

EXHIBIT A



October 6, 2025

Sent via email

Oliver Mujica, Contract Planner III
County of San Bernardino
Land Use Services Department, Planning Division
385 N. Arrowhead Ave First Floor
San Bernardino, CA 92415-0187
Oliver.Mujica@lus.sbcounty.gov

Re: Comments on Cactus Club Hotel (Project No. PROJ-2023-00061)

Dear Mr. Mujica:

These comments are submitted on behalf of the Center for Biological Diversity (the “Center”) regarding the Cactus Club Hotel (the “Project”). The Center reviewed the Initial Study/Mitigated Negative Declaration (“IS/MND”) and is concerned the IS/MND fails to properly disclose, analyze, and mitigate potentially significant environmental impacts to biological resources, noise, air, traffic, and water quality among other effects. Because the Project may have a significant environmental impact, the Center urges the County to prepare an Environmental Impact Report (“EIR”) to fully analyze and mitigate the Project’s impacts to the County’s water, air, and biological resources. Alternatively, a mitigated negative declaration would only be proper if the initial study is substantially revised to properly disclose, analyze, and mitigate all potentially significant impacts and then recirculated for public comment.

I. The County Must Prepare an Environmental Impact Report.

CEQA was enacted for the state to “take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state” and to “[e]nsure that the long-term protection of the environment . . . shall be the guiding criterion in public decisions.” (Pub. Res. Code § 21001.) The CEQA Guidelines state that “CEQA was intended to be interpreted in such a manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language,” and that “[t]he purpose of CEQA is . . . to compel government at all levels to make decisions with environmental consequences in mind.” (CEQA Guidelines § 15003.) CEQA is an information document and, as such, “requires full environmental

disclosure.” (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 89.)

Only when “there is no substantial evidence in light of the whole record before the public agency that the project . . . may have a significant effect on the environment” may an agency prepare a negative declaration or mitigated negative declaration instead of an EIR. (Pub. Res. Code § 21064.5; *see also id.* §§ 21064, 21080(c).) A mitigated negative declaration is prepared “when the initial study has identified potentially significant effects on the environment, but . . . revisions in the project plans or proposals . . . would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur,” and there is no substantial evidence the project may have a significant effect on the environment. (*Id.* § 21064.5.) If there is substantial evidence that a project may have a significant effect on the environment, the agency must prepare an EIR. (*Id.* § 21080(d).)

If an agency is presented with so much as “a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect.” (CEQA Guidelines § 15064(f)(1); *see also No Oil, Inc. v. Los Angeles* (1974) 13 Cal.3d 68, 75.) The CEQA Guidelines provide guidance for determining if a project’s effects are significant. Such a determination “calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data” and a “consider[ation of] the views held by members of the public in all areas affected.” (CEQA Guidelines § 15064(b)-(c).) The lead agency must consider both direct and indirect physical changes in the environment caused by the project. (*Id.* § 15064(d).)

CEQA also requires consideration of cumulative impacts. An EIR is required “if the cumulative impact may be significant and the project’s incremental effect, though individually limited, is cumulatively considerable . . . when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” (*Id.* § 15064(h)(1).) Cumulatively considerable environmental effects require a mandatory finding of significance. (*Id.* § 15065(a)(3).)

CEQA also has a substantive mandate and requires effective mitigation. “[P]ublic agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” (Pub. Res. Code § 21002.) CEQA requires mitigation measures to be “fully enforceable through permit conditions, agreements, or other measures.” (*See id.* § 21081.6(b); CEQA Guidelines § 15126.4(a)(2).) “Formulation of mitigation measures should not be deferred until some future time.” (See CEQA Guidelines § 15126.4(a)(1)(B).)

When an IS/MND undergoes substantial revisions, it must be recirculated and opened for public comment. (14 Cal. Code Regs §15073.5(a).) A substantial revision occurs in two situations. First, when a new, avoidable significant effect is identified, requiring mitigation measures or project revisions to minimize the potential effects to less than significant. (14 Cal. Code Regs §15073.5(b)(1).) Second, when the lead agency determines proposed mitigation measures or revisions will not reduce potential effects to less than significance, and new measures are required. (14 Cal. Code Regs §15073.5(b)(2).) However, recirculating a MND is not a substitute for preparing an EIR. The California Code of Regulations, section 1573.5(d) makes clear: “If during the negative declaration process there is substantial evidence in light of the whole record, before the lead agency that the project, as revised, may have a significant effect on the environment which cannot be mitigated or avoided, the lead agency shall prepare a draft EIR and certify a final EIR prior to approving the project.” Because there is substantial evidence the project will have a significant effect on numerous environmental resources, preparing an EIR is the appropriate step.

While the Project necessitates preparation of an EIR, in the event the County wants to proceed with a MND, recirculation is required. Because the IS/MND does not address several significant effects and new mitigation measures are required to mitigate these impacts (e.g., vehicle collisions with wildlife, increasing raven populations, creating an artificial water source, among others), the County must at the very least substantially revise the IS/MND. This triggers a requirement for recirculation. (14 Cal. Code Regs §15073.5(a)–(b).)

The Project’s significant impacts on biological resources, water quality, air quality, and traffic are readily apparent given the information in the MND. Any one of these factors alone is sufficient to warrant preparation of an EIR.

II. The IS/MND’s Project Description Is Inadequate.

An accurate, stable, and finite project description remains the *sine qua non* of an informative and legally sufficient EIR. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) MND’s must, at the very least, provide adequate detail “needed for evaluation and review of the environment impact.” (CEQA Guidelines, § 15124). “When an agency fails to provide an accurate project description, the environmental review process is tainted by that informational defect and the adoption of a negative declaration in those circumstances is inappropriate.” (*Tulare Lake Canal Co. v. Stratford Public Utility Dist.* (2023) 92 Cal.App.5th 380, 402.)

Here, the project description lacks clarity and falls fatally short of accurately describing the Project area’s proposed uses for at least three reasons. First, the IS/MND does not provide any estimate of the project’s maximum occupancy. It states the proposed hotel includes twenty

rooms. This provides no insight into the number of guests those rooms can accommodate and what, therefore, the maximum occupancy of the hotel will be.

Second, the IS/MND does not provide any information regarding the anticipated number of employees to be hired once the hotel is operational. Given the hotel's numerous amenities that require staffing, including a laundry, café, restaurant, club room, wine bar, and spa, the number of employees travelling to and using the property could result in a significant environmental impact.

Third, the IS/MND fails to adequately disclose the anticipated number of parking spaces on the property. The project description merely describes a parking lot that will include ADA compliant parking spaces. (IS/MND at 2.) The site plan map appears to show at least 80 parking spaces as well as additional ADA parking spaces. However, this is contradicted by the Appendix E Noise Impact Study, which states the Project will include "36 surrounding parking spaces." (At 1.) As a result, the IS/MND fails to effectively disclose the anticipated number of parking spaces on the project site.

An IS/MND analysis failing to consider maximum occupancy, anticipated parking spaces, and number of employees at a hotel is meaningless since it lacks the necessary data to estimate the daily vehicle trips generated by the hotel and number of people present on the property. Noise, traffic, and emission impacts of the project turns, in large part, on the number of daily guests and employees commuting to the site. Of course, if the Project limited occupancy to one guest per cabin, these impacts would be much less than if the Project allowed six guests per cabin, impacting conclusions regarding noise levels, traffic congestion, and GHG emissions, among others. Further, without this information, analyzing the increased likelihood of vehicle and wildlife collisions on the Twentynine Palms Highway is similarly frustrated. Adding to the informational defects, based on the site map (*see* IS/MND at 11) vehicles entering the project site will enter or exit directly onto the Twentynine Palms Highway, creating a safety hazard for the public and wildlife. The inadequate project description in the IS/MND leaves these potentially significant environmental impacts undisclosed, analyzed, or mitigated.

Thus, the project description critically failed to include key points of information. Because the IS/MND omits this fundamental information, the County cannot adequately assess the Project's impacts on biological resources, noise, traffic, emissions, vehicular collisions, and highway safety in violation of CEQA. Such information is essential to, and improperly precluded, informed decision-making about the Project's effects and concomitant consideration of mitigation measures. (*See Cleveland National Forest Found. v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 515) ("An adequate description of adverse environmental effects is necessary to inform the critical discussion of mitigation measures[.]").) Collectively, the failure to include these three key points of information in the project description

fundamentally obscures the anticipated vehicular and foot traffic into and on the property. Without this information, it is impossible to render a meaningful analysis of the concomitant and potentially significant environmental impacts of the project. These informational defects undermine the environmental review process and render the MND inappropriate. (*Tulare Lake, supra*, 92 Cal.App.5th at 402.)

III. The County May Not Segment the Environmental Impacts of the Project.

The CEQA Guidelines define a “project” as “the *whole of an action*, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (Cal. Code Regs. 14 § 15378(a) (emphasis added).) Importantly, the term refers to the activity for which approval is sought—not to each discrete governmental approval that may be required for that activity along the way. (*Id.* § 15378(c).)

In assessing whether a project may have a significant effect on the environment, an initial study must consider all phases of project planning, implementation, and operation. (Cal. Code Regs. 14 § 15063(a)(1).) A lead agency may not limit environmental review by ignoring the development or other activity that will ultimately result from an initial approval. (*See City of Antioch v. City Council* (1986) 187 CA3d 1325.) An initial study that fails to accurately describe the full scope of the project—including foreseeable outcomes stemming from initial discretionary actions—is legally deficient. As courts have emphasized, “[a] correct determination of the nature and scope of the project is a critical step in complying with the mandates of CEQA.” (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 267.)

Case law unequivocally holds that “CEQA forbids ‘piecemeal’ review of the significant environmental impacts of a project.” (*Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm’rs* (2001) 91 Cal. App. 4th 1344, 1358; *see also* Cal. Pub. Res. Code § 21002.1(d) (requiring the lead agency to consider “the effects, both individual and collective, of all activities involved in a project”).) Thus, “CEQA mandates that environmental considerations do not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences.” (*Communities for a Better Env’t v. City of Richmond* (2010) 184 Cal. App. 4th 70, 98; *see also* *Ass’n for a Cleaner Env’t v. Yosemite Cmty. Coll. Dist.* (2004) 116 Cal. App. 4th 629, 638 (“the requirements of CEQA cannot be avoided by chopping up proposed projects into bite-sized pieces which, when taken individually, may have no significant adverse effect on the environment” (cleaned up))).) This is consistent with CEQA Guidelines, which adopts a broad definition of the term “project” to include “the whole of an action” (Cal. Code Regs. 14 § 15378.)

Impermissible “segmenting” or “piecemealing” occurs when: (1) the second activity is a reasonably foreseeable consequence of the first activity; (2) the second activity is a future expansion of the first activity that will change the scope of the first activity’s impacts; or (3) both activities are integral parts of the same project. (*Sierra Club v. West Side Irrigation Dist.* (2005) 128 Cal.App.4th 690, 698–699.)

Here, the project description notes that three existing parcels would be combined to create four new parcels (Parcel 1, 5.28 acres; Parcel 2, 2.57 acres; Parcel 3, 2.56 acres; and Parcel 4, 2.24 acres) totaling 12.65 acres. (IS/MND at 1.) Notably, all the disclosed development would take place exclusively on Parcel 1, with the remaining Parcels 2, 3, and 4, totaling 7.37 acres, to “remain vacant.” (IS/MND at 2.) It is unclear why these Parcels are left vacant and if they are to remain vacant indefinitely. This information is vital to determine whether the Project is improperly segmenting environmental review, resulting in a minimized and ineffectual analysis of the Project’s environmental impacts. Any anticipated use or development of the Parcels, including the creation of walking paths for guests, further parking spaces, or expanded hotel operations, would need to be disclosed and analyzed under CEQA since it falls under the definition of “Project.” (See Cal. Code Regs. 14 §15378.) If these impacts are found to be significant, they must be mitigated to the extent feasible. (See Pub. Res. Code § 21002.)

Therefore, a CEQA compliant disclosure and analysis of the environmental impacts of the Project turns on the anticipated uses of Parcels 2, 3, and 4. These Parcels constitute more than half of the total acreage on the property and their uses in connection with the disclosed plans for development fall into the definition of a “project.” (Cal. Code Regs. 14 §15378.) Further, their modification could have a significant environmental impact, especially when considered in conjunction with the environmental impacts of the disclosed plans for development. Accordingly, more information regarding their future uses must be shared with the public.

