equestrian Arena (16,154 Square Feet)
- Equestrian Vehicle Parking (9 Spaces)
- Bicycle Trails
- 43 Parking Spaces

Landscaping: Pursuant to Section 83.10.060(a)(4) of the Development Code, the required minimum landscaping area for the proposed community park is twenty (20) percent. Excluding the multi-purpose fields, the proposed community park provides a total landscaping area of approximately 178,812 square feet (29.3%) utilizing a xeriscape drought resistant design requiring low maintenance.

**Parking:** Pursuant to Section 83.11.040 (Number of Parking Spaces Required) of the Development Code, the required off-street parking for the proposed community park is 143 parking spaces. The proposed community park provides a total of 180 parking spaces, including twenty (20) electric vehicle charging stations.

**Code Compliance Summary:** The proposed project satisfies all applicable standards of the Development Code for development within the Rural Commercial (CR) zoning district, as illustrated on the site plan and in Table 2 below:

**Table 2: Project Code Compliance**

Project Component	Development Code		Project Plans
Rural Sports and Recreation	CUP		CUP
Parking	143 spaces		180 spaces
Landscaping (xeriscape)	Minimum Landscaping	20% (121,968 SF)	29.3% (178,812 SF)
Building Height	35 feet maximum		12 feet
Maximum Lot Coverage	80%		0.03%
Drive Aisles	26 Feet		26 Feet

**California Environmental Quality Act Compliance**

An Initial Study (IS) was prepared in compliance with the California Environmental Quality Act (CEQA) (Exhibit C). The IS concludes that the Project will not have a significant effect on the environment with implementation of mitigation measures related to the Project’s impacts on cultural resources and transportation/traffic. A Notice of Availability/Notice of Intent to adopt a Mitigated Negative Declaration (MND) was advertised and distributed for public review and comment for a 30-day period from August 29, 2023 through September 29, 2023. During the public review period, a letter from the California Department of Fish and Wildlife was received (Exhibit F); and their requested revisions to the mitigation measures have been included in the Mitigation Monitoring and Reporting Program (Exhibit B).

A lead agency may change or substitute a mitigation measure without recirculation of a MND when the agency concludes, as a result of the public review process, that a proposed mitigation measure is infeasible or otherwise undesirable and finds that the revised mitigation measure is equivalent or more effective in mitigated environmental impact than the original measure, or if the new information is added which merely clarifies, amplifies, or makes insignificant modification to the MND. The proposed changes to the existing measures would provide clarification on various aspects of MM BIO-2, -3 and -5 related to nesting birds, desert tortoise and listed species, and revise MM BIO-4 related to burrowing owl. A CEQA finding is included with the Project findings and concludes the changes and addition in mitigation measures are equivalent or more effective in mitigating environmental impacts as previously determined in the circulated MND and that the proposed changes do not itself cause any potentially significant effect. The modified mitigations measures have been updated and adopted as a condition of approval of the Project and made part of the Project’s MMRP. As a result, the changes and additions to the mitigation measures do not require recirculation of the MND.

A summary of recommended mitigation measures intended to reduce the Project’s impact on the environment to less than significant is contained in the IS/MND and incorporated into the Project’s Mitigation and Monitoring and Reporting Program (Exhibit B). The mitigation measures include the following:

**Mitigation Measure BIO-1:** A qualified biologist shall develop a Worker Environmental Awareness Program (WEAP) that will include information on general and special status species within the Project Site, identification of these species and their habitats, techniques being implemented during

construction to avoid impacts to species, consequences of killing or injuring an individual of a listed species, and reporting procedures when encountering listed or sensitive species. Construction crews, foremen, and other personnel potentially working on site will attend this education program and place their name on a sign-in sheet. The WEAP shall be submitted to the County for review prior to initiation of construction and shall include provisions of any requirements required for the project. The WEAP training will be implemented on the first day of work and periodically throughout construction as needed; verification will be as noted in the Mitigation Monitoring and Reporting Program.

Mitigation Measure BIO-2: Permittee shall ensure that impacts to nesting birds are avoided through the implementation of pre-maintenance surveys and the establishment of minimization measures such as buffering and monitoring as deemed appropriate by the Designated Biologist.

The Permittee shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species; conducting bird surveys using appropriate survey methodology; nesting survey techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficiency of implemented avoidance and mitigation measures.

The Project Site shall be surveyed for nesting birds by a qualified avian biologist (Designated Biologist) at the appropriate day/night, during appropriate weather conditions, no more than three (3) days prior to initiating the construction activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the property; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. Pre-maintenance surveys shall focus on both direct and indirect evidence of nesting, including nesting locations and nesting behavior (e.g., copulation, carrying food or nesting material, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction display, or other behaviors). If a nest is suspected, but not confirmed, the Designated Biologist(s) shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. Surveyors shall not risk failure of the nest to determine the exact location or status and will make every effort to limit the nest to potential predation as a result of the surveying/monitoring efforts (e.g., limit the number of surveyors, limit time spent at/near the nest, scan the site for potential nest predators before approaching, immediately depart nest area if indicators of stress or agitation are displayed). If a nest is observed, but thought to be inactive, the Designated Biologist(s) shall monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist(s) shall use their best professional judgement regarding monitoring period and whether approaching the nest is appropriate.

When an active nest is confirmed, the Designated Biologist(s) shall immediately establish a conservative buffer surrounding the nest based on their best professional judgement and experience. The buffer shall be delineated to ensure that its location is known by all persons working within the vicinity but shall not be marked in such a manner that it attracts predators. Once the buffer is established, the Designated Biologist(s) shall document baseline behavior, stage of reproduction, and existing site conditions, including vertical and horizontal distances from proposed work areas, visual or acoustic barriers, and existing level of disturbance. Following documentation of baseline conditions, the Designated Biologist(s) may choose to adjust the buffer based on site characteristics, stage of reproduction, and types of Project activities proposed at/near that location. The Designated Biologist(s) shall use his/her professional expertise to determine the frequency of monitoring required (based on the nest location, bird species, and identified maintenance activities) at the onset of any changes in Project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist(s)

determines that the Project activities may be causing an adverse reaction, the Designated Biologist(s) shall adjust the buffer accordingly.

The Designated Biologist(s) shall monitor existing nests, the efficacy of established buffers, and document any new nesting occurrences. The Designated Biologist(s) shall document the status of all existing nests, including the suspected stage of reproduction and the expected fledge date when this can be determined without endangering the nest by disturbance of alerting predators. If a nest is suspected to have been abandoned or failed prior to completion of maintenance activities, the Designated Biologist(s) shall use their professional expertise to determine the time necessary to monitor the nest for viability. CDFW recommends the Designated Biologist(s) monitor the nest for at least one hour (four hours for raptors), uninterrupted, during favorable field conditions. If no activity is observed during that time, the Designated Biologist(s) may approach the nest to assess the status. Permittee, under the direction of the Designated Biologist(s), may also take steps to discourage nesting on the Project site, including moving equipment and materials daily, covering materials with tarps or fabric, and securing all open pipes and construction materials. The Designated Biologist(s) shall ensure that none of the materials used propose an entanglement risk to birds or other species.

Mitigation Measure BIO-3: Desert Tortoise: Protocol-level presence absence surveys within the Project area, access route(s), staging area(s), stockpiles(s), and a 50-foot buffer zone for Desert Tortoise shall be conducted no more than three (3) days prior to new ground disturbance in accordance with Preparing for Any Action That May Occur Within the Range of the Mojave Desert Tortoise (USFWS 2019). Pre-construction surveys shall be completed using perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign, including tortoise remains, burrows, track, scat, or eggshells within the Project area and 50-foot buffer zone. Project surveys cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to construction start. If the pre-construction surveys confirm desert tortoise absence, the Designated Biologist(s) shall ensure desert tortoises do not enter the Project area. If the surveys or monitoring throughout the Project confirms presence, Permittee shall halt all activities that could result in impacts and notify CDFW immediately in writing. Regardless of the survey results, tortoises cannot be subject to take per the requirements of state and federal law. Handling or other inappropriate treatment of tortoises must be avoided until authorization is obtained from the USFWS and CDFW.

The surveys will be conducted by a qualified biologist, who shall be approved by the County and CDFW prior to the start of the surveys. Wildlife found on the site will be allowed to leave the site under their own power or relocated, where possible, to the nearest suitable habitat in the surrounding area. If any listed or special status wildlife species are found on the site during pre-construction surveys, an Authorized Permitted Biologist will relocate the species to suitable habitat outside the impact area, once CDFW has approved the proposed relocation activities. In addition, if any nesting birds are observed within the boundaries of the site, the appropriate buffers will be placed around the nest, where necessary.

Mitigation Measure BIO-4: Burrowing Owl: Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (>11 cm in diameter [height and width] and >150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.) If burrowing owls or suitable burrows and/or sign of burrowing owl are documented on-site, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be approved by CDFW

prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat.

The surveys will be conducted by a qualified biologist, who shall be approved by the County and CDFW prior to the start of the surveys. Wildlife found on the site will be allowed to leave the site under their own power or relocated, where possible, to the nearest suitable habitat in the surrounding area. If any listed or special status wildlife species are found on the site during pre-construction surveys, an Authorized Permitted Biologist will relocate the species to suitable habitat outside the impact area, once CDFW has approved the proposed relocation activities. In addition, if any nesting birds are observed within the boundaries of the site, the appropriate buffers will be placed around the nest, where necessary.

Mitigation Measure BIO-5: If any listed species (e.g., desert tortoise, Mohave ground squirrel, etc.) are observed on the site during ground disturbance activities, the project biologist shall have the right to halt all activities which may impact the species. Take of any Federal Endangered Species Act (FESA) and/or California Endangered Species Act (CESA) listed species is prohibited except as authorized by federal and/or state law. If a Project, including Project construction or any Project related activity during the life of this Project, results in the take of FESA and/or CESA-listed species, the Permittee shall seek appropriate authorization prior to Project implementation. This may include an incidental take permit (ITP) or a consistency determination (Fish and Game Code Section 2080.1 and 2081). Work shall proceed only after hazards to the State or federal listed species or other special-status species are removed by an Authorized Permitted Biologist and the species is no longer at risk as authorized by law. The project biologist and the Authorized Permitted Biologist will have copies of all of the compliance measures in their possession while work is being conducted onsite. During all on-site activities, project personnel will strictly adhere to the WEAP, BMPs, and additional impact and avoidance or minimization measures described in the permits issued for the project. Project personnel will respond to special status species encounters as directed in the Environmental Awareness Training Program.

Mitigation Measure BIO-6: For any Western Joshua Trees that would be removed, the Project Applicant shall obtain either an Incidental Take Permit (ITP) from California Department of Fish and Wildlife (CDFW) under §2081 of the California Endangered Species Act (CESA) or a permit under the Western Joshua Tree Conservation Act, whichever would be applicable at the time of the application. Mitigation would consist of either purchase of credits from an approved conservation bank at an agreed upon ratio or in accordance with the permit issued under the Western Joshua Tree Conservation Act. Implementation of the Mitigation and Monitoring Plan as detailed in the ITP.

Mitigation Measure BIO-7: Western Joshua Tree Avoidance and Minimization Measures: The Applicant will implement protection measures to address invasive species, fugitive dust, and erosion that may affect western Joshua trees that are retained on the site and those trees in the surrounding area. These measures will include:

- Invasive Species Control. Invasive species will be controlled in accordance with accepted practices and will include the regular trimming of weeds during the proposed development activities.
- Fugitive Dust Control. Dust suppression during ground disturbance activities will include frequent watering of the site during the construction phase.
- Erosion Control. Appropriate erosion and sedimentation control measures will be installed and maintained throughout the duration of the ground disturbance activities as required by the County.

Joshua Tree Relocation. The 28 Joshua trees which are suitable for transplanting will be boxed until they can be utilized for on-site landscaping and planted in an area of the property approved by CDFW where they will remain in perpetuity. In the event some of the trees need to be relocated off-

site, CDFW will be notified before any relocation activities occur. All relocation and transplanting activities will be conducted by a CDFW approved biologist or arborist, and a mitigation and monitoring plan is outlined below.

The Project Proponent shall coordinate with CDFW to estimate the compensatory cost required to provide adequate compensation for impacts to Joshua trees. The final total monetary mitigation fees will be determined through discussions with CDFW.

All Joshua tree relocation and removal activities will be conducted by an authorized biologist or arborist. Records of those trees relocated or removed will be documented and upon completion CDFW will be notified. If any Joshua trees in adjacent areas are destroyed or damaged during ground clearing or construction activities, the specifics of the impacts will be reported to CDFW within 24-hours.

Mitigation Measure BIO-8: The Applicant will implement any and all mitigation measures, monitoring requirements, and reporting requirements deemed necessary by the County and CDFW in order to demonstrate compliance and effectiveness of the mitigation measures presented in this Incidental Take Permit application.