IV. The IS/MND Failed to Adequately Assess & Mitigate Numerous Impacts.

The IS/MND lacks adequate detail in the description and analysis of the Project’s myriad impacts. Pursuant to CEQA Guidelines section 15063(c), the purpose of an Initial Study is to provide a preliminary analysis of a proposed action to determine whether to prepare a Negative Declaration or an EIR. The Initial Study provides a factual basis for the Negative Declaration or serves to focus an EIR on the significant effects of a project. (See Guidelines §§ 15063, 15070; see also *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 270.) Courts have consistently held that when an agency fails “to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate.” (*Nelson, supra*, 190 Cal.App.4th at 270.) “The scope of the environmental review conducted for the initial study must include the entire project.” (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1222.)

The subsequent sections highlight the MND's shortcomings, supporting a fair argument that the Project may significantly affect the environment. Accordingly, the County must prepare an EIR. (CEQA Guidelines § 15064(f)(1); *see also No Oil, Inc. v. Los Angeles* (1974) 13 Cal.3d 68, 75.)

A. The IS/MND Lacks Adequate Analysis of & Mitigation for the Project's Impacts to Biological Resources.

The IS/MND lacks adequate detail in the description and analysis of special-status species that occur, have the potential to occur, or have historically occurred in and near the Project area. As the following examples demonstrate, there is ample information supporting a fair argument that the project may have significant effects on the environment. Accordingly, the County must prepare an EIR. (CEQA Guidelines § 15064(f)(1); *see also No Oil, Inc. v. Los Angeles* (1974) 13 Cal.3d 68, 75.)

1. The IS/MND Makes Contradictory Statements Regarding Biological Resource Impacts.

The IS/MND fails to provide an adequate factual basis for concluding that no significant adverse impacts to biological resources are identified or anticipated with the implementation of mitigation measures. This is partially due to several, significant contradictions contained within IS/MND.

First, the IS/MND minimizes the Site's suitability for special status species. This is most glaring in the IS/MND's analysis of possible impacts to desert tortoises. Despite acknowledging that the species "is typically found in creosote bush scrub" and "on level or sloped ground where the substrate is firm but not too rocky" and including site photographs that clearly show all these features are present (creosote bush scrub, level ground that is firm and not very rocky), the IS/MND inexplicably concludes the site is only "marginally suitable" for the species. (IS/MND at 31–32.)

Second, the IS/MND erroneously states "the site does not contain any burrows for any small mammals." (IS/MND, Appendix B: Biological Resources Assessment, at 10.) Yet, a small mammal burrow is observable in the lower left corner of Site Photo 3. (IS/MND Appendix B: Biological Resources Assessment at 10.) Additionally, rodent burrows are clearly observable on the Project site from the road. (*See Exhibit 1.*) The IS/MND's error is even more inexplicable given the ubiquitousness of burrowing rodents across almost all sections of the high desert. This oversight is particularly significant because the presence of small mammals, such as rodents, tends to show the Project site is suitable not only for them, but also species that prey on small

mammals like burrowing owls, desert kit foxes, and American badgers, among others. It further calls into question the credibility of the entire biological reconnaissance survey with many of its conclusions based on the alleged absence of animal burrows.

Third, the IS/MND makes contradicting statements about the presence of Joshua Trees on the Project site. The Paleontological Assessment states: “The existing vegetation on the property includes creosote bush, *Joshua tree*, foxtail, several varieties of chollas, and other small desert grasses and shrubs.” (IS/MND Appendix F: Paleontological Assessment at 8 (*emphasis added*).) Yet, the Biological Assessment makes no mention of Joshua Trees. This contradiction is significant because Western Joshua Trees are protected under the Western Joshua Tree Conservation Act, with interim protections under the California Endangered Species Act, and would therefore result in a potentially significant environmental impact if affected.

Relatedly, the limited biological survey conducted for the initial study is inadequate to disclose possible environmental impacts to biological resources, and therefore makes analysis and mitigation an impossibility under the current IS/MND. The fact that evidence of special status species was not directly observed on the site is hardly surprising given that the reconnaissance survey was conducted during a single morning in February 2023. That survey covered 5.28 acres of land, or approximately four football fields, in a mere one-hour and thirty-five minutes. This superficial snapshot of the Project Site could not possibly account for shy, seasonal, and nocturnal animals, let alone provide ample opportunity to observe the numerous species that transiently move through or use the property for hunting, shelter, or forage.

To illustrate, the IS/MND explicitly states that the burrowing owl is typically observed in twilight or the early morning. (IS/MND at 31.) This makes their observation highly unlikely during the narrow window between 09:55 and 11:30, when the biological survey was conducted. Further, given that Mohave desert tortoises hibernate throughout most the year and emerge only in March or later, and usually after rains, their observation during a dry, February morning was similarly unlikely. (See San Bernadino County, 2025.) With readily available technology such as trap cameras, there is no justifiable reason for the IS/MND’s omission of more thorough biological data.

Both the contradictions within the IS/MND and the limited survey the Biological Assessment is based on makes proper disclosure, analysis, and mitigation as required under CEQA impossible.

2. The IS/MND & Biological Resource Assessment Lacks Adequate Descriptions of Potentially Present Special-Status Species in or Near the Project Site.

Beyond contradicting itself, the IS/MND and biological resources assessment gloss over potential impacts to special-status species in and around the Project site. CEQA Guidelines plainly state that a Project can be expected to have significant impacts to biological resources if the Project has a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. (CEQA Guidelines, Appendix G, subd. IV(a); *see also* CEQA Guidelines § 15065(a)(1) (when performing an initial study, agencies shall make a mandatory finding of significance where a proposed project has the potential to substantially reduce the number or restrict the range of a listed species), California Fish and Game Code § 2085 (CESA candidate species treated like threatened or endangered species).) As demonstrated below, there are multiple deficiencies with the MND’s analysis of the many special-status species that may occur on or utilize the Project area.

a. Mojave Desert Tortoise

i. Desert Tortoises Face Significant Threats to Their Survival.

The Mojave Desert Tortoise is listed as threatened under the Endangered Species Act and Endangered under California Endangered Species Act (“CESA”). (55 Fed. Reg. 12178 12191, 14 CCR § 670.5.) Importantly, on June 13, 2025, the California Fish and Game Commission proposed changing the regulatory language implementing CESA to uplist the Mojave Desert Tortoise from threatened to endangered. (CFGC, 2025.) The tortoise has been the official State Reptile since 1972. (Assembly Bill 1089, Chapter 683, 1972.) Consequently, the Project’s impacts to desert tortoises must be considered significant, fully evaluated, and disclosed to the public. (*Nelson v. Cnty. of Kern* (2010) 190 Cal.App.4th 252, 284 (information before County showing that mining exploration project could significantly impact plant and animal life in the area meets the fair argument test to require preparation of an EIR).)

Desert tortoises face numerous threats to their continued existence, as evidenced by the California Fish and Game Commission’s decision to uplist the species to endangered earlier this year. (CFGC, 2025.) This decision noted that survival of the species is threatened by habitat destruction, predation, climate change, vehicle strikes, fencing, fire, as well as impacts from other species. (CFGC, 2025, 5–6.) Raven predation, habitat destruction, reduced habitat connectivity, and vehicle strikes are particularly relevant to the likely environmental impacts of the Project.

Raven populations dramatically increased in the desert over the last 25 years due to anthropogenic subsidization, resulting in increasingly disproportionate juvenile tortoise predation. (USFWS, 2022, at 22.) During the first 5–7 years of life, a tortoise’s shell is soft and easy to puncture due to incomplete ossification. This makes juvenile tortoises vulnerable to

predation by ravens. (Boarman, 2002, at 51.) Studies show that ravens actively prey on, rather than merely scavenge, juvenile tortoises throughout the Mojave Desert. (Boarman, 2002, at 52–53.) Indeed, recordings of intense predation incidents “suggest predation comes to the forefront as a management concern, especially where landscapes have been altered and intensive human use occurs or in times of extreme drought.” (USFWS, 2022, at 22.) Ordinarily, predation by native species alone would not threaten the species’ survival. However, “predation pressure by ravens is increased through elevated raven populations as a result of resource subsidies associated with human activities” such as trash, artificial water sources, and nesting opportunities from human made structures. (USFWS, 2011, at 17.) The consequences are significant with raven populations increasing by 1,500% in the Mojave Desert over just two decades. (U.C. Davis Wildlife Health Center, 2005, at 105.) Even temporary construction activities increase raven density through augmented food and water. (Boarman, 2002, at 13.) Research shows no increase in the proportion of juveniles in any turtle conservation area, even with steep declines in adult numbers. (Allison & McLuckie, 2018, at 443.) This is likely due to intense raven predation. Thus, development in desert tortoise habitat with the potential to increase raven predation would need to be full discussed in an EIR, and mitigated where feasible, due to its potential impacts on desert tortoise recovery.

Additionally, habitat destruction and reduced habitat connectivity is one of the greatest threats facing the desert tortoise. Desert tortoises “do not coexist well with human development and disturbances.” (USFWS, 2022.) Many of the activities first identified as destroying desert tortoise habitat have continued to impact the species. (*Id.*) In addition, energy development projects have increased. (*Id.*) This further causes habitat loss, fragmentation of populations, and damage to soil and vegetation. (*Id.*)

Fatal vehicle collisions are another significant cause of death for desert tortoises. One study reported a total of 115 tortoise carcasses along less than 29km of highway in the West Mohave. (Boarman, 2002, at 54.) While trafficked roads directly cause desert tortoise mortalities through collisions, they also indirectly impact the long-term persistence of local populations by fragmenting populations farther away from roads. (Averill-Murray et al., 2021, at 2.)

Many of these threats will be exacerbated by the Project, negatively impacting the survival of desert tortoises. Numerous individuals are recorded in the vicinity of the project site, demonstrating the Project has strong likelihood of impacting the species. (iNaturalist 2017; iNaturalist 2019; iNaturalist 2022; iNaturalist 2024.) These impacts must be disclosed and analyzed in an EIR. Once properly analyzed, if the impacts are found to be significant, they must be mitigated to the extent feasible.

ii. The Analysis of the Project’s Potential Impacts to Desert Tortoises & Proposed Mitigation Measures are Wholly Inadequate.

There is ample evidence suggesting desert tortoise use habitat immediately adjacent to all sides of the project area. According to iNaturalist, hundreds of research grade observations have been made in the area with multiple recorded within two miles of the Project site (iNaturalist 2017; iNaturalist 2019; iNaturalist 2022; iNaturalist 2024.) Since the Project occurs within the range of desert tortoises, and multiple research grade sightings are recorded near the site, the Project will likely directly and indirectly impact tortoises. (See iNaturalist 2017; iNaturalist 2019; iNaturalist 2022; iNaturalist 2024.) Yet, despite the overwhelming peril facing desert tortoises, the strong likelihood individuals use or transit through the Project site, and the numerous impacts the Project could have on the species, the IS/MND fails to identify the potential impacts and propose appropriate mitigation measures.

The sole mitigation measure included in the IS/MND describes the site as only “marginally suitable” for the species and simply proposes pre-construction surveys as a suitable mitigation measure. (IS/MND at 31.) This is inadequate. As previously discussed, sightings on iNaturalist show desert tortoises use the land on all sides of the project site, however, a short survey conducted does not provide the opportunity necessary to observe how the species uses the site. The MM BIO-1 proceeds to say such surveys “*should* be conducted by a qualified biologist and at an appropriate time of day/year to observe signs of desert tortoise using the 2018 Desert Tortoise Survey Protocol from the USFWS.” (IS/MND, 31 (*emphasis added*).) At a bare minimum, the mitigation measure must *require*, not suggest this. Thus, the language “*should* be conducted” requires changing to “*must* be conducted by a qualified biologist and at an appropriate time of day/year to observe signs of desert tortoise using the 2018 Desert Tortoise Survey Protocol from the USFWS.” This ensures a protocol level survey, and is necessary to establish an adequate baseline. More detail is also required to address what will happen if a tortoise or burrow is observed on site to ensure the mitigation measures fully address this likely disturbance to the species.

The IS/MND also fails to address and mitigate several substantial impacts to desert tortoises. Significantly, the Project could augment food and water sources for ravens, increasing raven populations and tortoise predation. This constitutes a significant environmental impact. (CEQA Guidelines, Appendix G, subd. IV(a); see also CEQA Guidelines § 15065(a)(1) (when performing an initial study, agencies shall make a mandatory finding of significance where a proposed project has the potential to substantially reduce the number or restrict the range of a listed species).) Several sources of food opportunity will be created by the development. For example, the Project proposes a trash enclosure, but there is no discussion or information about whether this trash area will be raven proof. (See IS/MND Figure 3 – Site Plan at 11.)

Additionally, guests, by purchasing food on Site or bringing their own food onto the Site, will likely create scavenging opportunities for ravens. No measures regarding the operation of the café and restaurant or litter policies for guests are discussed in the IS/MND to ensure the Project

doesn't provide resource subsidies to ravens. Indeed, ravens and their possible impacts on wildlife and the ecosystem are wholly omitted from the IS. The increased traffic from future hotel occupants or residents may also increase road-killed carcasses, which further attracts predators known to kill tortoises and allows predator populations to flourish. (CDFW, 2024.) Finally, as discussed more in depth below, an onsite retention basin is proposed to mitigate additional runoff created by the project. (See IS/MND at 57; Retention Basin proposed Appendix D – Drainage Study at 6.) Such basins, when filled, are exactly the kind of artificial water sources facilitating the raven population explosion in the desert, with disastrous consequences for desert tortoises. (See USFW, 2022, at 22.) Yet discussions of these environmental impacts are absent from the IS/MND.

The IS/MND does not clarify whether the property will be fenced. This is particularly problematic because both fencing the area and failing to fence the area could result in environmental impacts which must be mitigated where feasible. If the area is fenced, desert tortoises that would have otherwise browsed and moved through the Project Site will be forced by a manmade barrier to circumvent the hotel. This will force them onto the Twentynine Palms Highway or Cactus Drive, increasing the chances of vehicle collisions. Without a fence in place, tortoises that wander onto the property may be unlawfully handled, or taken captive by hotel occupants. (See Boarman, 2002, at 21.) Relatedly, the increased human presence on the Project site could repel desert tortoises from the habitat, risking further habitat fragmentation.

Because the project will alter desert tortoise habitat, increase risks of vehicle collisions, and possibly impede movement of tortoises, the Project's impacts must be thoroughly analyzed and mitigated where feasible. Proper assessment and mitigation are especially crucial, considering the Project borders the Western Mojave Recovery Unit and Colorado Desert Recovery Unit populations, where populations declined by 17% and 54% respectively between 2001 to 2020. (CDFW, 2024)

Due to this alarming and rapid population decrease, particular effort must be taken to fully analyze and mitigate any potential impacts to this highly sensitive species.

b. Burrowing Owl

i. Western Burrowing Owls Face Significant Threats to Their Long-Term Survival in the Mojave Desert Region.

The Project site is located within the range of the Western Burrowing Owl, a small ground-nesting bird of prairie and grassland habitats, with interim protections as a candidate species under CESA. (CFGC, 2024.) Historically, the species was found broadly across California in wide lowland valley bottoms, flat coastal lowlands, and interior deserts. However, burrowing owls have been eliminated or nearly wiped out as a breeding species from about one-third of their former California range (DeSante & Ruhlen, 1995; Barclay, 1999; Center for

Biological Diversity, et al. Listing Petition, 2024), currently remaining most abundant in the Imperial Valley and parts of the Central Valley. (DeSante & Ruhlen, 1995.) On October 10, 2024, CDFW advanced the western burrowing owl to candidacy under CESA, protecting these owls from harm during the ongoing review process. (CFGF, 2024.) Consequently, the Project's impacts to western burrowing owls must be considered significant, fully evaluated, and disclosed to the public.

The factors affecting California's burrowing owls today include loss of nesting and foraging habitat to urbanization; nest destruction during urban development and agricultural activities by surface disturbances such as disking, blading, grading, and over covering. (Rosenberg et al., 1998a; Desmond et al., 2000; Haug and Oliphant, 1987; Haug et al., 1993); pesticide use (Rosenberg and Haley, 2003; James et al., 1990; Baril, 1993; Hjertaas, 1997; Sheffield, 1997b); burrowing rodent elimination (Anderson et al., 2001; Gordon, 1996); attempted relocation to accommodate urban development, which rarely results in successful breeding and forces remaining owls onto smaller patches of habitat (Trulio, 1997; Delevoryas, 1997; Harris, 1987); predation of young birds by non-native species (Green & Anthony, 1989); and mortality due to vehicle collisions and other anthropogenic causes. Protecting burrowing owls and their habitat from continued destruction and habitat loss is therefore of utmost importance to the species' persistence in California.

Unlike other areas of the species' range, breeding burrowing owls were historically uncommon in the southern desert ranges. Today relatively large populations nest in agricultural areas in the Palo Verde Valley and Mojave Desert. However, these populations are now threatened by expanding urban development and large-scale solar development. (Center for Biological Diversity et al., Listing Petition, 2024.) Burrowing owl habitat is shrinking at an alarming rate as the communities surrounding the Project area, including Twentynine Palms, Joshua Tree, and Yucca Valley intensify development. This proposed Project will continue to degrade and eliminate habitat for the burrowing owl in this region.

ii. Analysis of the Project's Potential Impacts to Burrowing Owls & Proposed Mitigation Measures Are Wholly Inadequate.

The IS/MND failed to properly analyze the potential impacts to burrowing owls by relying on a facially flawed biological survey of the Project site. The biological survey cannot support a CEQA compliant disclosure and mitigation analysis for possible effects to burrowing owls because the data set is fatally small, defies logic, and is plainly inaccurate. The IS states that the Project Site "does not contain suitable habitat for this species," noting that no evidence of burrowing owls was observed (including burrows and feathers) and that the site does not contain a suitable burrow surrogate species such as ground squirrels. (IS/MND at 32.) It concludes that

burrowing owls are “considered absent from the Project site and no further surveys are required.” (IS/MND at 32.)

However, as previously noted, the biological survey was conducted during a single morning over two years ago, lasting one hour and fifty-five minutes. Moreover, this window occurred between 9:55 and 11:00am, a time which by the initial study’s own admission is when burrowing owls are least likely to be directly observed on the project site. (*See* IS/MND at 31 (noting that burrowing owls are typically observed in twilight or the early morning).) Over five acres was examined in less than two hours, likely leading to oversights of past and present burrowing owl activity. For example, the failure to identify a rodent burrow visible in one of the site photographs reiterates the unreliability of the survey.

Additionally, a sighting of a burrowing owl approximately five and a half miles from the Project Site demonstrates its suitability for the species, contrary to the IS’s assertion. In July, a research grade observation of a burrowing owl was made on Indian Cove Road. (iNaturalist 2025.) This observation shows a burrowing owl in a landscape with virtually identical features to that of the Project site, which is unsurprising given its proximity. (iNaturalist 2025.) This underscores the need for an adequate biological survey with a reliable data set and accurate observations to properly understand the potential environmental impacts the Project will have on burrowing owls.

c. Desert Kit Foxes

The desert kit fox is designated as a species of local concern by Los Angeles County. (IS/MND at 32.) Desert kit foxes are threatened by habitat loss, habitat fragmentation, rodenticides, disease, and competition from coyotes, bobcats, and domestic dogs. (CDFW 2025.) The species inhabits arid desert habitats including creosote scrub, preying on rodents, rabbits, insects, reptiles, and birds. (IS/MND at 32.) Desert kit foxes shelter and pup in sandy or loamy soil burrows. (IS/MND at 32.) Despite the apparent suitable habitat on the Project Site, including creosote scrub, sandy soil, and evidence of rodent populations, the IS/MND concludes that “the site is not suitable for this species.” (IS/MND at 32.) This conclusion is based on observations in the biological resources survey which, for reasons previously noted, is inadequate. Additionally, a 2024 research grade desert kit fox sighting in the area further underscores the suitability of habitat on the Project Site. (iNaturalist, 2024.) The brief survey conducted over two years ago does not credibly address the likelihood of impacts to desert foxes and a more thorough survey must be conducted to analyze and mitigate any likely impacts to the species.

Numerous significant effects from the project will likely impact desert kit foxes. The project not only degrades and fragments habitat by developing and paving over creosote scrub and rodent burrows, but also increases the chance of human wildlife conflict. The California

Department of Fish and Wildlife notes that because of their intelligence and curiosity, kit foxes are at risk of food conditioning and habituation. (CDFW 2025.) All trash must be stored in wildlife resistant bins to prevent this. (CDFW 2025.) Although the Project will store all trash on site, whether or how these facilities will be made wildlife proof is not addressed in a mitigation measure. (IS/MND at 11.) The IS/MND also does not discuss other feasible mitigation measures, such as hotel policies that strictly prohibit guests from feeding wildlife. Relatedly, desert kit foxes will be attracted to the retention basin when it fills with water. The California Department of Fish and Wildlife recommends retrofitting ponds with escape ramps to prevent foxes from getting trapped. (CDFW 2025; *see also* iNaturalist 2024 (showing a kit fox located at an artificial watering site).) Yet, the environmental impacts of a retention basin, let alone mitigation measures, are wholly omitted from the IS/MND. Finally, since the Site has evidence of rodent burrows, any population of rodents will likely increase with development and associated food opportunities. If any rodenticides are used, this would certainly result in knock-on environmental impacts for predators like kit foxes. (Nogerie et al. 2015.) These potential effects are significant and must be analyzed and, where feasible, mitigated in an EIR.

d. American Badger

American badgers are designated as a Species of Special Concern by the California Department of Fish and Wildlife. Consequently, the Project's potential impacts to American badgers must be properly disclosed and analyzed. The IS/MND fails to do so.

The Project is located in suitable habitat for the species. Badgers eat fossorial rodents, select reptiles, insects, worms, eggs, and carrion. (CDFW 1990.) They live in burrows, preferring friable soil, and may reuse old burrows or dig new dens each night. (CDFW 1990.) Since the Project site has evidence of fossorial rodents which the IS/MND failed to notice, and given the dry soil on the site is amenable to badger burrows, a new biological survey must be conducted to create an adequate baseline for analyzing the Project's possible impact to this species. Additionally, a research grade badger sighting was observed less than four miles away from the Project site in 2023, illustrating the suitability of habitat for American badgers. (iNaturalist 2023.) Yet, the IS/MND once again concludes "[t]he site is not suitable for this species" because it was not directly observed and no evidence of the species was observed during the biological survey. (IS/MND at 32–33.) However, for the reasons already stated, the brief, two-year-old biological survey does not provide adequate data for assessing the likely occurrence of American badgers on the Project Site. This is particularly true because American badgers can dig dens each night, and therefore even if they were absent on the morning of the biological survey, they easily could have since moved onto the site in search of prey. (See CDFW 1990.)

d. Migratory Birds

The IS/MND also fails to adequately assess and mitigate the Project's impacts on migratory birds, which face numerous threats. Collisions with buildings are one of the primary sources of mortality for birds. (Basilio et al., 2020; Klem, 2009.) Recent studies show birds are experiencing significant declines, with estimates indicating losses of up to three billion birds in the past half-century. (Rosenberg et al., 2019.)

The IS/MND recognizes habitat within and around the Project site is suitable for nesting birds. MM BIO-2 attempts to mitigate the Project's impacts by proposing a qualified Avian Biologist conduct pre-construction surveys and create no work buffers around any active nests. (IS/MND at 33.) However, this fails to disclose, analyze, and mitigate numerous other impacts to migratory birds. For example, whether the multiple proposed buildings on the Project Site will increase bird collisions with buildings, or whether any likely species of nesting birds are particularly sensitive to sound disturbances. The no work buffer zones will do nothing to mitigate these potentially significant impacts to migratory birds and further analysis is required.

e. Joshua Trees

Western Joshua trees are an iconic symbol of the desert that hold immense ecological and cultural significance. Increasing development, climate change, drought, wildfires, invasive species, and other threats are causing ongoing reductions in western Joshua trees and western Joshua tree habitat range wide. (DeFalco et al., 2010; Harrower & Gilbert, 2018.) Climate change represents the single greatest threat to the continued existence of western Joshua trees. Even under the most optimistic climate scenarios, western Joshua trees will be eliminated from significant portions of their range by the end of the century. (Dole et al., 2003; Cole et al., 2011; Sweet et al., 2019.)