Mitigation Measure BIO-9: The Applicant will ensure that adequate funding is available to implement the minimization and mitigation measures described in the ITP application, as well as funding for any monitoring compliance required. The Phelan Piñon Hills Community Services District will provide a statement declaring that it has set aside funds and will be willing to provide the funds for all required mitigation, long-term management and all associated mitigation measures described in the ITP.

Mitigation Measure CR-1: Should unanticipated or inadvertent surface and/or subsurface prehistoric or historic archaeological resources, built environment, and/or tribal cultural resources, appear to be encountered during construction or maintenance activity associated with this project, then all work must halt within a 100-foot radius of the discovery until a qualified professional can evaluate the discovery. If the finds are archaeological or historic in nature, then an archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and/or historic archaeology have evaluated the significance of the find. This archaeologist shall have the authority to modify the no-work radius as appropriate, using professional judgment. The following shall apply, depending on the nature of the find:

- A. If the professional archaeologist determines that the find does not represent a cultural resource, then work may resume immediately, and no agency notifications are required.
- B. If the professional archaeologist determines that the find does represent a cultural resource from any time or cultural affiliation then, depending on the nature of the discovery, appropriate treatment measures shall be developed.
- C. If the find represents a Native American or potentially Native American resource that does not include human remains, which may or may not include a Tribal Cultural Resource, then the archaeologist shall consult with appropriate Tribe[s] on whether or not the resource represents either a Tribal Cultural Resource or a Historical Resource, or both, and, if so, consult on appropriate treatment measures. Preservation in place is the preferred treatment, if feasible. Work cannot resume within the no-work radius until the County, through consultation as appropriate, determines that the site either: 1) is not a Tribal Cultural Resource or Historical Resource; or 2) that the treatment measures for the Tribal Cultural Resource or Historical Resource have been completed.

Mitigation Measure CR-2: If, at any time, evidence of human remains (or suspected human remains) are uncovered, the County Coroner must be contacted immediately and permitted to examine the find in situ. A buffer must be established around the find (minimum of 50 feet) and the consulting archaeologist must also be notified.

If the remains are determined to be of Native American origin, the Coroner will contact the Native American Heritage Commission and the Most Likely Descendant (MLD) will be named. In consultation with the MLD, the County, project proponent, and consulting archaeologist, the disposition of the remains will be determined. Any costs incurred will be the responsibility of the project proponent/property owner.

If the remains are determined to be archaeological, but non-Native American, the consulting archaeologist will oversee the removal, analysis, and disposition of the remains. Any costs incurred will be the responsibility of the project proponent/property owner.

If the remains are determined to be of forensic value, the County Coroner will arrange for their removal, analysis, and disposition. The Coroner's activities will not involve any costs to the project proponent/property owner.

**Mitigation Measure GEO-1:** If any inadvertent or unanticipated finds during construction activity appear to be paleontological in nature, then a qualified paleontological Principal Investigator shall evaluate the finds and prepare a Paleontological Mitigation and Monitoring Plan (PMMP). The PMMP shall be prepared in accordance with all appropriate California Environmental Quality Act (CEQA) and San Bernardino County guidelines. The PMMP shall then be adhered to for the remainder of any land disturbing activities for the project.

**Public Comments:**

On March 15, 2024, Project Notices were mailed to the thirty-four (34) surrounding property owners within 300 feet of the project site, as required by Section 85.03.080 of the Development Code. No public comments were received.

**RECOMMENDATION:** That the Planning Commission recommend that the Board of Supervisors take the following actions:

- 1) **ADOPT** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Exhibits A and B);
- 2) **ADOPT** the Findings in support of the Zoning Amendment and Conditional Use Permit (Exhibit C);
- 3) **APPROVE** an ordinance amending the Land Use Zoning District from Commercial General to Rural Commercial on the 14.79 acre site;
- 4) **APPROVE** the Conditional Use Permit to construct and operate a public community park in two phases comprised of multi-purpose ball/play fields, skateboard area, equestrian area, dog parks, restrooms, and other associated features on 14.79 acres, subject to the recommended Conditions of Approval (Exhibit F); and
- 5) **DIRECT** the Land Use Services Department to file the Notice of Determination in accordance with the California Environmental Quality Act.

**ATTACHMENTS:**

- EXHIBIT A: Mitigated Negative Declaration, link: [Initial Study.pdf](#)
- EXHIBIT B: Mitigation Monitoring and Reporting Program
- EXHIBIT C: Findings for Zoning Amendment and Conditional Use Permit
- EXHIBIT D: Conditions of Approval
- EXHIBIT E: Site Plan
- EXHIBIT F: Letter from California Department of Fish and Wildlife, dated October 2, 2023



Mitigation Monitoring and Reporting Program  
Initial Study/Mitigated Negative Declaration  
14-acre Phelan Pinon Hills Community Park Project

*Prepared by:*



**County of San Bernardino, Land Use Services Department**

385 N. Arrowhead Avenue, 1<sup>st</sup> Floor  
San Bernardino, California 92415-0182  
*Contact: Oliver Mujica, Contract Planner*

NOVEMBER 2024

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# 1 Introduction

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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 Phelan Pinon Hills Community Park 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, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, transportation, tribal cultural resources, utilities and service systems and wildfire.

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

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

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## 2 Mitigation Monitoring and Reporting Program Table

**Table 1 Mitigation Monitoring and Reporting Program**

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<b>Biological Resources</b>				
<p><b>BIO-1:</b> A qualified biologist shall develop a Worker Environmental Awareness Program (WEAP) that will include information on general and special status species within the Project Site, identification of these species and their habitats, techniques being implemented during construction to avoid impacts to species, consequences of killing or injuring an individual of a listed species, and reporting procedures when encountering listed or sensitive species. Construction crews, foremen, and other personnel potentially working on site will attend this education program and place their name on a sign-in sheet. The WEAP shall be submitted to the County for review prior to initiation of construction and upon completion of the Program. It shall include provisions of any requirements required for the project. The WEAP training will be implemented on the first day of work and periodically throughout construction as needed; verification will be as noted in the Mitigation Monitoring and Reporting Program.</p>	<p>Prior to or during initiation of construction at field meeting with contractor</p>	<p>Project applicant and contractor</p>	<p>San Bernardino County LUSD</p>	
<p><b>BIO-2:</b> Permittee shall ensure that impacts to nesting birds are avoided through the implementation of pre-maintenance surveys and the establishment of minimization measures such as buffering and monitoring as deemed appropriate by the Designated Biologist.</p> <p>The Permittee shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species; conducting bird surveys using appropriate survey methodology; nesting survey</p>	<p>No more than three (3) days prior to initiating the construction activities</p>	<p>Project applicant and qualified biologist</p>	<p>San Bernardino County LUSD</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficiency of implemented avoidance and mitigation measures.</p> <p>The Project Site shall be surveyed for nesting birds by a qualified avian biologist (Designated Biologist) at the appropriate day/night, during appropriate weather conditions, no more than three (3) days prior to initiating the construction activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the property; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. Pre-maintenance surveys shall focus on both direct and indirect evidence of nesting, including nesting locations and nesting behavior (e.g., copulation, carrying food or nesting material, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction display, or other behaviors). If a nest is suspected, but not confirmed, the Designated Biologist(s) shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. Surveyors shall not risk failure of the nest to determine the exact location or status and will make every effort to limit the nest to potential predation as a result of the surveying/monitoring efforts (e.g., limit the number of surveyors, limit time spent at/near the nest, scan the site for potential nest predators before approaching, immediately depart nest area if indicators of stress or agitation are displayed). If a nest is observed, but thought to be inactive, the Designated Biologist(s) shall</p>				

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>monitor the nest for one hour (four hours for raptors during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist(s) shall use their best professional judgement regarding monitoring period and whether approaching the nest is appropriate.</p> <p>When an active nest is confirmed, the Designated Biologist(s) shall immediately establish a conservative buffer surrounding the nest based on their best professional judgement and experience. The buffer shall be delineated to ensure that its location is known by all persons working within the vicinity but shall not be marked in such a manner that it attracts predators. Once the buffer is established, the Designated Biologist(s) shall document baseline behavior, stage of reproduction, and existing site conditions, including vertical and horizontal distances from proposed work areas, visual or acoustic barriers, and existing level of disturbance. Following documentation of baseline conditions, the Designated Biologist(s) may choose to adjust the buffer based on site characteristics, stage of reproduction, and types of Project activities proposed at/near that location. The Designated Biologist(s) shall use his/her professional expertise to determine the frequency of monitoring required (based on the nest location, bird species, and identified maintenance activities) at the onset of any changes in Project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist(s) determines that the Project activities may be causing an adverse reaction, the Designated Biologist(s) shall adjust the buffer accordingly.</p> <p>The Designated Biologist(s) shall monitor existing nests, the efficacy of established buffers, and document any new nesting occurrences. The Designated Biologist(s) shall document the status of all existing nests, including the suspected stage of reproduction and the expected</p>				



Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>fledge date when this can be determined without endangering the nest by disturbance of alerting predators. If a nest is suspected to have been abandoned or failed prior to completion of maintenance activities, the Designated Biologist(s) shall use their professional expertise to determine the time necessary to monitor the nest for viability. CDFW recommends the Designated Biologist(s) monitor the nest for at least one hour (four hours for raptors), uninterrupted, during favorable field conditions. If no activity is observed during that time, the Designated Biologist(s) may approach the nest to assess the status. Permittee, under the direction of the Designated Biologist(s), may also take steps to discourage nesting on the Project site, including moving equipment and materials daily, covering materials with tarps or fabric, and securing all open pipes and construction materials. The Designated Biologist(s) shall ensure that none of the materials used propose an entanglement risk to birds or other species.</p>				
<p><b>BIO-3 – Desert Tortoise:</b> Protocol-level presence absence surveys within the Project area, access route(s), staging area(s), stockpiles(s), and a 50-foot buffer zone for Desert Tortoise shall be conducted no more than three (3) days prior to new ground disturbance in accordance with <i>Preparing for Any Action That May Occur Within the Range of the Mojave Desert Tortoise</i> (USFWS 2019). Pre-construction surveys shall be completed using perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign, including tortoise remains, burrows, track, scat, or eggshells within the Project area and 50-foot buffer zone. Project surveys cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to construction start. If the pre-construction surveys confirm desert tortoise absence, the Designated Biologist(s) shall ensure</p>	<p>No more than two (2) days prior to initiating the construction activities</p>	<p>Project applicant and qualified biologist</p>	<p>San Bernardino County LUSD</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>desert tortoises do not enter the Project area. If the surveys or monitoring throughout the Project confirms presence, Permittee shall halt all activities that could result in impacts and notify CDFW immediately in writing. Regardless of the survey results, tortoises cannot be subject to take per the requirements of state and federal law. Handling or other inappropriate treatment of tortoises must be avoided until authorization is obtained from the USFWS and CDFW.</p> <p>The surveys will be conducted by a qualified biologist, who shall be approved by the County and CDFW prior to the start of the surveys. Wildlife found on the site will be allowed to leave the site under their own power or relocated, where possible, to the nearest suitable habitat in the surrounding area. If any listed or special status wildlife species are found on the site during pre-construction surveys, an Authorized Permitted Biologist will relocate the species to suitable habitat outside the impact area, once CDFW has approved the proposed relocation activities. In addition, if any nesting birds are observed within the boundaries of the site, the appropriate buffers will be placed around the nest, where necessary.</p>				
<p><b>BIO-4 – Burrowing Owl:</b> Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (&gt;11 cm in diameter [height and width] and &gt;150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.) If burrowing owls or suitable burrows and/or sign of burrowing owl are documented on-site, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing</p>	<p>No more than three (3) days prior to initiating the construction activities.</p> <p>If burrows are found, breeding season surveys for burrowing owl must be conducted (March 1 - August 31)</p>	<p>Project applicant and qualified biologist</p>	<p>San Bernardino County LUSD</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat.</p> <p>The surveys will be conducted by a qualified biologist, who shall be approved by the County and CDFW prior to the start of the surveys. Wildlife found on the site will be allowed to leave the site under their own power or relocated, where possible, to the nearest suitable habitat in the surrounding area. If any listed or special status wildlife species are found on the site during pre-construction surveys, an Authorized Permitted Biologist will relocate the species to suitable habitat outside the impact area, once CDFW has approved the proposed relocation activities. In addition, if any nesting birds are observed within the boundaries of the site, the appropriate buffers will be placed around the nest, where necessary.</p>				
<p><b>BIO-5:</b> If any listed species (e.g., desert tortoise, Mohave ground squirrel, etc.) are observed on the site during ground disturbance activities, the project biologist shall have the right to halt all activities which may impact the species. Take of any Federal Endangered Species Act (FESA) and/or California Endangered Species Act (CESA) listed species is prohibited except as authorized by federal and/or state law. If a Project, including Project construction or any Project related activity during the life of this Project, results in the take of FESA and/or CESA-listed species, the Permittee shall seek appropriate authorization prior to Project implementation. This may include an incidental take permit (ITP) or a consistency determination (Fish and Game Code Section 2080.1 and 2081). Work shall proceed only after hazards to</p>	<p>If any listed species encountered during construction</p>	<p>Contractor and qualified biologist</p>	<p>San Bernardino County LUSD</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>the State or federal listed species or other special-status species are removed by an Authorized Permitted Biologist and the species is no longer at risk as authorized by law. The project biologist and the Authorized Permitted Biologist will have copies of all of the compliance measures in their possession while work is being conducted onsite. During all on-site activities, project personnel will strictly adhere to the WEAP, BMPs, and additional impact and avoidance or minimization measures described in the permits issued for the project. Project personnel will respond to special status species encounters as directed in the Environmental Awareness Training Program.</p>				
<p><b>BIO-6:</b> For any Western Joshua Trees that would be removed, the Project Applicant shall obtain either an Incidental Take Permit (ITP) from California Department of Fish and Wildlife (CDFW) under §2081 of the California Endangered Species Act (CESA) or a permit under the Western Joshua Tree Conservation Act, whichever would be applicable at the time of the application. Mitigation would consist of either purchase of credits from an approved conservation bank at an agreed upon ratio or in accordance with the permit issued under the Western Joshua Tree Conservation Act. Implementation of the Mitigation and Monitoring Plan as detailed in the ITP.</p>	<p>Prior to issuance of grading permit</p>	<p>Applicant</p>	<p>San Bernardino County LUSD</p>	
<p><b>BIO-7:</b> Western Joshua Tree Avoidance and Minimization Measures: The Applicant will implement protection measures to address invasive species, fugitive dust, and erosion that may affect western Joshua trees that are retained on the site and those trees in the surrounding area. These measures will include:</p> <ul style="list-style-type: none"> <li>• Invasive Species Control. Invasive species will be controlled in accordance with accepted practices and will include the regular trimming of weeds during the proposed development activities.</li> </ul>	<p>Prior to issuance of grading permit</p>	<p>Applicant</p>	<p>San Bernardino County LUSD</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<ul style="list-style-type: none"> <li>• Fugitive Dust Control. Dust suppression during ground disturbance activities will include frequent watering of the site during the construction phase.</li> <li>• Erosion Control. Appropriate erosion and sedimentation control measures will be installed and maintained throughout the duration of the ground disturbance activities as required by the County.</li> </ul> <p>Joshua Tree Relocation. The 28 Joshua trees which are suitable for transplanting will be boxed until they can be utilized for on-site landscaping and planted in an area of the property approved by CDFW where they will remain in perpetuity. In the event some of the trees need to be relocated off-site, CDFW will be notified before any relocation activities occur. All relocation and transplanting activities will be conducted by a CDFW approved biologist or arborist, and a mitigation and monitoring plan is outlined below.</p> <p>The Project Proponent shall coordinate with CDFW to estimate the compensatory cost required to provide adequate compensation for impacts to Joshua trees. The final total monetary mitigation fees will be determined through discussions with CDFW.</p> <p>All Joshua tree relocation and removal activities will be conducted by an authorized biologist or arborist. Records of those trees relocated or removed will be documented and upon completion CDFW will be notified. If any Joshua trees in adjacent areas are destroyed or damaged during ground clearing or construction activities, the specifics of the impacts will be reported to CDFW within 24-hours.</p>				
<p><b>BIO-8:</b> The Applicant will implement any and all mitigation measures, monitoring requirements, and reporting requirements deemed necessary by the County and CDFW in order to demonstrate compliance</p>	<p>Prior to issuance of grading permit and throughout ground clearing</p>	<p>Applicant</p>	<p>San Bernardino County LUSD</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
and effectiveness of the mitigation measures presented in this Incidental Take Permit application.				
<p><b>BIO-9:</b> The Applicant will ensure that adequate funding is available to implement the minimization and mitigation measures described in the ITP application, as well as funding for any monitoring compliance required. The Phelan Piñon Hills Community Services District will provide a statement declaring that it has set aside funds and will be willing to provide the funds for all required mitigation, long-term management and all associates mitigation measures described in the ITP.</p>	Prior to issuance of grading permit	Applicant	San Bernardino County LUSD	
<b>Cultural Resources</b>				
<p><b>CR-1:</b> Should unanticipated or inadvertent surface and/or subsurface prehistoric or historic archaeological resources, built environment, and/or tribal cultural resources, appear to be encountered during construction or maintenance activity associated with this project, then all work must halt within a 100-foot radius of the discovery until a qualified professional can evaluate the discovery. If the finds are archaeological or historic in nature, then an archaeologist, meeting the Secretary of the Interior’s Professional Qualification Standards for prehistoric and/or historic archaeology have evaluated the significance of the find. This archaeologist shall have the authority to modify the no-work radius as appropriate, using professional judgment. The following shall apply, depending on the nature of the find:</p> <ul style="list-style-type: none"> <li>A. If the professional archaeologist determines that the find <i>does not</i> represent a cultural resource, then work may resume immediately, and no agency notifications are required.</li> <li>B. If the professional archaeologist determines that the find <i>does</i> represent a cultural resource from any time or cultural affiliation then, depending on the nature of the discovery, appropriate treatment measures shall be developed.</li> </ul>	During construction if archaeological resources uncovered	Project applicant and construction contractor	San Bernardino County LUSD	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>C. If the find represents a Native American or potentially Native American resource that does not include human remains, which may or may not include a Tribal Cultural Resource, then the archaeologist shall consult with appropriate Tribe[s] on whether or not the resource represents either a Tribal Cultural Resource or a Historical Resource, or both, and, if so, consult on appropriate treatment measures. Preservation in place is the preferred treatment, if feasible. Work cannot resume within the no-work radius until the County, through consultation as appropriate, determines that the site either: 1) is not a Tribal Cultural Resource or Historical Resource; or 2) that the treatment measures for the Tribal Cultural Resource or Historical Resource have been completed.</p>				
<p><b>CR-2:</b> If, at any time, evidence of human remains (or suspected human remains) are uncovered, the County Coroner must be contacted immediately and permitted to examine the find in situ. A buffer must be established around the find (minimum of 50 feet) and the consulting archaeologist must also be notified.</p> <p>If the remains are determined to be of Native American origin, the Coroner will contact the Native American Heritage Commission and the Most Likely Descendant (MLD) will be named. In consultation with the MLD, the County, project proponent, and consulting archaeologist, the disposition of the remains will be determined. Any costs incurred will be the responsibility of the project proponent/property owner.</p> <p>If the remains are determined to be archaeological, but non-Native American, the consulting archaeologist will oversee the removal, analysis, and disposition of the remains. Any costs incurred will be the responsibility of the project proponent/property owner.</p>	<p>During construction if human remains uncovered</p>	<p>Project applicant and construction contractor</p>	<p>San Bernardino County LUSD</p>	

Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>If the remains are determined to be of forensic value, the County Coroner will arrange for their removal, analysis, and disposition. The Coroner's activities will not involve any costs to the project proponent/property owner.</p>				
<b>Geology and Soils</b>				
<p><b>GEO-1:</b> If any inadvertent or unanticipated finds during construction activity appear to be paleontological in nature, then a qualified paleontological Principal Investigator shall evaluate the finds and prepare a Paleontological Mitigation and Monitoring Plan (PMMP). The PMMP shall be prepared in accordance with all appropriate California Environmental Quality Act (CEQA) and San Bernardino County guidelines. The PMMP shall then be adhered to for the remainder of any land disturbing activities for the project</p>				
<b>Tribal Cultural Resources</b>				
<p><b>TRC-1:</b></p> <ol style="list-style-type: none"> <li>1. The Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in CR-1, of any pre-contact and/or historic-era 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 YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site.</li> <li>2. Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall</li> </ol>	<p>During construction and if archaeological resources uncovered</p>	<p>Project applicant and construction contractor</p>	<p>San Bernardino County LUSD</p>	



Mitigation Measure	Implementation Timing	Party Responsible for Implementation	Party Responsible for Monitoring	Date of Completion/Notes
<p>be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.</p>				

**FINDINGS: ZONING AMENDMENT.** Zoning Amendment of approximately 14.79 acres (APN: 3066-251-18) from General Commercial (CG) to Rural Commercial (CR) for the Phelan Pinon Hills Community Park (Project). The following are the required findings per the San Bernardino County Development Code Section 86.12.060 and supporting facts for approval of the Zoning Amendment:

1. **The proposed amendment is internally consistent with all other provisions of the respective plan, the General Plan or an applicable specific plan.**

The Project includes a change that would re-designate the 14.79-acre site from General Commercial (CG) zoning district to Rural Commercial (CR) zoning district on the Zoning Map. Based on the evidence contained in the Project's supporting documents, the Zoning Amendment is internally consistent with and will further the goals and policies of the Countywide Plan, Policy Plan (General Plan) as further described below:

**Policy LU-2.1 Compatibility with Existing Uses**

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

Consistency: Considering site design features consistent with the previously approved improvements of the Phelan Pinon Hills Community Services District's facilities, the Project minimizes impacts on the surrounding land uses and adjacent neighborhoods.

**Policy LU-2.4 Land Use Map Consistency.**

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

Consistency: The Project maintains the parcel's conformance with the established Land Use Category of Commercial. The proposed Rural Commercial (CR) zoning is a consistent zoning designation under the Commercial Land Use Category. The development of the Project conforms with landscaping, parking, and performance standards that are identified in the San Bernardino County Development Code. The proposed Phelan Pinon Hills Community Park is an allowed use within the Rural Commercial (CR) zoning district subject to the approval of a Conditional Use Permit,

and the Project site plan identifies compliance with the San Bernardino County Development Code.

**Policy LU-4.5 Community Identity.**

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

Consistency: The residents of Phelan Pinon Hills aspire to encourage the development or expansion of commercial uses that are compatible with adjacent land uses and respect the existing positive characteristics of the community and its natural environment. By expanding upon the previously approved improvements of the Phelan Pinon Hills Community Services District's facilities, the Project continues to maintain the natural characteristics of the community while providing new recreational amenities for the surrounding residents.

**Policy LU-4.8 Public Gathering Spaces.**

We require the development of safe and attractive public gathering spaces that facilitate social interaction, community events, and physical activity in master planned communities, large residential developments, and large commercial developments.

Consistency: The residents of Phelan Pinon Hills encourage the development of parks to meet the recreational needs of the community. The Project includes the development of multi-purpose ball/play fields, equestrian area and other park-related associated features.

**2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County.**

The Zoning Amendment from General Commercial (CG) to Rural Commercial (CR) was analyzed through the preparation of an Initial Study and found not to have a significant impact on environment with the adoption of proposed mitigation measures. The Project will not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, safety, or welfare, or injurious to the property or improvements in the proposed plan area and its vicinity. The public interest will be served in that the Project will create a variety of recreational opportunities within the community. The environmental analysis also found the Project would not jeopardize or constitute a hazard to people, property or improvements in the vicinity given that future development will utilize and improve upon existing roadways and services offered to the surrounding area.

- 3. The proposed land use zoning district change is in the public interest, there will be a community benefit, and other existing and allowed uses will not be compromised.**

The Countywide Policy Plan currently designates this project area as Commercial, the Zoning Amendment from General Commercial (CG) to Rural Commercial, (CR) will bring the parcel into conformance with the established Commercial Land Use Category. The Project site is currently vacant, and there are no existing allowed uses within the vicinity of the Project site that will be compromised. The community benefit to having this area consistent with the Policy Plan will allow future development to provide recreational opportunities, which will fulfill the intent of the Policy Plan.

- 4. The proposed land use zoning district change will provide a reasonable and logical extension of the existing land use pattern in the surrounding area.**

The Project does not include a Land Use Category change. The Zoning Amendment will continue to fulfill the intent of the Policy Plan to establish this area as commercial, and therefore will provide a reasonable and logical extension of the existing Commercial Land Use Category.

- 5. The proposed land use zoning district change does not conflict with provisions of this Development Code.**

The Project will not conflict with provisions of the San Bernardino County Development Code. The Project was reviewed and determined to be compliant with the proposed Rural Commercial (CR) zoning district, and Conditions of Approval are included to safeguard continued compliance.

- 6. The proposed land use zoning district change will not have a substantial adverse effect on surrounding property.**

The Project has been analyzed and it has been determined through the preparation of an Initial Study and various technical studies that the Zoning Amendment and conditional use permit will not have a significant impact on the public health, safety, convenience, or welfare of the surrounding properties. Approval of the Zoning Amendment will not result in a reduction of public services to properties in the vicinity. Adequate public services and facilities exist or will be required to be upgraded to meet the needs of future development on the property and the proposal will be required to comply with applicable Countywide development standards and mitigation measures intended to minimize potentially adverse effects upon surrounding properties.