The species became formally protected with the enactment of the 2023 Western Joshua Tree Conservation Act. (Cal. Fish & Game Code § 1927 *et seq.*) The Act prohibits the import, export, take, possession, purchase, or sale of any Western Joshua tree in California. (Cal. Fish & Game Code § 1927.2.) Additionally, Western Joshua Trees are protected as a candidate species under the California Endangered Species Act. (*See* CFGC (2020); Cal. Fish & Game Code § 2068.) Any take of Western Joshua trees must comply with the permitting scheme established by the California Fish and Game Code. (*See* Cal. Fish & Game Code § 1927.3(a).)

Because the IS/MND inexplicably contradicts itself regarding whether Joshua Trees are present on site and no mitigation measures for possible take of the species is discussed, further biological surveys are required. (*Compare* IS/MND Appendix F: Paleontological Assessment *with* Appendix B: Biological Resources Assessment.) If any Joshua Tree is present on the Project site, the County must analyze potential impacts to the Western Joshua tree, its habitat, including habitat connectivity, and develop plans to avoid and minimize impacts to each potentially

impacted western Joshua tree “to the maximum extent practicable.” (See Cal. Fish & Game Code § 1927.3(a)(2).)

3. The IS/MND Fails to Adequately Assess the Project’s Impacts on Wildlife Connectivity.

The IS/MND dismisses and downplays the Project’s potential impacts on wildlife connectivity. It notes that the Project Site is not highlighted as an area under the California Essential Habitat Connectivity Project or within a Habitat Conservation Plan, and on this basis dismisses any potential impacts to “current wildlife corridors or habitat conservation plans.” (IS/MND at 34.) This misconstrues the analysis required for Biological Resources under CEQA. Instead, the IS must analyze whether the Project will “[i]nterfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.” (*Id.* (emphasis added).) The fact the site is not located in a designated area for wildlife movement does not permit the wholesale disregard of the Project’s impacts to wildlife connectivity. Indeed, the California Essential Habitat Connectivity Project map explicitly states:

The purpose of the map is to focus attention on large areas important to maintaining ecological integrity at the broadest scale. *Natural areas excluded from this broad-brush Essential Connectivity Network can therefore not be “written off” as unimportant to connectivity conservation or to sustaining Californias natural heritage.* (CDFW Open Data Portal (emphasis added).)

Moreover, according to the map, the Project Site is located directly in the middle of the largest Essential Connectivity Areas identified in the State of California. (CDFW Open Data Portal.) Naturally, inhibiting wildlife movement between these all-important areas constitutes a significant impact on wildlife connectivity.

The observation that the Project is not in a wildlife corridor or habitat conservation plan is therefore only the beginning of the required analysis, not the end. Writing off the Project Site’s impacts to connectivity simply because it is not designated as a special area for connectivity goes directly against the information included in the California Essential Habitat Connectivity Project. The Project’s potential impacts to wildlife connectivity must be properly disclosed and analyzed on the basis of a thorough biological survey that accounts for the various species moving through the project site. If the Project will have a significant impact on these species, feasible mitigation measures must be adopted to minimize impact.

4. The IS/MND Fails to Analyze, Disclose, & Mitigate the Project’s Noise Impacts on Wildlife.

The IS/MND entirely fails to consider the effects of noise from the Project and its associated construction on wildlife. Many studies demonstrate that high levels of anthropogenic noise harm wildlife and plants across diverse taxa. For example, field observations and controlled laboratory experiments show traffic noise can significantly degrade habitat value for migrating songbirds. (Ware et al., 2015.) Subjects exposed to 55 and 61 dBA (simulated traffic noise) exhibited decreased feeding behavior and duration, as well as increased vigilance behavior. (Ware et al. 2015.) Such behavioral shifts increase the risk of starvation, thus decreasing survival rates. Another study found a 28% decrease in bird abundance in areas when traffic noise was present compared to when there was no traffic noise. (McClure et al., 2013.) Another study found noise pollution above 58 dBA resulted in reduced foraging efficiency in pallid bats likely because noise disrupted their hearing while they were hunting. (Bunkley & Barber, 2015.)

Chronic or long-term noise pollution can also impair foraging and anti-predator behavior, reproductive success, density, and community structure across diverse taxa. (Barber et al., 2010; Francis & Barber, 2013; Habib et al., 2007.) Even plants can be impacted by chronic noise pollution. In a study conducted in New Mexico, continuous noise from natural gas wells was found to reduce tree seedling recruitment and evenness, likely due to noise altering the movement and behavior of seed-dispersing and pollinating wildlife. (Phillips et al., 2021.)

Despite this, the Project's numerous functions that will increase noise generation in the area is left undisclosed, analyzed, or mitigated. For example, guest activity and sounds from the Project's proposed restaurant, coffee shop, club room, wine bar, spa, among other facilities will likely generate substantial noise. (*See IS/MND at 2.*) Information regarding any imposed quiet hours for parts of the day and night as well as the closing times of the various guest facilities are imperative pieces of information to determine whether the Project's noise generation will have an impact on wildlife. Additionally, as previously noted, the noise study inexplicably is based on a lower number of parking spaces than what appears on the Site Plan, inaccurately minimizing the vehicle noise that will be present on site.

Thus, the noise generated by construction and operation of the proposed Project could have significant adverse impacts on special-status and sensitive species in and near the Project area. The County must consider and, where feasible, mitigate this impact in a full EIR.

5. Light Pollution & Other Edge Effects of Development Will Negatively Impact Wildlife.

The IS/MND also fails to adequately assess the impacts of light pollution on biological resources through overlooking interior lighting and increased traffic. Light pollution affects

many nocturnal species, including bats, insects, and terrestrial mammals, among others. Impacts of light pollution are varied, and different species respond to artificial light at night in different ways. Individual impacts of light pollution include numerous physiological (e.g. hormone levels) and behavioral changes (e.g. shifts in activity patterns) that can impact an animal's ability to survive and thrive in its environment. (Aulsebrook et al., 2020; Dominoni, 2015; Gaston et al., 2014; Kempenaers et al., 2010.) These individual impacts cascade into ecological changes such as phenological mismatches and shifts in predation patterns that can disrupt population and ecosystem-level dynamics, including mortality, fecundity, and community productivity, among others. (Ditmer et al., 2021; Gaston et al., 2013; Sanders et al., 2020.) The County must provide a full analysis of light pollution in an EIR and mitigate accordingly.

The IS/MND's Aesthetics analysis section states that the Project will create new long-term sources of light and glare from interior and exterior buildings, safety and security lighting, landscape lighting, and vehicles. (IS/MND at 19.) It further states that by adhering to the Municipal Code design standards, the Project's light and glare impacts will be less than significant. (*Id.*) However, the impact of this new light pollution on wildlife is addressed nowhere despite the significant effects light can have on essential wildlife behaviors.

B. The IS/MND Fails to Adequately Analyze, Disclose, and Mitigate the Project's Significant Adverse Aesthetic Impacts.

The IS/MND's discussion of aesthetic impacts and failure to make Appendix H available to the public falls short of meeting CEQA's requirements for disclosure and analysis of the Project's effects on scenic vistas and visual character. CEQA requires meaningful evaluation of whether a project may result in significant aesthetic impacts, particularly when, as here, the Project is located near a significant resource—a scenic highway route—and mountain landscapes. (IS/MND at 18.) The Project site itself is an undeveloped parcel with unobstructed views of surrounding mountain ranges and desert vistas—conditions that make it uniquely visually sensitive. Despite the sensitivity of the location, the Visual Impact Study included in Appendix H is inaccessible to the public. Due to apparent file corruption, the Visual Impact Study cannot be downloaded and reviewed from the San Bernadino County Website, hampering the public's understanding of how the project will affect the aesthetics of the area.

Even without being able to review the full Visual Impact Study, the IS/MND appears to overlook a crucial aesthetic impact: the view *from* Joshua Tree National Park and its foothills, which the Project's multiple buildings will undoubtedly impact. Instead, the IS/MND considers only the view *of* the desert landscape and scenic vistas from the Project site and scenic highway. (See IS/MND at 17–19.) This paints only a partial picture, and more is required from CEQA. Relatedly, when analyzing impacts from the Project's light pollution, the IS/MND fails to consider the Project's proximity to Joshua Tree National Park, which is recognized as an

International Dark Sky Park. (NPS 2024.) This further underscores the importance of assessing the visibility of the Project and its associated light pollution from the National Park and the reasonable possibility that the Project may have significant effects on aesthetic resources.

For these reasons, the Visual Impact Study must be made available to the public and the Project's potential impacts to Aesthetics fully addressed in an EIR.

C. The IS/MND Fails to Adequately Analyze, Disclose, & Mitigate the Project's Significant Adverse Air Quality Impacts.

The IS/MND's evaluation of the Project's air quality impacts is flawed. It fails to disclose and study the Project's full suite of air quality impacts and fails to adopt all feasible mitigation measures to mitigate those impacts. The County must require an EIR to adequately analyze the Project's air quality impacts, acknowledge their significance, and consider feasible mitigation measures to reduce those impacts.

1. This Project Would Add Development to a Region Already Suffering From Poor Air Quality.

Degraded air quality from the proposed Project poses considerable environmental and public health concerns. Southern California already contains some of the nation's most polluted counties with San Bernadino County topping the list for several pollutants. (ALA 2025.) Air pollution often impacts the most vulnerable populations in these counties, including young children, the elderly, pregnant women, and those with heart and lung disease. People living in poverty also remain more susceptible to air pollution, as they cannot easily relocate to less polluted areas, and their homes and places of work are more likely to be located near sources of pollution, such as freeways or ports. (BAAQMD 2016; ALA 2025.) In urban areas, transportation presents one of the most significant sources of pollution, where large population segments are constantly exposed to traffic. (BAAQMD 2016.)

In Southern California's urban areas, Ozone and Fine Particulate Matter pose the greatest risks. Experts link these air pollutants to increased risk of cancer, birth defects, low birth weights, and premature death, in addition to a variety of cardiac and lung diseases such as asthma, COPD, stroke, and heart attack. (Laurent 2016; ALA 2025.) Although invisible, ozone poses considerable health risks, prompting the EPA to strengthen its National Ambient Air Quality Standard for Ozone in 2015. (ALA 2016.) Additionally, Particulate Matter can easily escape the body's natural defenses and enter the blood stream, impacting human health.

The project would affect an area already in violation of the Clean Air Act's National Ambient Air Quality Standards (NAAQS), supporting an argument that the Project's air quality impacts are significant.

2. The IS/MND Underestimates the Project's Air Quality Impacts.

The Project impacts one of the most heavily polluted areas in the country. San Bernadino County ranks first among the nation's worst in ozone pollution and seventh worst for PM pollution. (ALA 2025.) A comprehensive analysis of air quality impacts is acutely important where, as here, the project is in an area already experiencing adverse air quality. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 723–24.) The IS/MND explicitly acknowledges the Project area is out of attainment for both ozone and particular matter, and the activities of cumulative projects will further degrade the air quality of the Mojave Desert Air Basin. (IS/MND at 27.) It concludes that because the Project does not exceed MDAQMD criteria, it does not result in a significant impact and will not add to the overall cumulative impact. However, the Project's air quality impacts are underestimated and not properly disclosed, analyzed, and mitigated due to the omission of key points of information in the IS/MND.

The IS/MND does not include any information about maximum occupancy, anticipated number of employees, and size of car parking facilities. Without these crucial details, it is impossible to accurately determine the vehicle miles travelled to the site, number of daily trips, and resulting air pollution from vehicles. Accordingly, the IS/MND's conclusion the Project will have less than a significant impact is unsubstantiated and more informational disclosures and analysis is required.

D. The IS/MND Fails to Adequately Disclose, Analyze, & Mitigate the Project's Adverse Traffic Impacts.

The IS/MND's evaluation of the Project's traffic impacts is similarly flawed. As noted above, the IS/MND lacks key information necessary to accurately disclose and analyze traffic impacts, for example maximum occupancy of the hotel, the number of anticipated employees, and availability of parking. Additionally, it is unclear if the IS/MND takes into account the vendor trucks that will supply the Project's numerous guest facilities, including the café, restaurant, wine bar, club room, and spa. The Project will have trucks moving in and out to provide supplies for these services, as well as general products for the hotel. (*See* IS/MND at 2.) Trucks serving facilities also often idle on public streets and clog local roads, creating traffic congestion and hazards to local drivers who depend on these roads. This information is far more likely to produce an accurate estimate of vehicle miles travelled or daily trips generated than merely relying on the number of hotel room units.

Further, the City's IS/MND fails to assess how traffic increases associated with this project will affect the species in the surrounding area. Traffic congestion degrades air quality and harms habitat through generating waste, which stormwater runoff carries into waterways. (Kim et al., 2023; Nixon & Saphores.) With sensitive species like the desert tortoise inhabiting the area, any increase in traffic increases the risks of fatal road collisions with tortoises—a significant cause of mortality for the species. The City must carefully consider potential harms of increased runoff, as well as mitigation measures, in a full EIR.

Because the IS lacks key information that will likely show a possibility of significant traffic impacts, the County must require an EIR to adequately disclose and analyze the Project's traffic impacts, acknowledge their significance, and consider and adopt feasible mitigation to reduce those impacts.

E. The IS/MND Fails to Adequately Assess, Disclose, & Mitigate Impacts on Water Quality.

The IS/MND also fails to adequately evaluate the Project's impacts on water quality and adopt mitigation measures to mitigate those impacts.

There is virtually no analysis of the potential impacts to surface or groundwater quality. Instead, the IS simply concludes that because the Project's water plan will require review and approval from the County's Environmental Health Services Division, and is subject to the National Pollutant Discharge Elimination System permitting requirements, "there is a less than a significant impact to water quality." (IS/MND at 57.) However, there is no explanation as to why complying with these requirements ensures the Project will not "substantially degrade surface or ground water quality" as required in the initial study. (IS/MND at 57.) Ensuring no significant environmental impact requires more than mere compliance with regulatory processes. By creating an onsite wastewater treatment system, including a septic tank and leach field, flash flooding or defects could easily result in released pollutants or contaminated runoff. Further disclosure and analysis of the Project's potential impacts to surface and groundwater quality is needed.

The mitigation measures for the Project's drainage systems are similarly unclear and inadequate. The IS/MND and hydrology report mention numerous times that to mitigate the additional runoff, "a retention basin and Truegrid sustainable paving system are proposed." (IS/MND at 57.) However, these are not formally included as a mitigation measure in the IS. Thus, the environmental impacts from the additional runoff are unmitigated and must be analyzed in an EIR. Additionally, if the retention basin is included in the proposed project, the environmental impacts of this retentional basin must also be disclosed, analyzed, and mitigated.

(See *Cleveland Nat'l Forest Found. v. San Diego Assn. of Govs* (App. 4 Dist. 2017) 225 Cal.Rptr.3d 591 (“If inclusion of a mitigation measure in an environmental impact report (EIR) would itself create new significant effects; these must be discussed”).) Analysis of these impacts is particularly salient because when filled, the basin will create an attractive nuisance for wildlife in the area. Animals, including sensitive species like the desert tortoise, could become fatally trapped in the pond (notably, there is no discussion about the likely depth or maximum depth of the basin that ensures animal drownings will not occur). Moreover, as mentioned, the basin could create a refuge for ravens, increasing predation of juvenile desert tortoises and other animals in the area. Because of the likelihood a retention basin will impact sensitive species, it must be discussed, with consideration of feasible mitigation measures, in an EIR.

F. The IS/MND Fails to Adequately Assess, Disclose, & Mitigate the Project's Greenhouse Gas Emissions.

The MND's analysis of the Project's GHG emissions falls short of CEQA's requirements. The Project will inevitably result in an increase of GHG emissions during construction and operation. But the IS/MND fails to adequately assess all emissions sources, as well as require adequate mitigation.

1. Climate Change Is a Catastrophic & Pressing Threat to California.

A strong, international scientific consensus leaves no doubt that human-caused climate change continues to pose an increasingly dire threat to human society and natural systems. The Intergovernmental Panel on Climate Change (IPCC), the leading international scientific body for climate change assessment, concluded in its 2014 Fifth Assessment Report that: “[w]arming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen,” and further that “[r]ecent climate changes have had widespread impacts on human and natural systems.” (IPCC 2014.) The United States echoed these findings in its own 2014 Third National Climate Assessment and 2017 Climate Science Special Report, prepared by scientific experts and reviewed by the National Academy of Sciences and multiple federal agencies. The Third National Climate Assessment concluded that “[m]ultiple lines of independent evidence confirm that human activities are the primary cause of the global warming of the past 50 years” and “[i]mpacts related to climate change are already evident in many regions and are expected to become increasingly disruptive across the nation throughout this century and beyond.” (Melillo 2014.) The 2017 Climate Science Special Report similarly concluded:

[B]ased on extensive evidence, it is extremely likely that human activities, especially emissions of greenhouse gases, are the dominant cause of the observed

warming since the mid-20th century. For the warming over the last century, there is no convincing alternative explanation supported by the extent of the observational evidence.

The U.S. National Research Council also concluded that “[c]limate change is occurring, is caused largely by human activities, and poses significant risks for—and in many cases is already affecting—a broad range of human and natural systems.” (NRC 2010.) And based on observed and expected harms from climate change, in 2009 the U.S. Environmental Protection Agency found that greenhouse gas pollution endangers the health and welfare of current and future generations. (74 Fed. Reg. 66496 (Dec. 15, 2009) [U.S. EPA, Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule].)

These authoritative climate assessments decisively recognize the dominant role of greenhouse gases in driving climate change. As stated by the Third National Climate Assessment: “observations unequivocally show that climate is changing and that the warming of the past 50 years is primarily due to human-induced emissions of heat-trapping gases.” (Mellilo 2014.) The Assessment makes plain that “reduc[ing] the risks of some of the worst impacts of climate change” will require “aggressive and sustained greenhouse gas emission reductions” over the course of this century. (Melillo 2014 at 13, 14, & 649.)

Humans and wildlife have already begun feeling climate change impacts. Human-induced climate change has caused widespread adverse impacts and related losses and damages to nature and people. (IPCC 2022.) This rise in weather and climate extremes has led to some irreversible impacts, as natural and human systems are pushed beyond their ability to adapt. (IPCC 2022.) Climate change increasingly places stress on species and ecosystems—causing changes in distribution, phenology, physiology, vital rates, genetics, ecosystem structure and processes—in addition to increasing species extinction risk. (Warren 2008.) Climate-change-related local extinctions are already widespread and have occurred in hundreds of species. (Wiens 2016.) Catastrophic levels of species extinctions are projected throughout this century if climate change continues unabated. (Thomas 2004; Maclean 2011; Urban 2015.) In California, climate change will transform our climate, resulting in increased temperatures and wildfires, as well as reduced snowpack, lower precipitation levels, and less water availability.

The United States has contributed more to climate change than any other country. Specifically, the U.S. is responsible for 27 percent of cumulative global CO₂ emissions since 1850, and it remains the world’s second highest emitter on an annual and per capita basis. (World Resources Institute 2020.) Nonetheless, U.S. climate policy is wholly inadequate to meet the international climate target to avoid the worst climate impacts by holding global average temperature rise to well below 2°C above pre-industrial levels. An international team of climate

policy experts and scientists have even ranked U.S. climate policy as “critically insufficient,” concluding that the US’ recent policy changes “fundamentally obstructs progress towards reducing emissions in the US and seriously threatens global efforts towards phasing out fossil fuels.” (Climate Action Tracker 2025.)

The IPCC’s most recent report, entitled *Climate Change 2022: Impacts, Adaptation and Vulnerability*, found that warming is proceeding even faster than anticipated, and the best-case scenario for climate change is slipping out of reach. (IPCC 2022.) The report now estimates that, over the next 20 years, the world will cross the global warming threshold of 1.5°C. And unless immediate, rapid and large-scale reductions in greenhouse gas emissions occur, limiting warming to close to 1.5°C—or even 2°C—will be beyond reach. The United Nations Secretary General described the report’s forecasts as an “atlas of human suffering.” (Borenstein 2022.)

Although some sources of GHG emissions may seem insignificant, climate change is a problem with cumulative impacts and effects. (*Ctr. for Biological Diversity v. Nat’l Highway Traffic Safety Admin.* (9th Cir. 2008) 538 F.3d 1172, 1217 (“[T]he impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis” that agencies must conduct).) One source or one small project may not appear to significantly contribute to climate change, but the combined impacts of many sources can drastically damage California’s climate as a whole. Therefore, project-specific GHG emission disclosure, analysis, and mitigation remains vital to California meeting its climate goals and maintaining our climate.

Given the increasingly urgent need for drastic action to reduce GHG emissions, the MND’s failure to fully disclose, analyze, or mitigate the Project’s climate change effects is all the more alarming.

2. The IS/MND Fails to Adequately Disclose the Project’s GHG Impacts.

Here, the County failed to gather adequate information on the Project’s GHG impacts, offering the public little information to understand Project activities that will generate GHG emissions. As previously discussed, the IS/MND does not include the maximum occupancy of the hotel, the anticipated number of employees travelling to and from the Site, or clearly state how many parking spaces will be available on site. Given the significant, cumulative GHG impact of vehicle emissions, this information is vital for accurately disclosing, analyzing, and mitigating the Project’s GHG impacts.

The IS/MND further overlooks the GHG impact of destroying native creosote bush and other native plants on the land to construct hotel facilities. As detailed in a 2023 Center Report, “Hidden in Plain Sight: California’s Native Habitats are Valuable Carbon Sinks” (Yap et al., 2023), diverse native California habitats are important carbon sinks that should be included in

carbon calculations. In the Project area, the desert landscape consists of creosote bush scrub. Although the carbon storage and sequestration potential of such habitats are often overlooked, carbon in these systems is stored in the form of soil organic carbon (e.g., extensive root networks, soil microbial communities, mycorrhizae), soil inorganic carbon (e.g., calcite/caliche), and above-ground vegetation (Janzen, 2004; Meyer, 2012; Mi et al., 2008; Thomey et al., 2014; Wang et al., 2010; Zamanian et al., 2016.) These impacts must be addressed in an EIR.

V. The IS/MND Fails to Adequately Disclose and Assess the Wastewater Treatment Plant's Impacts.

The MND also fails to disclose and assess impacts of the Project's on-site wastewater treatment plant. The Project proposes an on-site wastewater treatment system that funnels runoff and wastewater into a treatment basin which eventually percolates back into the ground. (IS/MND at 57.) However, its impacts are only addressed in the broadest terms.

Wastewater treatment plants emit substantial amounts of methane, which went unmentioned in the IS/MND's GHG emissions assessment. (Poore, 2023.) Additionally, wastewater treatment produces substantial noise pollution, which will impact nearby residents and wildlife, also unmentioned in the IS/MND. (Amor, 2022.) This is inadequate under CEQA, as "[t]he scope of the environmental review conducted for the initial study must include the entire project," not only the hotel. (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1222.) Accordingly, the Project's wastewater treatment plan should be disclosed and, if the impacts are found to be significant, mitigated in an EIR.

VI. CONCLUSION

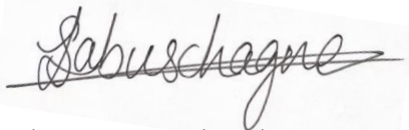
Given the possibility that the Center will be required to pursue appropriate legal remedies in order to ensure enforcement of CEQA, we would like to remind the County of its duty to maintain and preserve all documents and communications that may constitute part of the "administrative record." The administrative record encompasses any and all documents and communications which relate to any and all actions taken by the County with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA" (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further contains all correspondence, emails, and text messages sent to or received by the County's representatives or employees, which relate to the Project, including any correspondence, emails, and text messages sent between the County's representatives or employees and the project proponent's representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the County

(1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

Thank you for the opportunity to submit comments on the IS/MND for the Cactus Club Hotel Project. The IS/MND has not adequately disclosed, analyzed, or mitigated impacts to biological resources, scenic vistas, air, traffic, or water resources. The County must prepare and circulate an EIR for the Project prior to taking any further action on the Project application.

Please include the contact listed below on the County's notice list for all future updates, notices, and materials associated with the Project and its environmental review. Do not hesitate to contact the Center with any questions at the email or address listed below. We look forward to working with all parties involved in this matter to achieve a mutually agreeable outcome.

Sincerely,

A handwritten signature in dark ink, reading "Labuschagne", with a stylized flourish extending from the end of the name.