- 7. 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 would not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.**

The Project will not jeopardize or constitute a hazard to property or improvements in the vicinity, given that future development will improve upon the existing roadway system and existing public services. The proposed land use change will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area through compliance with San Bernardino County Development Code requirements. The application of existing San Bernardino County Development Code requirements to the Project development will ensure it will not have a significant impact on public and emergency vehicle access, public services, or utilities or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or welfare, or injurious to the property or improvements in the area.

**FINDINGS: CONDITIONAL USE PERMIT.** Conditional Use Permit to construct and operate a public community park comprised of multi-purpose ball/play fields, pump track and skateboard area, equestrian area, dog parks, restrooms, and other associated features on 14.79 acres (Project). The following are the required findings per the San Bernardino County Development Code Section 85.06.040 and supporting facts for approval of the Conditional Use Permits:

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

The Project is adequate in terms of shape and size to accommodate the required landscape standards, structure setbacks, and necessary on-site and off-site improvements. The Project in size is also able to accommodate adequate on-site circulation. The submitted Project plans show adequate design, parking, landscaping, circulation, access, and setbacks as shown in Table 2 of the Staff Report pursuant to the requirement of the San Bernardino County Development Code.

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

Access to the Project site from Sheep Creek Road will be provided via Sahara Road/Warbler Road. One parking lot entrance is located on the southern end of the Project site, and the other entrance is located on the northern end of the Project site, which will provide legal and physical access to the site. The Project's site plan has also been reviewed by the County's Land Use Services, Public Works, and the San Bernardino County Fire Protection District. On-site circulation drive aisles meet the San Bernardino County Fire Protection District standards.

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

The Project has been designed to comply with all applicable requirements of the San Bernardino County Development Code. The Conditions of Approval for the Project will ensure that the use will not become a nuisance or have a substantial adverse effect on abutting properties.

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

The Project includes the construction and operation of a 14.79-acre community park with associated recreational amenities. Based on the evidence contained in the Project's supporting documents, the Conditional Use Permit is internally consistent with and will further the goals and policies of the Countywide Plan, Policy Plan (General Plan) as further described below:

**Policy LU-2.1 Compatibility with Existing Uses**

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

Consistency: Considering features of the site design which is consistent with the previously approved improvements of the Phelan Pinon Hills Community Services

District's facilities, the Project minimizes impacts on the surrounding land uses and adjacent neighborhoods.

**Policy LU-2.4 Land Use Map Consistency.**

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

Consistency: The Zoning Amendment maintains the parcel's conformance with the established Commercial (C) Land Use Category. The Zoning Amendment of Rural Commercial (CR) is a consistent zoning designation under the Commercial Land Use Category. The development of the Project conforms with landscaping, parking, and performance standards that are identified in the San Bernardino County Development Code. The proposed Phelan Pinon Hills Community Park is an allowed use within the Rural Commercial (CR) zoning district subject to the approval of a Conditional Use Permit, and the Project site plan identifies compliance with San Bernardino County Development Code.

**Policy LU-4.5 Community Identity.**

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

Consistency: The residents of Phelan Pinon Hills aspire to encourage the development or expansion of commercial uses that are compatible with adjacent land uses and respect the existing positive characteristics of the community and its natural environment. By expanding upon the previously approved improvements of the Phelan Pinon Hills Community Services District's facilities, the Project continues to maintain the natural characteristics of the community while providing new recreational amenities for the surrounding residents.

**Policy LU-4.8 Public Gathering Spaces.**

We require the development of safe and attractive public gathering spaces that facilitate social interaction, community events, and physical activity in master planned communities, large residential developments, and large commercial developments.

Consistency: The residents of Phelan Pinon Hills encourage the development of parks to meet the recreational needs of the community. The Project includes the

development of multi-purpose ball/play fields, equestrian area and other park-related associated features.

**12. 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 applicant will be required to construct appropriate road improvements, both on-site and off-site, continue to provide adequate water services from Phelan Pinon Hills Community Services District, and continue to provide adequate utilities to the property in accordance with the Conditions of Approval.

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

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

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

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

**ENVIRONMENTAL FINDINGS:**

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

Pursuant to the requirements of the California Environmental Quality Act (CEQA), CEQA Guidelines and the San Bernardino County Environmental Review Guidelines, the above-referenced Project has been determined to not have a significant adverse impact on the environment with the implementation of all the required mitigation measures. A Mitigated Negative Declaration (MND) is adopted and a Notice of Determination will be filed in accordance with CEQA. Following public review of the MND, the County finds that changes to Mitigation Measures BIO-2, -3, and -5, related to nesting birds, desert tortoise and listed species, and a revision to MM BIO-4, related to burrowing owl, is appropriate. The changes and addition in the mitigation measures identified above are determined to be equivalent or more effective in mitigating environmental impacts as previously determined in the circulated MND and that the proposed changes do not itself cause any potentially significant effect. The modified mitigations measures have been updated and adopted as a condition of approval of the Project and made part of the Project's Mitigation Monitoring and Reporting Program. As a result, the changes and additions to the mitigation measures do not require recirculation of the MND. The MND, including the revisions



Findings  
Phelan Pinon Hills Community Park – November 21, 2024  
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**EXHIBIT C**

discussed herein, represents the independent judgment and analysis of the County acting as lead agency for the Project.

**END OF FINDINGS**



# Conditions of Approval

<b>Record:</b>	PROJ-2022-00184	<b>System Date:</b>	11/21/2024
<b>Record Type:</b>	Project Application	<b>Primary APN:</b>	3066251180000
<b>Record Status:</b>	In Review	<b>Application Name:</b>	PHELAN PINON HILLS CSD PARK CF- ZONE CHANGE CONDITIONAL USE PERMIT

**Effective Date:** \_\_\_\_\_ **Expiration Date:** \_\_\_\_\_

**Description:** ZONING AMENDMENT from General Commercial (CG) to Rural Commercial (CR), and CONDITIONAL USE PERMIT to construct and operate a public community park comprised of multi-purpose ball/play fields, skateboard area and pump track, equestrian area, dog parks, restrooms, and other associated features on 14.79 acres.

**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

- Project Approval Description (CUP/MUP)** - Status: Outstanding  
This Conditional Use Permit is conditionally approved to permit the development and operation of a community park to be constructed in two (2) phases, as follows: Phase I (8.04 acres) - Multi-Purpose Field, Informal Multi-Purpose Field Event Lawn Area, Playground 5-12 Years, Playground 2-5 Years, Pump track and Skate Park Area, Large Dog Park, Small Dog Park, Restrooms and Concessions Building, Bicycle Trails, and 137 Parking Spaces; and Phase II (5.96 acres) - Multi-Purpose/ Softball Field, Equestrian Arena, Equestrian Vehicle Parking, Bicycle Trails, and 43 Parking Spaces, 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 north of Warbler Road, approximately 660 feet east of Sheep Creek Road, which is adjacent to the east side of the existing Phelan Community Park and Phelan Pinon Hills Community Services District Office and property.

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 Conditional Use Permit approval for Phase I (Multi-Purpose Field, Informal Multi-Purpose Field Event Lawn Area, Playground 5-12 Years, Playground 2-5 Years, Pump track and Skate Park Area, Large Dog Park, Small Dog Park, Restrooms and Concessions Building, Bicycle Trails, and 137 Parking Spaces) shall expire and become void if it is not "exercised" within 36 months of the effective date of this approval, unless an extension of time is approved; and Phase II (Multi-Purpose/ Softball Field, Equestrian Arena, Equestrian Vehicle Parking, Bicycle Trails, and 43 Parking Spaces) shall expire and become void if it is not "exercised" within 72 months 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 **Continuous 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 **Extension of Time** - Status: Outstanding

Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval or site plan modifications. (SBCC §86.06.060)

9 **Project Account** - Status: Outstanding

The Project account number is PROJ-2022-00184. This is an actual cost project with a deposit account to which hourly charges are assessed by various county agency staff (e.g. Land Use Services, Public Works, and County Counsel). Upon notice, the "developer" shall deposit additional funds to maintain or return the account to a positive balance. The "developer" is responsible for all expense charged to this account. Processing of the project shall cease, if it is determined that the account has a negative balance and that an additional deposit has not been made in a timely manner. A minimum balance of \$1,000.00 must be in the project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use.

10 **Development Impact Fees** - Status: Outstanding

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

11 **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.

12 **Continuous 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.

13 **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

14 **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.

15 **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.

16 **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.

17 **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.

18 **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.

19 **GHG - Operational Standards** - Status: Outstanding

The developer shall implement the following as greenhouse gas (GHG) mitigation during the operation of the approved project: a. Waste Stream Reduction. The "developer" shall provide to all tenants and project employees County-approved informational materials about methods and need to reduce the solid waste stream and listing available recycling services. b. Vehicle Trip Reduction. The "developer" shall provide to all tenants and project employees County-approved informational materials about the need to reduce vehicle trips and the program elements this project is implementing. Such elements may include: participation in established ride-sharing programs, creating a new ride-share employee vanpool, designating preferred parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading for ride sharing vehicles with benches in waiting areas, and/or providing a web site or message board for coordinating rides. c. Provide Educational Materials. The developer shall provide to all tenants and staff education materials and other publicity about reducing waste and available recycling services. The education and publicity materials/program shall be submitted to County Planning for review and approval. The developer shall also provide to all tenants and require that the tenants shall display in their stores current transit route information for the project area in a visible and convenient location for employees and customers. d. Landscape Equipment. The developer shall require in the landscape maintenance contract and/or in onsite procedures that a minimum of 20% of the landscape maintenance equipment shall be electric-powered.

**Public Health– Environmental Health Services**20 **Noise Levels** - Status: Outstanding

Noise level shall be maintained at or below County Standards, Development Code Section 83.01.080.

21 **OWTS Maintenance** - Status: Outstanding

The onsite wastewater treatment system shall be maintained so as not to create a public nuisance and shall be serviced by an EHS permitted pumper.

22 **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 - Traffic**23 **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.

24 **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**25 **F01 Jurisdiction** - Status: Outstanding

The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein "Fire Department". Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances, and standards of the Fire Department.

26 **F04 Fire Permit Expiration** - Status: Outstanding

Construction permits shall automatically expire and become invalid unless the work authorized 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 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 permit may be made in writing PRIOR TO the expiration date justifying the reason that the permit should be extended.

27 **F70 Additional Requirements** - Status: Outstanding

In addition to the Fire requirements stated herein, other onsite and off-site improvements may be required which cannot be determined at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office. 1. Buildings less than 5,000 sq.ft. will not require sprinklers 2. Fire Hydrants to be spaced no further than 300' to all buildings being protected per Standard W-2 3. 1500 GPM @20psi for 2 hrs. will be the required Fire Flow

28 **F71 Proposal Changes** - Status: Outstanding

Any changes to this proposal shall require new Fire Department condition letter.

## Public Works - Solid Waste Management

29 **Community Service District Hauler Service Area** - Status: Outstanding

This project falls within the Phelan Pinon Hills Community Service District. If subscribing for the collection and removal of construction and demolition waste from the project site, all developers, contractors, and subcontractors should comply with the Solid Waste collection requirements prescribed through the Phelan Pinon Hills Community Service District. Additionally, all owners/occupants of a dwelling or a commercial or industrial unit within the area shall, upon notice thereof, be required to accept the solid waste handling and collection requirements set forth by the Community Service District.

30 **Demolition Debris** - Status: Outstanding

San Bernardino County owned and operated sanitary landfills and transfer stations are not permitted to accept asbestos contaminated wastes, therefore any debris generated by the demolition of structures are subject to asbestos clearance prior to disposal at any San Bernardino County disposal sites. Applicants are required to have a Certified Asbestos Consultant perform testing of all materials to be disposed. Upon receipt of the Consultant's report, indicating that the debris is not contaminated, Solid Waste Management Operations Section will provide applicant with disposal authorization. For more information on Certified Asbestos Consultants please visit <http://www.dir.ca.gov/databases/doshacru/acruList.asp>, or for information on County requirements please contact Solid Waste Operations at 909-386-8701 or [solid.wastemail@dpw.sbcounty.gov](mailto:solid.wastemail@dpw.sbcounty.gov).

31 **Recycling and Organic Waste Collection Container Information** - Status: Outstanding

California Assembly Bill (AB) 827 and Senate Bill (SB) 1383 require businesses that sell products meant for immediate consumption and currently provide trash collection containers for their customers to provide recycling and/or organics collection containers adjacent to trash containers at front-of-house, except in restrooms. Full-service restaurants are exempt from these requirements as long as they provide containers for employees to separate post-consumer recyclables and organic waste purchased on the premise for customers.

32 **Recycling Storage Capacity** - Status: Outstanding

The developer shall provide adequate space and storage bins for both refuse and recycling materials. This requirement is to assist the County in compliance with the recycling requirements of California Assembly Bill (AB) 2176.

## PRIOR TO LAND DISTURBANCE

### Land Use Services - Planning

#### 33 **Air Quality** - Status: Outstanding

Although the Project does not exceed Mojave Desert Air Quality Management District thresholds, the Project proponent is required to comply with all applicable rules and regulations as the Mojave Desert Air Quality Management District is in non-attainment status for ozone and suspended particulates [PM10 and PM2.5 (State)]. To limit dust production, the Project proponent must comply with Rules 402 nuisance and 403 fugitive dust, which require the implementation of Best Available Control Measures for each fugitive dust source. This would include, but not be limited to, the following Best Available Control Measures. Compliance with Rules 402 and 403 are mandatory requirements and thus not considered mitigation measures: a. The Project proponent shall ensure that any portion of the site to be graded shall be pre-watered prior to the onset of grading activities. 1. The Project proponent shall ensure that watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading. Portions of the site that are actively being graded shall be watered to ensure that a crust is formed on the ground surface, and shall be watered at the end of each workday. 2. The Project proponent shall ensure that all disturbed areas are treated to prevent erosion. 3. The Project proponent shall ensure that all grading activities are suspended when winds exceed 25 miles per hour. b. Exhaust emissions from vehicles and equipment and fugitive dust generated by equipment traveling over exposed surfaces, will increase NOX and PM10 levels in the area. Although the Project will not exceed Mojave Desert Air Quality Management District thresholds during operations, the Project proponent will be required to implement the following requirements: 1. All equipment used for grading and construction must be tuned and maintained to the manufacturer's specification to maximize efficient burning of vehicle fuel. 2. The operator shall maintain and effectively utilize and schedule on-site equipment and on-site and off-site haul trucks in order to minimize exhaust emissions from truck idling.

#### 34 **Diesel Regulations** - Status: Outstanding

The operator shall comply with all existing and future California Air Resources Board and Mojave Desert Air Quality Management District regulations related to diesel-fueled trucks, which among others may include: (1) meeting more stringent emission standards; (2) retrofitting existing engines with particulate traps; (3) use of low sulfur fuel; and (4) use of alternative fuels or equipment. Mojave Desert Air Quality Management District rules for diesel emissions from equipment and trucks are embedded in the compliance for all diesel fueled engines, trucks, and equipment with the statewide California Air Resources Board Diesel Reduction Plan. These measures will be implemented by the California Air Resources Board in phases with new rules imposed on existing and new diesel-fueled engines.

#### 35 **GHG - Construction Standards** - Status: Outstanding

The developer shall submit for review and obtain approval from County Planning of a signed letter agreeing to include as a condition of all construction contracts/subcontracts requirements to reduce GHG emissions and submitting documentation of compliance. The developer/construction contractors shall do the following: a) Implement the approved Coating Restriction Plans. b) Select construction equipment based on low GHG emissions factors and high-energy efficiency. All diesel/gasoline-powered construction equipment shall be replaced, where possible, with equivalent electric or CNG equipment. c) Grading contractor shall provide and implement the following when possible: - training operators to use equipment more efficiently. - identifying the proper size equipment for a task can also provide fuel savings and associated reductions in GHG emissions. - replacing older, less fuel-efficient equipment with newer models. - use GPS for grading to maximize efficiency. d) Grading plans shall include the following statements: - "All construction equipment engines shall be properly tuned and maintained in accordance with the manufacturers specifications prior to arriving on site and throughout construction duration." - "All construction equipment (including electric generators) shall be shut off by work crews when not in use and shall not idle for more than 5 minutes." e) Schedule construction traffic ingress/egress to not interfere with peak-hour traffic and to minimize traffic obstructions. Queuing of trucks on and off site shall be firmly discouraged and not scheduled. A flagperson shall be retained to maintain efficient traffic flow and safety adjacent to existing roadways. f) Recycle and reuse construction and demolition waste (e.g. soil, vegetation, concrete, lumber, metal, and cardboard) per County Solid Waste procedures. g) The construction contractor shall support and encourage ridesharing and transit incentives for the construction crew and educate all construction workers about the required waste reduction and the



- 36 **Mitigation Measures** - Status: Outstanding  
Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to grading permit issuance.
- 37 **Joshua Tree Relocation Plan** - Status: Outstanding  
The developer shall submit and have approved by the Planning Division a relocation plan for Joshua Trees within the developed site area. The relocation plan shall be accompanied with certification from a certified arborist, registered professional forester or a Desert Native Plant Expert that the proposed tree removal, replacement, or revegetation activities are appropriate, supportive of a healthy environment, and are in compliance with Chapter 88.01 of the San Bernardino County Development Code. The certification shall include the information in compliance with Department procedures. Transplantation onsite shall be the primary method of addressing a Joshua Tree removals from the subject property

### **Land Use Services - Building and Safety**

- 38 **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.
- 39 **Wall Plans** - Status: Outstanding  
Submit plans and obtain separate building permits for any required retaining walls.

### **Public Health– Environmental Health Services**

- 40 **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.

### **Public Works - Surveyor**

- 41 **Corner Records Required Before Grading** - Status: Outstanding  
Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances: a. Monuments set to mark property lines or corners; b. Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel; c. Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey.
- 42 **Monument Disturbed by Grading** - Status: Outstanding  
If any activity on this project will disturb ANY land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying PRIOR to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor pursuant to Section 8771(b) Business and Professions Code.

## PRIOR TO BUILDING PERMIT ISSUANCE

### Land Use Services - Planning

- 43 **Mitigation Measures** - Status: Outstanding  
Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to building permit issuance
- 44 **Signs** - Status: Outstanding  
All proposed on-site signs shall be shown on a separate plan, including location, scaled and dimensioned elevations of all signs with lettering type, size, and copy. Scaled and dimensioned elevations of buildings that propose signage shall also be shown. The applicant shall submit sign plans to County Planning for all existing and proposed signs on this site. The applicant shall submit for approval any additions or modifications to the previously approved signs. All signs shall comply with SBCC Chapter 83.13, Sign Regulations, SBCC §83.07.040, Glare and Outdoor Lighting Mountain and Desert Regions, and SBCC Chapter 82.19, Open Space Overlay as it relates to Scenic Highways (§82.19.040), in addition to the following minimum standards: a. All signs shall be lit only by steady, stationary shielded light; exposed neon is acceptable. b. All sign lighting shall not exceed 0.5 foot-candle. c. No sign or stationary light source shall interfere with a driver's or pedestrian's view of public right-of-way or in any other manner impair public safety. d. Monument signs shall not exceed four feet above ground elevation and shall be limited to one sign per street frontage.

### County Fire - Community Safety

- 45 **F02 Fire Fee** - Status: Outstanding  
The required fire fees shall be paid to the San Bernardino County Fire Department/Community Safety Division.
- 46 **F09 Building Plans** - Status: Outstanding  
Building Plans shall be submitted to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.
- 47 **F19 Surface** - Status: Outstanding  
Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities. Road surface shall meet the approval of the Fire Chief prior to installation. All roads shall be designed to 85% compaction and/or paving and hold the weight of Fire Apparatus at a minimum of 80K pounds.
- 48 **F22 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.
- 49 **F23 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.

### Land Use Services - Building and Safety

- 50 **Construction Plans** - Status: Outstanding  
Any building, sign, or structure to be added to, altered (including change of occupancy/use), constructed, or located on site, will require professionally prepared plans based on the most current adopted County and California Building Codes, submitted for review and approval by the Building and Safety Division.

51 **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.

**Public Health– Environmental Health Services**52 **California Regional Water Quality Control Board Clearance** - Status: Outstanding

Written clearance shall be obtained from the designated California Regional Water Quality Control Board (listed below) and a copy forwarded to the Division of Environmental Health Services for projects with design flows greater than 10,000 gallons per day. Lahontan Region, 15095 Amargosa Road Bldg 2 Suite 210 Victorville, CA 92392.

53 **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.

54 **Existing OWTS** - Status: Outstanding

Existing onsite wastewater treatment system can be used if applicant provides an EHS approved certification that indicates the system functions properly, meets code, has the capacity required for the proposed project, and meets LAMP requirements.

55 **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.

56 **New OWTS** - Status: Outstanding

If sewer connection and/or service are unavailable, onsite wastewater treatment system(s) may then be allowed under the following conditions: a. A soil percolation report shall be submitted to EHS for review and approval. For information, please contact the Wastewater Section at (800) 442-2283. b. An Alternative Treatment System, if applicable, shall be required.

57 **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.

58 **Sewage Disposal** - Status: Outstanding

Method of sewage disposal shall be sewer service provided by an EHS approved onsite wastewater treatment system (OWTS) that conforms to the Local Agency Management Program (LAMP).

59 **Water Purveyor** - Status: Outstanding

Water purveyor shall be Phelan Pinon Hills CSD or EHS approved.

60 **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**

61 **Construction Waste Management Plan (CWMP) Part 1** - Status: Outstanding

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

## PRIOR TO OCCUPANCY

### Land Use Services - Planning

- 62 **Fees Paid** - Status: Outstanding  
Prior to final inspection by Building and Safety Division and/or issuance of a Certificate of Conditional Use by the Planning Division, the applicant shall pay in full all fees required under actual cost job number PROJ-2022-00184.
- 63 **Installation of Improvements** - Status: Outstanding  
All required on-site improvements shall be installed per approved plans.
- 64 **Landscaping/Irrigation** - Status: Outstanding  
All landscaping, dust control measures, all fences, etc. as delineated on the approved Landscape Plan shall be installed. The developer shall submit the Landscape Certificate of Completion verification as required in SBCC Section 83.10.100. Supplemental verification should include photographs of the site and installed landscaping.
- 65 **Mitigation Measures** - Status: Outstanding  
Please see Mitigation Monitoring and Reporting Program for mitigation measures to be completed prior to occupancy permit issuance
- 66 **Screen Rooftop** - Status: Outstanding  
All roof top mechanical equipment is to be screened from ground vistas.
- 67 **Shield Lights** - Status: Outstanding  
Any lights used to illuminate the site shall include appropriate fixture lamp types as listed in SBCC Table 83-7 and be hooded and designed so as to reflect away from adjoining properties and public thoroughfares and in compliance with SBCC Chapter 83.07, "Glare and Outdoor Lighting" (i.e. "Dark Sky Ordinance).
- 68 **Condition Compliance** - Status: Outstanding  
Prior to occupancy/use, all conditions shall be completed to the satisfaction of County Planning with appropriate authorizing approvals from each reviewing agency.
- 69 **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

- 70 **F06 Inspection by Fire Department** - Status: Outstanding  
Permission to occupy or use the building (Certification of Occupancy or Shell Release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".

## County Fire - Hazardous Materials

- 71 **Permit Required** - Status: Outstanding  
 Prior to occupancy, a business or facility that handles hazardous materials in quantities at or exceeding 55 gallons, 500 pounds, or 200 cubic feet (compressed gas) at any one time or generates any amount of hazardous waste shall obtain hazardous material permits from this department. Prior to occupancy, the business operator shall apply for permits (Hazardous Material Handler Permit, Hazardous Waste Generator Permit, Aboveground Petroleum Storage Tank Permit, Underground Storage Tank Permit, or other applicable permits) by submitting a complete hazardous materials business plan using the California Environmental Reporting System (CERS) at <http://cers.calepa.ca.gov/> or apply for exemption from permitting requirements. Contact the Office of the Fire Marshal, Hazardous Materials Section at (909) 386-8401 or visit <https://sbcfire.org/hazmatcupa/> for more information.
- 72 **Petroleum Product Storage** - Status: Outstanding  
 Prior to occupancy, a business or facility handling an aggregate storage capacity of 1,320 gallons or more of petroleum in aboveground storage containers or tanks with a shell capacity equal to or greater than 55 gallons shall prepare and implement a Spill Prevention, Control, and Countermeasure (SPCC) Plan in accordance with 40 CFR 1 112.3 and CHSC 25270.4.5(a). The SPCC plan shall be maintained on site. Contact the Office of the Fire Marshal, Hazardous Materials Section at (909) 386-8401 or visit <https://sbcfire.org/apsa/> for more information.

## Land Use Services - Building and Safety

- 73 **Condition Compliance Release Form Sign-off** - Status: Outstanding  
 Prior to occupancy all Department/Division requirements and sign-offs shall be completed.

## Public Works - Solid Waste Management

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

## Public Works - Traffic

- 75 **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 coordination plan.

## PRIOR TO RECORDATION

### County Fire - Community Safety

76 **F16 Access** - Status: Outstanding

The development shall have a minimum of two points of vehicular access. These are for fire/emergency equipment access and for evacuation routes. a. Single Story Road Access Width. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty-six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. b. Multi-Story Road Access Width. Fire apparatus access roadways serving buildings that are three (3) or more stories or thirty (30) feet or more in height shall be a minimum of thirty (30) feet in unobstructed width and vertically to fourteen (14) feet six (6) inches in height.