Shannon E. Labuschagne
Center for Biological Diversity
2100 Franklin St., Suite 375
Oakland, CA 94612
slabuschagne@biologicaldiversity.org

REFERENCES

All references cited in this document are available for download via OneDrive: [CCH References](#)

Allison, L.J. & MckLuckie, A.M. (2018). Population Trends on Mojave Desert Tortoises (*Gopherus Agassizii*). *Herpetological Conservation and Biology*, 433–452.

American Lung Association (ALA), State of the Air 2025.

Amor, M., et al. (2022). Tools for evaluation and prediction of industrial noise sources. Application to a wastewater treatment plant. Available at:
<https://www.sciencedirect.com/science/article/pii/S0301479722012981>

Anderson, S. H., L. W. Ayers, J. A. Dechant, M. T. Green, W. H. Howe, S. L. Jones, D. S. Klute, D. K. Rosenberg, S. R. Sheffield, and T. S. Zimmermann. (2001). Draft status assessment and conservation plan for the western burrowing owl in the United States. Administrative Report. U. S. Department of the Interior, Fish and Wildlife Service, Denver, Colorado.

Aulsebrook, A. E., Connelly, F., Johnsson, R. D., Jones, T. M., Mulder, R. A., Hall, M. L., Vyssotski, A. L., & Lesku, J. A. (2020). White and Amber Light at Night Disrupt Sleep Physiology in Birds. *Current Biology*, 30(18), 3657-3663.e5.
<https://doi.org/10.1016/j.cub.2020.06.085>.

Averill-Murray, R.C., Esque, T.C., Allison, L.J., Bassett, S., Carter, S.K., Dutcher, K.E., Hromada, S.J., Nussear, K.E., Shoemaker, K. (2021). Connectivity of Mojave Desert Tortoise Populations: Management Implications for Maintaining a Viable Recovery Network. *U.S. Geological Survey*.

BAAQMD. (2016). *Planning Healthy Places*.

Barber, J. R., Crooks, K. R., & Fristrup, K. M. (2010). The costs of chronic noise exposure for terrestrial organisms. *Trends in Ecology and Evolution*, 25(3), 180–189.

Baril, A. 1993. Pesticides and wildlife in the prairies: current regulatory issues. Pages 44-48 in G. L. Holyrod, H. L. Dickson, M. Regnier, and H. C. Smith (editors). Proceedings of the third endangered species and prairie conservation workshop. Natural History Occasional Paper 19. Provincial Museum of Alberta, Edmonton, Alberta.

Basilio, Lay G., Moreno, Daniele, J., & Piratelli, Augusto J. (2020). Main causes of bird-window collisions: a review, *Anais da Academia Brasileira de Ciências*, 92.

Boarman, W. I. (2002). Threats to Desert Tortoise Populations: A Critical Review of the Literature. *United States Geological Survey Western Ecological Research Center*.

Borenstein, S. (2022, February 28). UN climate report: ‘Atlas of human suffering’ worse, bigger. AP News. Available at: <https://apnews.com/article/climate-science-europe-united-nations-weather-8d5e277660f7125ffdab7a833d9856a3>

Bunkley, J. P., & Barber, J. R. (2015). Noise Reduces Foraging Efficiency in Pallid Bats (*Antrozous pallidus*). *Ethology*, 121(11), 1116–1121.

California Department of Fish and Wildlife: California Interagency Wildlife Task Group. (1990). California Wildlife Habitat Relationships System: American Badger.

California Department of Fish and Wildlife. Human-Wildlife Conflicts: Foxes. Available at: <https://wildlife.ca.gov/HWC/Foxes#586923626-kit-fox> (last accessed Sep. 30, 2025)

California Department of Fish and Wildlife Open Data Portal. Essential Connectivity Areas – California Essential Habitat Connectivity. Available at: <https://data-cdfw.opendata.arcgis.com/maps/CDFW::essential-connectivity-areas-california-essential-habitat-connectivity-cehc-ds620/explore?location=34.674393%2C-116.205872%2C8>

California Department of Fish and Wildlife. 2024. Status Review for Mojave Desert Tortoise (*Gopherus agassizii*). Report to California Fish and Game Commission. California Department of Fish and Wildlife, 715 P Street, Sacramento, CA 95814. 228 pp. with appendices.

California Fish and Game Commission. 2024. Notice of Findings, Western Burrowing Owl. Dated October 15, 2024.

California Fish and Game Commission. 2025. Notice of Findings for Mojave Desert Tortoise (*Gopherus agassizii*). Dated June 13, 2025.

California Fish and Game Commission. 2020. Notice of Findings for Western Joshua Tree (*Yucca brevifolia*). Dated September 22, 2020.

Center for Biological Diversity, Defenders of Wildlife, Burrowing Owl Preservation Society, Santa Clara Valley Audubon Society, Urban Bird Foundation, Central Valley Bird Club, San Bernardino Valley Audubon Society. (2024). *Petition Before the California Fish and Game Commission To List California Populations of the Western Burrowing Owl (Athene cunicularia*

hypugaea) as *Endangered or Threatened Under the California Endangered Species Act*. Dated March 5, 2024.

Cole, K.L., K. Ironside, J. Eischeid, G. Garfin, P.B. Duffy, and C. Toney. 2011. Past and ongoing shifts in Joshua tree distribution support future modeled range contraction. *Ecological Applications* 21(1):137–149.

Climate Action Tracker. 2025. Countries: USA Country Summary. Available at: <https://climateactiontracker.org/countries/usa/>

DeFalco, L.A., T.C. Esque, S.J. Scoles-Sciulla, and J. Rodgers. 2010. Desert wildfire and severe drought diminish survivorship of the long-lived Joshua tree (*Yucca brevifolia*; Agavaceae). *American Journal of Botany* 97(2):243–250.

Delevoryas, P. 1997. Relocation of burrowing owls during courtship period. Pages 138-144 in Lincer, J. L. and K. Steenhof (editors). 1997. *The Burrowing Owl, Its Biology and Management; Including the Proceedings of the First International Burrowing Owl Symposium*. Raptor Research Report Number 9.

Desante, D.F. and E. Ruhlen. 1995. A census of burrowing owls in California, 1991- 1993. Institute for Bird Populations, Point Reyes Station, CA.

Desmond, M. J., J. A. Savidge, and K. M. Eskridge. 2000. Correlations between burrowing owl and prairie dog declines: a 7-year analysis. *Journal of Wildlife Management* 64: 1067-1075.

Ditmer, M. A., Stoner, D. C., Francis, C. D., Barber, J. R., Forester, J. D., Choate, D. M., Ironside, K. E., Longshore, K. M., Hersey, K. R., Larsen, R. T., McMillan, B. R., Olson, D. D., Andreasen, A. M., Beckmann, J. P., Holton, P. B., Messmer, T. A., & Carter, N. H. (2021). Artificial nightlight alters the predator–prey dynamics of an apex carnivore. *Ecography*, 44(2), 149–161. <https://doi.org/10.1111/ecog.05251>

Dole, K.P., M.E. Loik, and L.C. Sloan. 2003. The relative importance of climate change and the physiological effects of CO₂ on freezing tolerance for the future distribution of *Yucca brevifolia*. *Global and Planetary Change* 36:137– 146.

Dominoni, D. M. (2015). The effects of light pollution on biological rhythms of birds: An integrated, mechanistic perspective. *Journal of Ornithology*, 156(S1), 409–418. <https://doi.org/10.1007/s10336-015-1196-3>.

Francis, C. D., & Barber, J. R. (2013). A framework for understanding noise impacts on wildlife: An urgent conservation priority. *Frontiers in Ecology and the Environment*, 11(6), 305–313.

Gaston, K. J., Bennie, J., Davies, T. W., & Hopkins, J. (2013). The ecological impacts of nighttime light pollution: A mechanistic appraisal. *Biological Reviews*, 88(4), 912–927.
<https://doi.org/10.1111/brv.12036>

Gaston, K. J., Duffy, J. P., Gaston, S., Bennie, J., & Davies, T. W. (2014). Human alteration of natural light cycles: Causes and ecological consequences. *Oecologia*, 176(4), 917–931.
<https://doi.org/10.1007/s00442-014-3088-2>

Green, G. A. and R. G. Anthony. 1989. Nesting success and habitat relationships of burrowing owls in the Columbia Basin, Oregon. *Condor* 91: 347–354.

Habib, L., Bayne, E. M., & Boutin, S. (2007). Chronic industrial noise affects pairing success and age structure of ovenbirds *Seiurus aurocapilla*. *Journal of Applied Ecology*, 44(1), 176–184.
<https://doi.org/10.1111/j.1365-2664.2006.01234.x>

Harrower, J. and G. S. Gilbert. 2018. Context-dependent mutualisms in the Joshua tree–yucca moth system shift along a climate gradient. *Ecosphere* 9(9).

Haug, E. A., B. A. Millsap, and M. S. Martell. 1993. The burrowing owl (*Speotyto cunicularia*). In Poole, A. and F. Gill (editors). *The birds of North America*, No. 61. Philadelphia: The Academy of Natural Sciences; Washington, D. C. The American Ornithologists' Union.

Haug, E. A. and L. W. Oliphant. 1987. Breeding biology of burrowing owls in Saskatchewan. Pp. 269- 271 In Holroyd, G. L., W. B. McGillivray, P. H. R. Stepney, D. M. Ealey, G. C. Trottier, and K. E. Eberhart (editors). *Endangered species in the Prairie Provinces*. Provincial Museum of Alberta Occasional Paper, No. 9.

Hjertaas, D. G. 1997. Recovery plan for the burrowing owl in Canada. Pages 107-111 in J. L.

Kim, L., Kim, H., Lee, T.-Y., & An, Y.-J. (2023). Chemical toxicity screening of tire particle leachates from vehicles and their effects on organisms across three trophic levels. *Marine Pollution Bulletin*, 192, 114999. Available at: <https://doi.org/10.1016/j.marpolbul.2023.114999>.

Laurent, Oliver, et al. (2016). Low birth weight and air pollution in California: Which sources and components drive the risk? *Environment International*, 92–93, 471–77.

Lincer and K. Steenhoff (editors). The burrowing owl: its biology and management. Raptor Research Report Number 9.

James P. C., G. A. Fox, and T. J. Ethier. 1990. Is the operational use of strychnine to control ground squirrels detrimental to burrowing owls? *Journal of Raptor Research* 24(4): 120–23.

Janzen, H. H. (2004). Carbon cycling in earth systems—A soil science perspective. *Agriculture, Ecosystems and Environment*, 104, 399–417.

iNaturalist (2017). Mojave Desert Tortoise. Available at:
<https://www.inaturalist.org/observations/8230414>

iNaturalist (2019). Mojave Desert Tortoise. Available at:
<https://www.inaturalist.org/observations/22378132>

iNaturalist (2022). Mojave Desert Tortoise. Available at:
<https://www.inaturalist.org/observations/110438478>

iNaturalist (2022). American Badger. Available at:
<https://www.inaturalist.org/observations/192847316>

iNaturalist (2024). Desert Kit Fox. Available at:
<https://www.inaturalist.org/observations/233521177>

iNaturalist (2024). Mojave Desert Tortoise. Available at:
<https://www.inaturalist.org/observations/208138428>

iNaturalist (2025). Burrowing Owl. Available at:
<https://www.inaturalist.org/observations/295297947>

IPCC, Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, [Core Writing Team, R.K. Pachauri & L.A. Meyer (eds.)], IPCC, Geneva, Switzerland (2014),
http://www.ipcc.ch/pdf/assessment-report/ar5/syr/SYR_AR5_FINAL_full_wcover.pdf

IPCC, Hicke, J.A., S. Lucatello, L.D., Mortsch, J. Dawson, M. Domínguez Aguilar, C.A.F. Enquist, E.A. Gilmore, D.S. Gutzler, S. Harper, K. Holsman, E.B. Jewett, T.A. Kohler, and K.A. Miller. (2022). North America. In: *Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental*

Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegria, M. Craig, S. Langsdorf, S. Löschke, V.

Kempenaers, B., Borgström, P., Loës, P., Schlicht, E., & Valcu, M. (2010). Artificial Night Lighting Affects Dawn Song, Extra-Pair Siring Success, and Lay Date in Songbirds. *Current Biology*, 20(19), 1735–1739. <https://doi.org/10.1016/j.cub.2010.08.028>.

Klem, D. (2009). Avian Mortality at Windows: The Second Largest Source of Bird Mortality on Earth. *Proceedings of the Fourth International Partners in Flight Conference: Tundra to Tropics*, 244–251.