## PRIOR TO FINAL INSPECTION

### County Fire - Community Safety

77 **F25 Street Sign** - Status: Outstanding

This project is required to have an approved street sign (temporary or permanent). The street sign shall be installed on the nearest street corner to the project. Installation of the temporary sign shall be prior any combustible material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed.

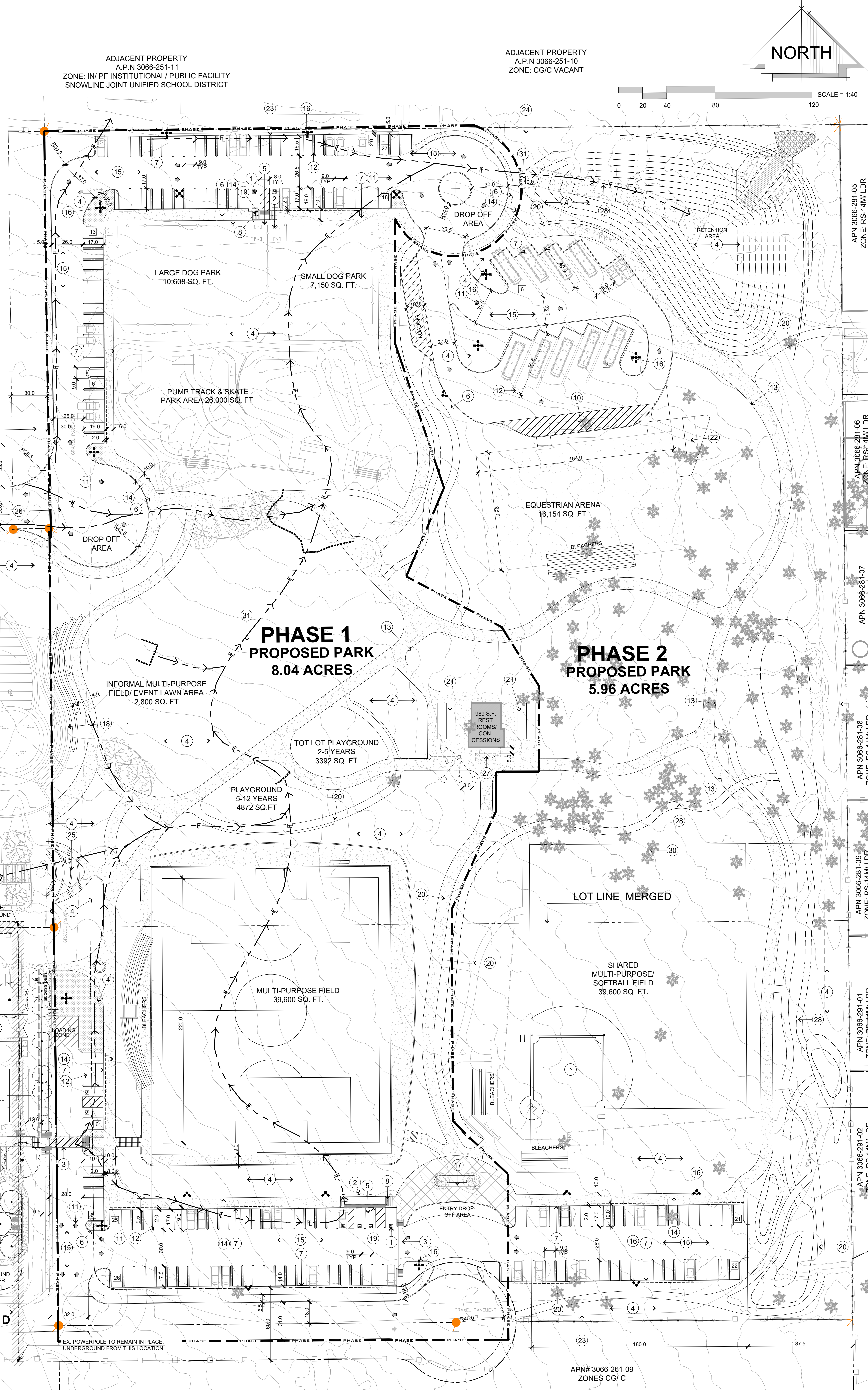
If you would like additional information regarding any of the conditions in this document, please contact the department responsible for applying the condition and be prepared to provide the Record number above for reference. Department contact information has been provided below.

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	<a href="https://lus.sbcounty.gov/">https://lus.sbcounty.gov/</a>	
County Fire	San Bernardino Govt. Center	(909) 387-8400
(Community Safety)	High Desert Govt. Center	(760) 995-8190
Web Site	<a href="https://www.sbcounty.gov/">https://www.sbcounty.gov/</a>	
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	<a href="https://dpw.sbcounty.gov/">https://dpw.sbcounty.gov/</a>	
Dept. of Public Health	Environmental Health Services	(800) 442-2283
Web Site	<a href="https://dph.sbcounty.gov/programs/ehs/">https://dph.sbcounty.gov/programs/ehs/</a>	
Local Agency Formation Commission (LAFCO)		(909) 388-0480
Web Site	<a href="http://www.sbclafco.org/">http://www.sbclafco.org/</a>	
	Water and Sanitation	(760) 955-9885
	Administration,	
	Park and Recreation,	
Special Districts	Roads, Streetlights,	(909) 386-8800
	Television Districts, and Other	
External Agencies (Caltrans, U.S. Army, etc.)	See condition text for contact information...	

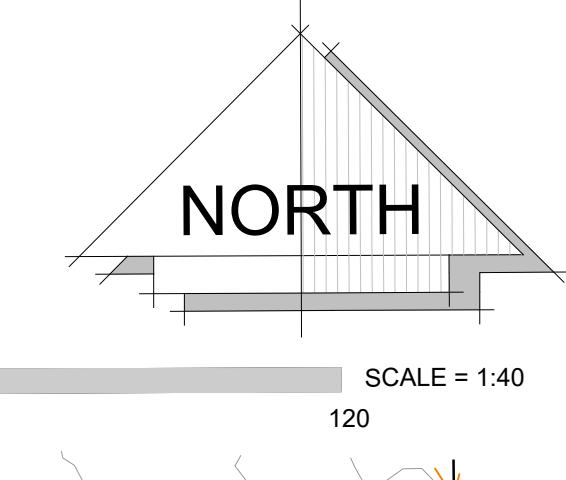


KEYED NOTES		
#	DESCRIPTION	SYMBOL
1	VAN ACCESSIBLE PARKING SPACE W/ ACCESSIBILITY STALL EMBLEM PAINTED AS SHOWN	
2	DISABLED ACCESSIBLE PARKING ONLY SIGN	
3	4" WIDE ACCESSIBILITY ACCESS W/ BLUE STRIPES	
4	LANDSCAPED AREA	
5	TRUNCATED DOMES 3" DEEP X WIDTH OF RAMP OR LANDING	
6	6" WIDE CONCRETE CURB	
7	6" WIDE CONCRETE CURB W/ 2" PARKING NOSE OVER	
8	ACCESSIBLE RAMP NOT TO EXCEED 8% SL IN DIRECTION OF RUN & 2% MAX CROSS SL	
9	WARNING SIGNAGE REGARDING UNAUTHORIZED USE OF DISABLED PARKING SPACES	
10	STRIPED LOADING ZONE	
11	TRAFFIC FLOW DIRECTIONAL ARROWS PAINTED ON PAVING AS SHOWN ON PLAN	
12	DOUBLE STRIPED PAINTED PARKING STALL STRIPE	
13	4" NOMINAL THICK CONCRETE WALKWAY W/ 5% MAX. SLOPE & 2% CROSS SLOPE	
14	PROPOSED CONC. SIDEWALK	
15	PROPOSED CONCRETE OR A.C. PAVING PER GEO-TECH REPORT	
16	20' HIGH SITE LIGHT STANDARD	
17	PROPOSED MONUMENT SIGN 4' HIGH & 36SQ. FT. MAX UNDER SEPARATE PERMIT	
18	TERRACE SEATING W/ RETAINING WALL, HEIGHT VARIES. SEE GRADING PLANS	
19	CONC. WHEEL STOP AT A.D.A. PARKING SPACE	
20	6 FT. WIDE BIKE TRAILS	
21	SHADE COVER STRUCTURE W/ PICNIC TABLES	
22	SHADE SHELTER/ STAGING AREA	
23	EXISTING FENCE TO REMAIN	
24	PROPOSED 2" HIGH CHAINLINK FENCE	
25	OVERLOOK AREA AND GARDENS	
26	LINE OF PROJECT FINISHING	
27	PROPOSED 3,000 GALLON SEPTIC TANK W/ DISTRIBUTION BOX & (3) 6" DIA. 22" DEEP SEEPAGE PITS PLUS 100% EXPANSION AREA PER PERCOLATION REPORT	
28	CONCRETE GUTTER OR SWALE. SEE GRADING PLAN	
29	DECORATIVE CANOPY	
30	JOSHUA TREES, UNDER INCIDENTAL TAKE PERMIT REVIEW W/ CDFW, FILED 10/2022	
31	DIRECTION OF PROPOSED DRAINAGE - SEE CIVIL PLANS	

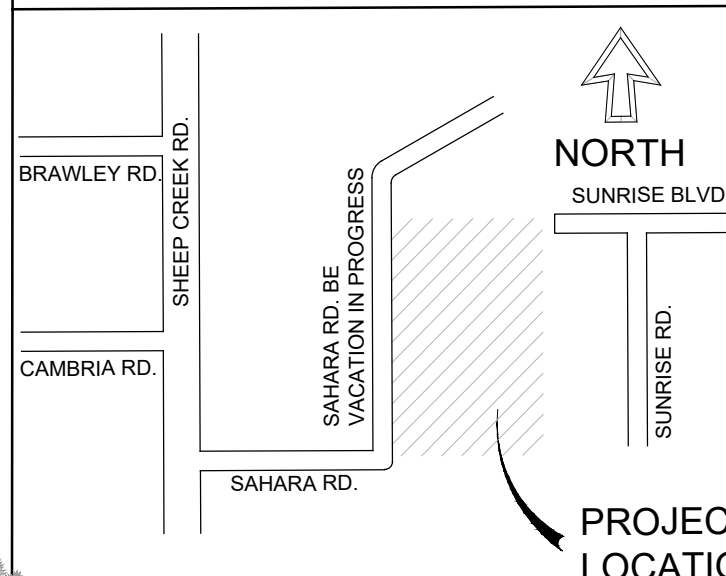
PROJECT DATA		
<b>ZONE:</b>	PER ZONING MAP:	REQUIRED PARKING STALLS:
PHASE 1: CG - GENERAL COMMERCIAL	CURRENT: CG - GENERAL COMMERCIAL	PHASE 1: MULTI-PURPOSE FIELD - 39,600 SQ. FT. 412 SQ. FT. OF SEATING AREA @ 1/25 SQ. FT. = 28 SPACES
PHASE 2: RS-14M/LDR	PROPOSED CHANGE: RS-14M/LDR	RESTROOM BUILDING - 1,700 SQ. FT. 705 SQ. FT. OF SEATING AREA @ 1/25 SQ. FT. = 28 SPACES
OVERLAYS:	FLOOD PLAN 1 (FP1) / FIRE SAFETY 2 (FS2)	DOG PARKS - 1.4 MAX ALLOWED PARK ATTENDANCE (152 MAX ALLOWED THIS PARK) PHASE 2:
OCCUPANCY:	(A-5) ASSEMBLY & (S) STORAGE	MULTI-PURPOSE/ SOFTBALL FIELD - 39,600 SQ. FT. 412 SQ. FT. OF SEATING AREA @ 1/25 SQ. FT. = 17 SPACES
CONSTRUCTION TYPE:	(A-5) ASSEMBLY & (S) STORAGE	FUTURE PUMP TRACK & SKATE PARK - 1.4 MAX ALLOWED PARK ATTENDANCE (128 MAX ALLOWED AT THIS PARK)
STORIES:	1-STORY	EQUESTRIAN ARENA - 16,154 SQ. FT. 600 SQ. FT. OF SEATING AREA @ 1/25 SQ. FT. = 28 SPACES
FIRE SPRINKLERS:	YES	TOTAL REQUIRED PARKING STALLS (9x19') = 143 SPACES
A.P.N.:	3066-251-18	PROPOSED PARKING STALLS @ MIN. 9'x19' = 163 SPACES
LEGAL DESCRIPTION:	PARCEL NO. 3 OF PARCEL MAP NO. 4063, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 40, PAGE 80 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 4 NORTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA.	HORSE TRAILER/ RV PARKING 15x40' = 9 SPACES
ZONING SETBACKS:	F.E.M.A. FLOOD ZONE	PROPOSED "ACCESSIBLE" PARKING STALL @ 9'x19' W/ 8' UNLOADING ZONE = 8 SPACES
SITE ADDRESS:	NW CNR. OF SAHARA RD. AND WARBLER RD. PHELAN CA 92379	TOTAL PROVIDED PARKING STALLS = 180 SPACES
APPLICANT/OWNER:	PHELAN PINON HILLS C.S.D. PO BOX 284049 470 WARBLER RD. PHELAN, CA 92329-0409 PH: 760-868-1212 FAX: 760-868-2323	PHASE I & II PROVIDED PARKING SPACES (14 ACRE DEVELOPMENT, THIS PROJECT) = 345 SPACES
ARCHITECT/REPRESENTATIVE:	ARCHITECT TOM STEENO 11774 HESPERIA ROAD, SUITE B-1 PH: 760-244-5001 FAX: 760-244-1948	TOTAL PARKING SPACES (INCLUDING CIVIC CENTER DEVELOPMENT - PLANNING RECORD #PRAA-2021-00040) = 345 SPACES
SITE INFORMATION:	A.P.N. 3066-251-18 GROSS AREA (14.58 AC.) = 635,105 SQ. FT.	E.V. CHARGING STATIONS REQUIREMENTS = 6% OF TOTAL SPACES OVER 201 SPACES PER TABLE 5.106.5.3.3 = 20 SPACES
PROPOSED:	AREA	REQUIRED E.V. PARKING SPACES (10) STATIONS, EACH SERVING (2) PARKING SPACES (ALL AT CIVIC CENTER DEVELOPMENT RECORD #PRAA-2021-00040) = 20 SPACES
DOG PARKS	= 17,758 SQ. FT.	PROVIDED 9'x19' E.V. PARKING SPACES = 20 SPACES
SKATE PARK AREA	= 26,000 SQ. FT.	(10) STATIONS, EACH SERVING (2) PARKING SPACES (ALL AT CIVIC CENTER DEVELOPMENT RECORD #PRAA-2021-00040)
RESTROOMS	= 1,700 SQ. FT.	
EQUESTRIAN ARENA	= 16,154 SQ. FT.	
PLAYGROUNDS	= 8,264 SQ. FT.	
MULTI-PURPOSE FIELD	= 39,600 SQ. FT.	
MULTI-PURPOSE SOFTBALL FIELD	= 39,600 SQ. FT.	
LANDSCAPED AREA (INCLUDES MULTI-PURPOSE FIELD EVENT LAWN AREA)	= 260,812 SQ. FT.	
PROP. PAVING & CONC. (TOTAL)	= 189,723 SQ. FT.	
RETENTION AREA	= 36,034 SQ. FT.	