Maclean, I. M. D., & Wilson, Robert. J. (2011). Recent ecological responses to climate change support predictions of high extinction risk. *Proceedings of the National Academy of Sciences*, 108(30), 12337–12342.

McClure, C. J. W., Ware, H. E., Carlisle, J., Kaltenecker, G., & Barber, J. R. (2013). An experimental investigation into the effects of traffic noise on distributions of birds: Avoiding the phantom road. *Proceedings of the Royal Society B: Biological Sciences*, 280.

Melillo, Jerry M, Terese (T.C.) Richmond & Gary W. Yohe (eds.), Climate Change Impacts in the United States: The Third National Climate Assessment, U.S. Global Change Research Program (2014). Available at: <https://www.nrc.gov/docs/ML1412/ML14129A233.pdf>

Meyer, S. E. (2012). Restoring and managing cold desert shrublands for climate change mitigation. In D. M. Finch (Ed.), *Climate Change in grasslands, shrublands, and deserts of the interior American West: A review and needs assessment. General Technical Report RMRS-GTR-285* (pp. 21–34). USDA Forest Service.

Mi, N., Wang, S., Liu, J., Yu, G., Zhang, W., & Jobbágy, E. (2008). Soil inorganic carbon storage pattern in China. *Global Change Biology*, 14, 2380–2387.

National Park Service. Joshua Tree National Park – Stargazing, National Park Service (last visited September 28, 2025). Available at: <https://www.nps.gov/thingstodo/stargazing-at-joshua-tree.htm>.

Nogueira, T. M., Lawler, J. J., Schumaker, N. H., Cypher, B. L., Phillips, P. E. 2015. Land Use as a Driver of Patterns of Rodenticide Exposure in Modeled Kit Fox Populations. *PLOS ONE*.

Nixon, H. & Saphores, J. (2007). Impacts of Motor Vehicle Operation on Water Quality in the United States - Clean-up Costs and Policies. Transportation Research Part D: Transport and

Environment. Available at:

<https://www.sciencedirect.com/science/article/abs/pii/S1361920907000892>

Phillips, J. N., Termondt, S. E., & Francis, C. D. (2021). Long-term noise pollution affects seedling recruitment and community composition, with negative effects persisting after removal. *Proceedings of the Royal Society B*, 288, 20202906–20202906

Poore, C. (2023). Wastewater sector emits nearly twice as much methane as previously thought. Princeton Engineering. Available at:

<https://engineering.princeton.edu/news/2023/02/28/wastewater-sector-emits-nearly-twice-much-methane-previously-thought>

Rosenberg, D. K., J. A. Gervais, H. Ober, and D. F. DeSante. 1998a. An adaptive management plan for the burrowing owl population at NAS Lemoore. The Institute for Bird Populations. Point Reyes Station, California. Publication No. 95.

Rosenberg, D. K., and K. L. Haley. 2003. The ecology of burrowing owls in the agroecosystem of the Imperial Valley, California. *Studies in Avian Biology*.

Rosenberg, K. V., Dokter, A. M., Blancher, P. J., Sauer, J. R., Smith, A. C., Smith, P. A., Stanton, J. C., Panjabi, A., Helft, L., Parr, M., & Marra, P. P. (2019). Decline of the North American avifauna. *Science*, 366 (6461), 120–124.

San Bernadino County: Public Works, Desert Tortoise (*Gopherus agassizii*) (last accessed Oct. 3, 2025). Available online: <https://dpw.sbcounty.gov/especies/desert-tortoise/#:~:text=To%20escape%20the%20heat%20of,mate%20and%20forage%20for%20food.>

Sanders, D., Frago, E., Kehoe, R., Patterson, C., & Gaston, K. J. (2020). A meta-analysis of biological impacts of artificial light at night. *Nature Ecology & Evolution*, 5(1), 74–81. <https://doi.org/10.1038/s41559-020-01322-x>

Sheffield, S. R. 1997b. Owls as biomonitors of environmental contamination. Pages 383-398 in J. R. Duncan, D. H. Johnson, and T. H. Nichols (editors). *Biology and conservation of owls of the Northern Hemisphere*. U.S.D.A. Forest Service, General Technical Report NC-190. North Central Forest Experiment Station, St. Paul, Minnesota.

Sweet, L.C., T. Green, J.G.C. Heintz, N. Frakes, N. Graver, J.S. Rangitsch, J.E. Rodgers, S. Heacox, and C.W. Barrows. 2019. Congruence between future distribution models and empirical data for an iconic species at Joshua Tree National Park. *Ecosphere* 10(6).

Thomas, Chris. D. et al., Extinction risk from climate change, 427 Nature 145 (2004).

Trulio, L. A. 1997. Strategies for protecting western burrowing owls (*Speotyto cunicularia hypugaea*) from human activities. Pp. 461-465 in Duncan, J. R., D. H. Johnson, and T. H. Nicholls (editors). Biology and conservation of owls of the northern hemisphere. USDA Forest Service General Technical Report NC-190. St. Paul, Minnesota.

U.C. Davis Wildlife Health Center (2005). California Wildlife Conservation Challenges: California's Wildlife Action Plan.

United States Fish & Wildlife Service: Region 8, Pacific Southwest Region. (2011). Revised Recovery Plan for the Mojave Population of the Desert Tortoise (*Gopherus Agassizii*). Dated May 6, 2011.

United States Fish & Wildlife Service: Desert Tortoise Recovery Office Southern Nevada Fish and Wildlife Service. (2022). Mojave Desert Tortoise (*Gopherus agassizii*) 5-Year Review: Summary and Evaluation.

Urban, Mark C., Accelerating extinction risk from climate change, 348 Science 571 (2015).

Ware, H. E., McClure, C. J. W., Carlisle, J. D., & Barber, J. R. (2015). A phantom road experiment reveals traffic noise is an invisible source of habitat degradation. *Proceedings of the National Academy of Sciences*, 112(39), 12105–12109.

Warren, R., Price, J., Fischlin, A., de la Nava Santos, S., & Midgley, G. (2011). Increasing impacts of climate change upon ecosystems with increasing global mean temperature rise. *Climatic Change*, 106(2), 141–177.

Wiens, J. J. (2016). Climate-related local extinctions are already widespread among plant and animal species. *PLoS Biology*, 14(12), 1–18.

World Resources Institute, This Interactive Chart Shows Changes in the World's Top 10 Emitters (December 10, 2020). Available at: <https://www.wri.org/insights/interactive-chart-shows-changes-worlds-top-10-emitters/>.

Yap, T. A., Prabhala, A., & Anderson, I. (2023). *Hidden in Plain Sight: California's Native Habitats are Valuable Carbon Sinks*. Center for Biological Diversity.

Zamanian, K., Pustovoytov, K., & Kuzyakov, Y. (2016). Pedogenic carbonates: Forms and formation processes. *Earth-Science Reviews*, 157, 1–17.

EXHIBIT 1



EXHIBIT 1:

One of dozens of rodent holes visible on the Project site.

Photo Credit: Photo taken by Brendan Cummings from public road adjacent to Project Site on 09/26/25.

EXHIBIT B



October 7, 2026

Sent via email

Planning Commission Secretary, Land Use Services Department
County Government Center
385 N. Arrowhead Ave.
San Bernardino, CA 92415
PlanningCommissionComments@lus.sbcounty.gov

Re: Supplemental Comments on Cactus Club Hotel (Project No. PROJ-2023-00061)

Dear Members of the Planning Commission:

These supplemental comments are submitted on behalf of the Center for Biological Diversity (the “Center”) regarding the Cactus Club Hotel (the “Project”), which is scheduled for consideration by the Planning Commission on October 8, 2026. The Center previously submitted comments on October 6, 2025, which identified substantial evidence that the Project may have significant environmental effects and urged the County to prepare an Environmental Impact Report (“EIR”), or at a minimum, substantially revise and recirculate the Initial Study/Mitigated Negative Declaration (IS/MND).

After reviewing the Planning Commission Staff Report, including the Applicant’s Responses to Comments (Exhibit B), and other Exhibits, the Center remains concerned about inconsistencies in the Project Description and undisclosed, unanalyzed, and/or unmitigated environmental impacts. Under the present record, the IS/MND is inadequate. Moreover, the record contains substantial evidence that the Project may have a significant effect on the environment, and the Commission should therefore instruct the County and Applicant to prepare an EIR. Finally, the Center also notes it did not receive adequate notice of the hearing or the availability of the Visual Impact Study. Due to inadequate notice to interested parties, the Commission should continue the hearing until the public has received meaningful notice and an opportunity to respond.

These deficiencies preclude adoption of the Mitigated Negative Declaration (MND) because substantial evidence supports a fair argument that the Project may have significant environmental effects, as noted in the Center’s 2025 submitted comments. Accordingly, the

Center urges the Commission to deny adoption of the MND, direct preparation of an EIR, and continue the hearing until the public receives meaningful notice and has an opportunity to review the environmental analyses.

I. The Center did not Receive Adequate Notice of the Hearing or the Recently Available Visual Impact Study.

The Center is concerned that it did not receive adequate notice of the Planning Commission's October 8, 2026 hearing. In its comments, the Center requested that the County include the Center on its "notice list for all future updates, notices, and materials associated with the Project and its environmental review." The Staff Report states that on September 24, 2025, the County mailed notice of the October 8 hearing to surrounding property owners and "others who had requested written notice." However, the Center received no such notice. Moreover, in response to a Center email, the Contract Planner assigned to the case confirmed that "a notice was not sent to" the Center. Ex. A.

The Planning Commission's October 8, 2026 meeting agenda further impeded the Center's ability to identify the impending hearing. The County's Land Use Services materials identified the Project as the "Cactus Club Hotel," and accessed the IS/MND under this Project Name. In contrast, the Planning Commission agenda identifies the item as "Yucca Trail 11 / Marlow LaFountaine" without identifying the Project as the Cactus Club Hotel. As a result, even diligent monitoring of Project-related materials would not necessarily alert interested members of the public that the Project was scheduled for Commission consideration.

These notice concerns are compounded by the delayed availability of the Visual Impact Study. The Center noted in its 2025 comments that the Visual Impact Study included in Appendix H was inaccessible. In the Planning Commission Staff Report, the Applicant acknowledges Appendix H was inaccessible. The County subsequently made a corrected version available on October 6, 2026, a year after the Center submitted its comments and less than two days before the Commission hearing. The Center was not notified when the study was made available. *See* Ex. A. Consequently, interested members of the public were deprived of any meaningful opportunity to review and comment on the study which forms the basis for the County's recommendation.

Given that the Center did not receive adequate notice of the hearing or the Visual Impact Study, the Center's supplemental comments are incomplete, and additional time is required to adequately respond to the new information included in the Staff Report and Visual Impact Study. Under these circumstances, the Commission should, at a minimum, defer consideration of the Project until the County confirms all parties who requested notice received adequate notice of the

hearing and had a reasonable opportunity to review the complete set of environmental assessment materials, including the Visual Impact Study.

II. The Project Description Is Inconsistent with the Record.

The Project Description in the record remains inconsistent. The Staff Report repeatedly describes the project as including 58 parking spaces. However, in Exhibit B of the Staff Report, the Applicant's response acknowledges that the Project will provide 80 parking spaces, the reference to the 36 parking spaces in the Noise Impact Study is erroneous, and logically implies that the Project Description of 58 parking spaces is incorrect. The number of parking spaces informs the analysis of environmental impacts resulting from the vehicle trips, traffic, noise, impervious surfaces, and amount of land disturbed. Accordingly, the Commission should identify the correct number of parking spaces created by the Project and ensure that number is reflected in the Project Description and relevant environmental analyses.

The record contains additional conflicting descriptions of the Project, employment levels, building square footage, daily vehicle trips, and the availability of amenities to members of the public. Several technical studies also appear to analyze materially different project effects. For example, the Noise Study assumes 36 parking spaces, while other project documents describe 58 or 80 spaces. Likewise, different documents identify substantially different levels of employment and traffic generation. Because environmental impacts are necessarily dependent on the Project's characteristics and intensity of use, these inconsistencies prevent meaningful public review and undermine the reliability of the MND's conclusions.