OFFICIAL USE ONLY



VICINITY MAP



SCOPE OF WORK

TO DEVELOP 14.22 ACRES OF VACANT PARCEL, IN 2 PHASES FOR A COMMUNITY PARK. PROPOSED PARK WILL CONSIST OF (2) MULTI-USE SPORTS FIELDS, INFORMAL MULTI-PURPOSE EVENT AREA, A PUMP TRACK, SKATE PARK AREA, EQUESTRIAN ARENA, RESTROOMS, CONCESSIONS BUILDING WITH PICNIC TABLES, CHILDREN'S TOT-LOT AND PLAYGROUND, SMALL & LARGE TRAILER PARKS AND BIKE TRAILS. THE REMAINDER OF THE PARK WOULD CONSIST LANDSCAPED DROUGHT RESISTANT, AND LOW MAINTENANCE LANDSCAPING.

APPLICATION TYPE  
CUP - CONDITIONAL USE PERMIT  
ZC - ZONE CHANGE

PROTECTED PLANTS

NOTE: PROTECTED PLANTS ARE LOCATED ON SITE. ALL JOSHUA TREES HAVE BEEN IDENTIFIED. SEE KEYNOTE #30 AND REFERENCE INCIDENTAL TAKE PERMIT REVIEW W/ CDFW, FILED 10/2022

LIGHTING NOTES

PER SB COUNTY DEV. CODE #3.07  
- OUTDOOR LIGHT FIXTURES THAT HAVE THE ABILITY TO BE REDIRECTED, SHALL BE DIRECTED DOWNWARD SO AS TO MINIMIZE SKY GLOW, GLARE AND LIGHT TRESPASS ONTO ADJACENT PROPERTIES. AND OUTDOOR LIGHT FIXTURES THAT HAVE ADJUSTABLE DIMMERS WITH COLOR TEMPERATURE THAT EXCEEDS 3,000 KELVIN SHALL BE DIMMED TO 3,000 KELVIN OR LOWER TO MINIMIZE GLARE AND LIGHT TRESPASS ONTO ADJACENT PROPERTIES.  
- RECREATIONAL FACILITIES SHALL NOT BE ILLUMINATED UNLESS THE FACILITIES ARE BEING UTILIZED. THE ILLUMINATION SHALL BE TURNED OFF NO LATER THAN 11:00 P.M. OR ONE HOUR AFTER TERMINATION OF THE EVENT AND/OR USE, WHICHEVER OCCURS LAST.  
- ALL OUTDOOR LIGHT FIXTURES SHALL BE FULLY SHIELDED, INSTALLED AND MAINTAINED IN SUCH A MANNER THAT THE SHIELDING DOES NOT PERMIT LIGHT TRESPASS IN EXCESS OF AMOUNTS SET FORTH BELOW.  
- LIGHT POLLUTION AND TRESPASS SHALL BE MINIMIZED THROUGH THE USE OF DIRECTIONAL LIGHTING, FIXTURE LOCATION HEIGHT AND THE USE OF SHIELDING AND/OR MOTION SENSORS AND TIMERS IN SUCH A MANNER THAT THE LIGHT SOURCE DOES NOT PERMIT LIGHT TRESPASS IN EXCESS OF AMOUNTS SET FORTH IN SUBDIVISION.  
- AUTOMATED CONTROL SYSTEMS, SUCH AS MOTION SENSORS AND TIMERS, SHALL BE USED TO MEET CURRENT REQUIREMENTS SET FORTH IN SUBDIVISION (2). PHOTOCELLS OR PHOTO CONTROLS SHALL BE USED TO EXTINGUISH ALL OUTDOOR LIGHTING AUTOMATICALLY WHEN SUFFICIENT DAYLIGHT IS AVAILABLE. AUTOMATED CONTROLS SHOULD BE FULLY PROGRAMMABLE AND SUPPORTED BY BATTERY OR SIMILAR BACKUP.  
- OUTDOOR LIGHTING SHALL NOT CAUSE LIGHT TRESPASS EXCEEDING ONE-TENTHS FOOT-CANDLES MEASURED WITH A LIGHT METER ORIENTED VERTICALLY OR HORIZONTALLY EITHER AT THE PROPERTY LINE OF THE ADJACENT PROPERTY OR MEASURED FROM SOME OTHER POINT ON THE PROPERTY WHERE LIGHT TRESPASS MAY BE REASONABLY DETERMINED TO OCCUR DUE TO DIFFERENCES IN PROPERTY OR IMPROVEMENT ELEVATIONS.

UTILITIES

ELECTRIC: SOUTHERN CALIFORNIA EDISON CO. 1225 HESPERIA RD VICTORVILLE CA. 92392 (760) 951-5277  
DISPOSAL: PHELAN, CA 92371 PH: (760) 868-4323  
WATER: PHELAN PINON HILLS CSD 470 WARBLER RD. 1518 LA PAZ ROAD (600) 776-6255 VICTORVILLE, CA 92392  
TELEPHONE: VERIZON 1518 LA PAZ ROAD (600) 776-6255 VICTORVILLE, CA 92392  
GAS: PROPANE (LP) TO BE SPECIFIED  
SEWER: PRIVATE ON SITE SYSTEM SERVICE PROVIDER

STEENO ARCHITECTURE & PLANNING  
11774 HESPERIA ROAD, SUITE B-1 PHELAN, CA 92345  
PH: (760) 244-5001 FAX: (760) 244-1948  
WWW.STEENOARCHITECTURE.COM

DATE FINISHED  
AUGUST 2022

REVISIONS

DATE	DESCRIPTION
MARCH 2023	APRIL 2023
MAY 2023	MAY 2023
OCTOBER 2023	OCTOBER 2023
MARCH 2024	MARCH 2024
MAY 2024	MAY 2024

THESE PLANS SHALL COMPLY WITH THE 2022 CALIFORNIA BUILDING CODE (CBC) AND THE 2022 ENERGY STANDARDS CODE (CESC) AND THE 2022 ENERGY STANDARDS. THESE DOCUMENTS AND THE DESIGN AND DETAILS INCORPORATED HEREIN, AS AN ORIGINAL PROFESSIONAL SERVICE, ARE THE SOLE PROPERTY OF STEENO ARCHITECTURE & PLANNING. ANY USE, IN WHOLE OR IN PART, FOR WHICH THEY WERE NOT PROVIDED SHALL BE UNLAWFUL.

REGISTERED ARCHITECT  
TOM STEENO  
C-26448  
STATE OF CALIFORNIA  
31225

PROJECT: PARKS & RECREATION  
PHELAN PINON HILLS C.S.D.  
CONTACT INFO: TOM STEENO, ARCHITECT, 11774 HESPERIA RD, PHELAN, CA 92345, PH: (760) 868-1212 EXT. 311

JOB NO.  
C23-159

SHEET NAME:  
SITE PLAN

PAGE  
A-0

SHEEP CREEK ROAD

SITE PLAN  
SCALE = 1:40

LOT 5 TRACT 10838 M.B. 157/73 VACANT

LOT 2 TRACT 10838 M.B. 157/73 VACANT

APN# 3066-261-09  
ZONES CG/C



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

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



October 2, 2023

Jim Morrissey  
San Bernardino County Land Use Services  
385 N Arrowhead Ave  
San Bernardino, CA 92415

Phelan Pinon Hills Community Services District 14 Acre Park Site (PROJECT)  
MITIGATED NEGATIVE DECLARATION (MND)  
SCH# 2023080701

Dear Mr. Morrissey,

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability (NOA) of an MND from the San Bernardino County Land Use Services (Lead Agency) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.

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

## CDFW ROLE

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

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines § 15371.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish &

Jim Morrissey, Planner  
San Bernardino County Land Use Services  
October 2, 2023  
Page 2

G. Code § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** San Bernardino County Land Use Services

**Objective:** The Phelan Pinon Hills Community Services District proposes development of a 14-acre Public Park, subject to a Conditional Use Permit, that adjoins and is designated to be compatible with the adjoining five-acre Civic Center site. The Public Park is not permitted in the General Commercial (CG) Zone and a Zone Change to RC (Rural Commercial) is required and proposed. Sharing of infrastructure (roadways and utilities), and balancing cut and fill grading tie the proposed Project and approved Phelan Civic Center together.

**Location:** Project is located at the northeast corner of the intersection of Warbler Road and Sahara Road in the unincorporated Phelan Pinon Hills community in the county of San Bernardino; NW ¼ of Section 24, Township 4 North, Range 7 West Phelan quadrant 7.5-minute United State Geological Survey (USGS) Topographic Quadrangle; Accessor's Parcel Numbers 3066-261-08, 3066-261-10, & 3066-251-14.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County of San Bernardino Land Use Services Department in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

### LeConte's Thrasher

The MDN includes survey results from a General Biological Resources Assessment performed on June 28, 2021. The report includes special status species in the Phelan quadrangle according to the CNDDDB, including LeConte's thrasher (*Toxostoma lecontei*). Under the listing for LeConte's thrasher, the report states that "No suitable habitat was observed and [no individuals] were observed on site." Although no individuals were recorded on site, the site location does include suitable habitat, as evidenced by several verified sightings recorded in the area within the last year. CDFW recommends that the LeConte's thrasher be anticipated on site during nesting bird surveys.

CDFW appreciates the inclusion of the suggested Mitigation Measure BIO-2 regarding nesting birds on the MND, however the CEQA document should not defer impact analysis and mitigation measures to future regulatory discretionary actions, such as a

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Nesting Bird Plan as part of a Lake or Streambed Alteration Program. CDFW recommends the following revisions (edits are in strikethrough and bold for additions):

## **MM BIO-2**

**Permittee shall ensure that impacts to nesting birds are avoided through the implementation of pre-maintenance surveys and the establishment of minimization measures such as buffering and monitoring as deemed appropriate by the Designated Biologist.**

**The Permittee shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species; conducting bird surveys using appropriate survey methodology; nesting survey techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficiency of implemented avoidance and mitigation measures.**

~~Bird nesting season generally extends from February 1 through September 15 in southern California and specifically, April 15 through August 31 for migratory passerine birds. In general, Projects should be reconstructed outside of this time to avoid impacts to nesting birds. If a Project cannot be constructed outside of nesting seasons, The Project Site shall be surveyed for nesting birds by a qualified avian biologist~~  
**(Designated Biologist) at the appropriate day/night, during appropriate weather conditions, no more than within three (3) days prior to initiating the construction activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the property; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. Pre-maintenance surveys shall focus on both direct and indirect evidence of nesting, including nesting locations and nesting behavior (e.g., copulation, carrying food or nesting material, nest building, removal of fecal sacks, flushing suddenly from atypically close range, agitation, aggressive interactions, feigning injury or distraction display, or other behaviors). If a nest is suspected, but not confirmed, the Designated Biologist(s) shall establish a disturbance-free buffer until additional surveys can be completed, or until the location can be inferred based on observations. Surveyors shall not risk failure of the nest to determine the exact location or status and will make every effort to limit the nest to potential predation as a result of the surveying/monitoring efforts (e.g., limit the number of surveyors, limit time spent at/near the nest, scan the site for potential nest predators before approaching, immediately depart nest area if indicators of stress or agitation are displayed). If a nest is observed, but thought to be inactive, the Designated Biologist(s) shall monitor the nest for one hour (four hours for raptors**

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during the non-breeding season) prior to approaching the nest to determine status. The Designated Biologist(s) shall use their best professional judgement regarding monitoring period and whether approaching the nest is appropriate. If active nests are found during the pre-construction nesting birds survey, a Nesting Bird Plan (NBP) will be prepared and implemented. At a minimum, the NBP will include guidelines for addressing active nests, establishing buffers, monitoring, and reporting. The NBP will include a copy of maps showing the location of all nests and an appropriate buffer around each nest sufficient to protect the nest from direct and indirect impact. The size and location of all buffer zones, if required, shall be determined by the biologist, and shall be based on the nesting species, its sensitivity to disturbance, and expected types of disturbance. The nests and buffer zones shall be field checked weekly by a qualified biological monitor. The approved buffer zone shall be marked in the field with construction fencing, within which no vegetation clearing or ground disturbance shall commence until the qualified biologist has determined young birds have successfully fledged.

When an active nest is confirmed, the Designated Biologist(s) shall immediately establish a conservative buffer surrounding the nest based on their best professional judgement and experience. The buffer shall be delineated to ensure that its location is known by all persons working within the vicinity but shall not be marked in such a manner that it attracts predators. Once the buffer is established, the Designated Biologist(s) shall document baseline behavior, stage of reproduction, and existing site conditions, including vertical and horizontal distances from proposed work areas, visual or acoustic barriers, and existing level of disturbance. Following documentation of baseline conditions, the Designated Biologist(s) may choose to adjust the buffer based on site characteristics, stage of reproduction, and types of Project activities proposed at/near that location. The Designated Biologist(s) shall use his/her professional expertise to determine the frequency of monitoring required (based on the nest location, bird species, and identified maintenance activities) at the onset of any changes in Project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Designated Biologist(s) determines that the Project activities may be causing an adverse reaction, the Designated Biologist(s) shall adjust the buffer accordingly.

The Designated Biologist(s) shall monitor existing nests, the efficacy of established buffers, and document any new nesting occurrences. The Designated Biologist(s) shall document the status of all existing nests, including the suspected stage of reproduction and the expected fledge date when this can be determined without endangering the nest by disturbance of alerting predators. If a nest is suspected to have been abandoned or failed prior to completion of maintenance activities, the Designated Biologist(s) shall use their professional expertise to determine the time necessary to monitor the nest for viability. CDFW

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**recommends the Designated Biologist(s) monitor the nest for at least one hour (four hours for raptors), uninterrupted, during favorable field conditions. If no activity is observed during that time, the Designated Biologist(s) may approach the nest to assess the status. Permittee, under the direction of the Designated Biologist(s), may also take steps to discourage nesting on the Project site, including moving equipment and materials daily, covering materials with tarps or fabric, and securing all open pipes and construction materials. The Designated Biologist(s) shall ensure that none of the materials used propose an entanglement risk to birds or other species.**

#### Special-Status and State Threatened Species

The General Biological Resources Assessment includes burrowing owl (*Athene cunicularia*) and desert tortoise (*Gopherus agassizii*) to potentially be located on the Project site. In Mitigation Measure BIO-3, pre-construction surveys for both species are combined. CDFW recommends separating the species in separate mitigation measures. CDFW requires desert tortoise surveys to be conducted without being combined with other surveys conducted for other species while using the same personnel. CDFW is also concerned with the inclusion of the allowance to relocate special-status or listed species during pre-construction surveys. The following recommendations are made:

#### **Mitigation Measure BIO-3 – Desert Tortoise**

~~Preconstruction~~ **Protocol-level presence absence surveys within the Project area, access route(s), staging area(s), stockpiles(s), and a 50-foot buffer zone for BUOW and Desert Tortoise shall be conducted no more than three (3) at least 30 days prior to new ground disturbance in accordance with *Preparing for Any Action That May Occur Within the Range of the Mojave Desert Tortoise* (USFWS 2019).** ~~and documentation indicating such a survey has occurred is to be provided to the County.~~ **Pre-construction surveys shall be completed using perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign, including tortoise remains, burrows, track, scat, or eggshells within the Project area and 50-foot buffer zone. Project surveys cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to construction start. If the pre-construction surveys confirm desert tortoise absence, the Designated Biologist(s) shall ensure desert tortoises do not enter the Project area. If the surveys or monitoring throughout the Project confirms presence, Permittee shall halt all activities that could result in impacts and notify CDFW immediately in writing. Regardless of the survey results, tortoises cannot be subject to take per the requirements of state and federal law. Handling or other inappropriate treatment of tortoises must be avoided until authorization is obtained from the USFWS and CDFW.**

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#### **Mitigation Measure BIO 4 – Burrowing Owl**

**Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (>11 cm in diameter [height and width] and >150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.) If burrowing owls or suitable burrows and/or sign of burrowing owl are documented on-site, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat.**

The surveys will be conducted by a qualified biologist, who shall be approved by the County and CDFW prior to the start of the surveys. Wildlife found on the site will be allowed to leave the site under their own power or relocated, where possible, to the nearest suitable habitat in the surrounding area. If any listed or special status wildlife species are found on the site during pre-construction surveys, an Authorized Permitted Biologist will relocate the species to suitable habitat outside the impact area, once CDFW has approved the proposed relocation activities. In addition, if any nesting birds are observed within the boundaries of the site, the appropriate buffers will be placed around the nest, where necessary.

#### **Mitigation Measure BIO 5**

If any listed species (e.g., desert tortoise, Mohave ground squirrel, etc.) are observed on the site during ground disturbance activities, the project biologist shall have the right to halt all activities which may impact the species. **Take of any Federal Endangered Species Act (FESA) and/or California Endangered Species Act (CESA) listed species is prohibited except as authorized by federal and/or state law. If a Project, including Project construction or any Project related activity during the life of this Project, results in the take of FESA and/or CESA-listed species, the Permittee shall seek appropriate authorization prior to Project implementation. This may include an incidental take permit (ITP) or a consistency determination (Fish and Game Code Section 2080.1 and 2081).** Work shall proceed only after hazards to the State or federal listed species or other special-status species are removed by an Authorized Permitted Biologist and the species is no longer at risk **as authorized by**

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**law.** The project biologist and the Authorized Permitted Biologist will have copies of all of the compliance measures in their possession while work is being conducted onsite. During all on-site activities, project personnel will strictly adhere to the WEAP, BMPs, and additional impact and avoidance or minimization measures described in the permits issued for the project. Project personnel will respond to special status species encounters as directed in the Environmental Awareness Training Program.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **ENVIRONMENTAL DOCUMENT FILING FEES**


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

## **CONCLUSION**

CDFW appreciates the opportunity to comment on the MND to assist San Bernardino County Land Use Services in identifying and mitigating Project impacts on biological resources and we request that the County address the Department's comments and concerns prior to adoption of the MND. If you should have any questions pertaining to the comments provided in this letter, please contact Marlee Poff at (760) 338-8942 or at [Marlee.Poff@wildlife.ca.gov](mailto:Marlee.Poff@wildlife.ca.gov).

Sincerely,

DocuSigned by:

  
Alisa Ellsworth

Environmental Program Manager



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**ATTACHMENT 1: MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**  
**PURPOSE OF THE MMRP**

The purpose of the MMRP is to ensure compliance with mitigation measures during project implementation. Mitigation measures must be implemented within the time periods indicated in the table below.

**TABLE OF MITIGATION MEASURES**

The following items are identified for each mitigation measure: Mitigation Measure, Implementation Schedule, and Responsible Party. The Mitigation Measure column summarizes the mitigation requirements. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing mitigation measures.

<b>Biological (BIO) Mitigation Measure</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>
<p><b>Mitigation Measure BIO-3 – Desert Tortoise</b></p> <p>Protocol-level presence absence surveys within the Project area, access route(s), staging area(s), stockpiles(s), and a 50-foot buffer zone for Desert Tortoise shall be conducted no more than three (3) days prior to new ground disturbance in accordance with <i>Preparing for Any Action That May Occur Within the Range of the Mojave Desert Tortoise</i> (USFWS 2019). Pre-construction surveys shall be completed using perpendicular survey routes and 100-percent visual coverage for desert tortoise and their sign, including tortoise remains, burrows, track, scat, or eggshells within the Project area and 50-foot buffer zone. Project surveys cannot start until two negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Results of the survey shall be submitted to CDFW prior to construction start. If the pre-construction surveys confirm desert tortoise absence, the Designated Biologist(s) shall ensure desert tortoises do not enter the Project area. If the surveys or monitoring throughout the Project confirms presence, Permittee shall halt all activities that could result in impacts and notify</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>CDFW immediately in writing. Regardless of the survey results, tortoises cannot be subject to take per the requirements of state and federal law. Handling or other inappropriate treatment of tortoises must be avoided until authorization is obtained from the USFWS and CDFW.</p>		
<p><b>Mitigation Measure BIO 4 – Burrowing Owl</b></p> <p>Prior to initiating Project activities, a qualified biologist shall conduct at least one survey covering the entire Project area and surrounding 15-meter buffer to identify the presence of suitable burrows and/or burrow surrogates (&gt;11 cm in diameter [height and width] and &gt;150 cm in depth) for burrowing owl and sign of burrowing owl (e.g., pellets, prey remains, whitewash, or decoration, etc.) If burrowing owls or suitable burrows and/or sign of burrowing owl are documented on-site, a breeding season survey for burrowing owl in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) shall be conducted by a qualified biologist prior to start of Project activities. If no burrowing owl, active burrowing owl burrows, or sign thereof are found, no further action is necessary. If burrowing owl, active burrowing owl burrows, or sign thereof are found the qualified biologist shall prepare and implement a plan for avoidance, minimization, and mitigation measures to be approved by CDFW prior to commencing Project activities and propose mitigation for permanent loss of occupied burrow(s) and habitat.</p> <p>The surveys will be conducted by a qualified biologist, who shall be approved by the County and CDFW prior to the start of the surveys. Wildlife found on the site will be allowed to leave the site under their own power or relocated, where possible, to the nearest suitable habitat in the surrounding area. If any listed or special status wildlife species are found on the site during pre-construction surveys, an Authorized Permitted Biologist will relocate the species to suitable habitat outside the impact area, once CDFW has approved the proposed relocation activities. In addition, if any nesting birds are observed within the boundaries of the site, the</p>	<p>Prior to commencing ground- or vegetation-disturbing activities</p>	<p>Project Proponent</p>

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<p>appropriate buffers will be placed around the nest, where necessary.</p>		
<p><b>Mitigation Measure BIO 5</b></p> <p>If any listed species (e.g., desert tortoise, Mohave ground squirrel, etc.) are observed on the site during ground disturbance activities, the project biologist shall have the right to halt all activities which may impact the species. Take of any Federal Endangered Species Act (FESA) and/or California Endangered Species Act (CESA) listed species is prohibited except as authorized by federal and/or state law. If a Project, including Project construction or any Project related activity during the life of this Project, results in the take of FESA and/or CESA-listed species, the Permittee shall seek appropriate authorization prior to Project implementation. This may include an incidental take permit (ITP) or a consistency determination (Fish and Game Code Section 2080.1 and 2081). Work shall proceed only after hazards to the State or federal listed species or other special-status species are removed by an Authorized Permitted Biologist and the species is no longer at risk as authorized by law. The project biologist and the Authorized Permitted Biologist will have copies of all of the compliance measures in their possession while work is being conducted onsite. During all on-site activities, project personnel will strictly adhere to the WEAP, BMPs, and additional impact and avoidance or minimization measures described in the permits issued for the project. Project personnel will respond to special status species encounters as directed in the Environmental Awareness Training Program.</p>	<p>Prior to commencing ground- or vegetation-disturbing activities <b>5</b></p>	<p>Project Proponent</p>