For example, public use of the Project's extensive amenities warrants further clarification and disclosure before the Commission relies on the IS/MND's conclusion on traffic, parking, noise and other environmental impacts. The Staff Report describes the Project as a hotel with "associated guest amenities" and notes the restaurants, café, and wine bar will be open to hotel guests. However, in Exhibit B, the Applicant's response to the Morongo Basin Conservation Association indicates at least some of the Project's amenities will be open to the public. This states the fine dining restaurant and café "may be open to the public" and that the spa "may accept outside appointments on a limited basis."

Public use of the Project's amenities would generate additional vehicle trips, noise, and waste, among other impacts. These effects are particularly relevant given the Project's location in desert habitat and that the record already identifies concerns regarding wildlife disturbance, lighting, noise, trash, and raven attraction. Given the large discrepancy between the Project's hotel size (7,704 sf) and its substantially larger amenities (17,550 sf), these assumptions are material to the evaluation of the Project's environmental impacts. The extent of public use

should, at a minimum, be clarified to ensure the Project Description and environmental impacts analysis accurately reflects the reasonably foreseeable use of the Project's amenities.

The inconsistencies identified above are not exhaustive. A recent article published by the *Desert Trumpet* reviewed the Commission record and identified numerous additional discrepancies among the IS/MND, supporting studies, Staff Report, Conditions of Approval, and Applicant responses. *See* Ex. B. Among other issues, the article notes inconsistencies regarding employee counts, vehicle trip generation, square footage of Project buildings, and whether water features are part of the Project design. It also notes discrepancies between assumptions used in traffic, noise, drainage, air quality, visual resources and biological record. The issues underscore a broader concern already reflected throughout the record: the Project Description and supporting environmental analyses are internally inconsistent, impeding the public and Commission's ability to determine what Project is being approved and whether the environmental analysis corresponds to the Project as proposed. On this basis alone, the IS/MND is deficient.

III. Impacts to Mojave Desert Tortoise Remain Undisclosed, Unanalyzed, and Insufficiently Mitigated to Support a MND Determination.

The record contains a fair argument backed by substantial evidence that the Project may have a significant effect on the Mojave desert tortoise and this is not addressed by the proposed Mitigation Measure BIO-1 and therefore requires preparation of an EIR. The record indicates the Applicant's 2023 reconnaissance level survey in the IS/MND is inadequate, and that outside surveys revealed over 25 tortoise sightings in the general area of the Project. In response to this, the Applicant committed to conducting a full USFWS protocol-level survey for desert tortoise before any ground disturbing activity.

However, a future survey is not a substitute for the environmental analysis necessary to determine whether the Project may significantly impact the species. This point is particularly relevant given the numerous sightings of desert tortoise not considered in the IS/MND. CEQA requires the County to determine before adopting a MND whether there is substantial evidence supporting a fair argument that the Project may have a significant environmental effect. The information provided by the Desert Tortoise Council and the limitation of the original survey materially changes the factual record. A protocol level survey must therefore be completed and analyzed before a determination on the MND is issued.

Additionally, the revised record raises concerns that the Project could create additional water subsidies for ravens, coyotes, and other desert tortoise predators. The Center previously raised this issue in its comments, explaining that the Project could increase raven predation through food subsidies as well as water subsidies from the proposed retention pond. Raven and coyote populations have dramatically increased in the desert due to anthropogenic subsidization

such as trash, artificial water sources, and nesting and perching opportunities from structures, resulting in increasingly disproportionate juvenile tortoise predation (USFWS, 2022; Berry et al., 2023). Indeed, United States Fish and Wildlife Service (USFWS) details that recordings of intense predation incidents “suggest predation comes to the forefront as a management concern, especially where landscapes have been altered and intensive human use occurs or in times of extreme drought” (USFWS, 2022). In the absence of a predation event, predator presence could also deter desert tortoise from using the surrounding habitat, risking further habitat fragmentation.

The Staff Report includes renderings that depict substantial pools and water features. The IS/MND did not adequately disclose, analyze, or mitigate the environmental impacts from the pools. This omission is particularly significant given the Center’s prior comments noting artificial water sources and predator subsidization impacts to desert tortoise. The new measures included in the Staff Report and Applicant responses do not address impacts from the Project that increase predator abundance and predation pressure to desert tortoises.

Consequently, the IS/MND remains deficient and preparation of an EIR is the appropriate next step. The County cannot postpone proper environmental analysis, which here requires an adequate desert tortoise survey and analyses of predation subsidies, until after approval. CEQA requires that environmental review provide meaningful opportunities for public disclosure and participation. Moreover, the Commission must rely on information properly before it to make a determination. The numerous desert tortoise sightings, risks posed to tortoises through increased predation pressures, and the Project’s foreseeable impacts constitute substantial evidence supporting a fair argument that the Project may have a significant effect on the environment. Therefore, the Project requires an EIR.

IV. Impacts to Wildlife Connectivity Remain Undisclosed, Unanalyzed, and Insufficiently Mitigated to Support a MND Determination.

The Applicant’s response in Exhibit B recognizes that the Project’s connectivity analysis requires revision due to location within an Essential Connectivity Area and in relation to the DRECP Ord-Rodman to Joshua Tree National Park linkage. The Project would convert over five acres of currently undeveloped habitat into a hotel development with extensive amenities and include restaurants, bars, spa facilities, parking areas, lighting, and increased human activity. Neither the IS/MND nor the Staff Report discloses, analyzes, or mitigates the effects of the Project’s footprint, operational impacts, or associated edge effects on wildlife connectivity. Habitat development, traffic volume, predator subsidization, and human presence negatively influence survival and connectivity for desert tortoise (Esque et al., 2010; Averill-Murray et al., 2021). The Applicant’s assertion that, due to the absence of perimeter fencing, the Project won’t

construct barriers to regional wildlife movement is contrary to evidence in the record concerning how edge effects, traffic, and human presence impacts wildlife movement.

The County may not defer necessary environmental review. It must disclose the completed connectivity analysis, not simply a commitment from the Applicant to provide one, and explain how the Project's disturbance footprint and edge effects impact the ecological function at site and in the surrounding connectivity area and whether there are planned mitigation measures that will address those impacts. CEQA requires enforceable mitigation measures, and the Applicant's unenforceable promises and future intentions cannot substitute for concrete mitigation. Because the appropriate connectivity analysis is not in the record, it cannot support the Staff Report's conclusions nor a determination by the Commission.

I. CONCLUSION

Given the possibility that the Center will be required to pursue appropriate legal remedies in order to ensure enforcement of CEQA, we would like to remind the County of its duty to maintain and preserve all documents and communications that may constitute part of the "administrative record." The administrative record encompasses any and all documents and communications which relate to any and all actions taken by the County with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA" (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further contains all correspondence, emails, and text messages sent to or received by the County's representatives or employees, which relate to the Project, including any correspondence, emails, and text messages sent between the County's representatives or employees and the project proponent's representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the County (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

For the foregoing reasons, the County has not demonstrated that the Project's potentially significant environmental impacts can be adequately addressed through a MND. The record continues to contain material inconsistencies regarding the Project description, unresolved questions regarding public use of the Project's amenities, inadequate analysis of impacts to Mojave desert tortoise and wildlife connectivity, and newly available information that has not been adequately disclosed or evaluated. The record also reflects commitments made by the Applicant regarding biological surveys and mitigation measures that have not been incorporated into the enforceable conditions of approval or the mitigation monitoring program.

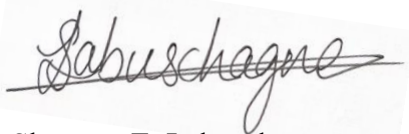
At a minimum, the County must make available and analyze the revised biological and connectivity information, provide the public an opportunity to review the Visual Impact Study

and other newly available materials, clarify the operative Project description, and recirculate a revised environmental document addressing these issues. However, because substantial evidence supports a fair argument that the Project may result in significant impacts to biological resources and wildlife movement, the Center continues to maintain that preparation of a full EIR is required under CEQA before any project approval may occur.

Accordingly, the Center respectfully requests that the Planning Commission decline to adopt the MND, continue the matter, and direct preparation of an EIR consistent with CEQA's requirements.

Please include the contact listed below on the County's notice list for all future updates, notices, and materials associated with the Project and its environmental review.

Sincerely,

A handwritten signature in black ink, reading "Labuschagne", with a stylized flourish at the end. The signature is written over a light gray rectangular background.

Shannon E. Labuschagne
Center *for* Biological Diversity
2100 Franklin St., Suite 375
Oakland, CA 94612
slabuschagne@biologicaldiversity.org

References

The Center incorporates by reference all previous studies and citations in its 2025 comments on the Cactus Club Project.

Averill-Murray, R. C., Esque, T. C., Allison, L. J., Bassett, S., Carter, S. K., Dutcher, K. E., Hromada, S. J., Nussear, K. E., & Shoemaker, K. (2021). *Connectivity of Mojave Desert Tortoise Populations: Management Implications for Maintaining a Viable Recovery Network* (Open-File Report Nos. 2021–1033; Open-File Report). U.S. Geological Survey.

Berry, K. H., Mack, J. S., & Anderson, K. M. (2023). Variations in climate drive behavior and survival of small desert tortoises. *Frontiers in Ecology and Evolution*, 11.

Esque, T. C., Nussear, K. E., Drake, K. K., Walde, A. D., Berry, K. H., Averill-Murray, R. C., Woodman, A. P., Boarman, W. I., Medica, P. A., Mack, J., & Heaton, J. S. (2010). Effects of subsidized predators, resource variability, and human population density on desert tortoise populations in the Mojave Desert, USA. *Endangered Species Research*, 12, 167–177.
<https://doi.org/10.3354/esr00298>

USFWS (2022). Mojave Desert Tortoise 5-Year Review: Summary and Evaluation.

Center Comments
Ex. A



Outlook

RE: Center for Biological Diversity Comments RE Cactus Club Hotel project (PROJ-2023-00061).

From Mujica, Oliver <Oliver.Mujica@lus.sbcounty.gov>

Date Wed 10/7/2026 8:11 AM

To Shannon Labuschagne <Slabuschagne@biologicaldiversity.org>

Good Morning Shannon,

With apologies, a notice was not sent to your organization. The Visual Analysis previously available was corrupted and corrected yesterday (October 6).

Oliver Mujica

Contract Planner

Land Use Services Department

385 N. Arrowhead Ave

San Bernardino, CA, 92415-0187

Our job is to create a county in which those who reside and invest can prosper and achieve well-being.

www.SBCounty.gov

County of San Bernardino Confidentiality Notice: This communication contains confidential information sent solely for the use of the intended recipient. If you are not the intended recipient of this communication, you are not authorized to use it in any manner, except to immediately destroy it and notify the sender.

From: Shannon Labuschagne <Slabuschagne@biologicaldiversity.org>

Sent: Wednesday, October 7, 2026 5:30 AM

To: Mujica, Oliver <Oliver.Mujica@lus.sbcounty.gov>

Subject: Re: Center for Biological Diversity Comments RE Cactus Club Hotel project (PROJ-2023-00061).

You don't often get email from slabuschagne@biologicaldiversity.org. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Dear Mr. Mujica,

I am reaching out regarding recent developments related to the Cactus Club Project.

The Project is scheduled for consideration at the October 8 San Bernardino County Planning Commission hearing. The Staff Report indicates that public hearing notices were sent on September 23 (or September 24). However, after reviewing the Center's records, I have been unable to locate any notice received by the Center.

Could you please confirm:

1. Whether the Center for Biological Diversity was included on the distribution list for hearing notices and other project updates; and
2. Whether notice of the October 8 hearing was sent to the Center and, if so, to what address or email.

In addition, it has come to the Center's attention that the previously inaccessible Visual Impact Study has since been made available. Do you know when the corrected study was posted and whether any notice was provided to interested parties regarding its availability?

The Center intends to submit supplemental comments by approximately midday and would appreciate any clarification you can provide regarding these notice-related issues before then.

Thank you for your assistance.

Best,
Shannon E. Labuschagne
Center for Biological Diversity

From: Mujica, Oliver <Oliver.Mujica@lus.sbcounty.gov>

Sent: Monday, October 6, 2025 12:28 PM

To: Shannon Labuschagne <Slabuschagne@biologicaldiversity.org>

Subject: RE: Center for Biological Diversity Comments RE Cactus Club Hotel project (PROJ-2023-00061).

Good Morning and Thank You for your comments.

Oliver Mujica

Contract Planner

Land Use Services Department

385 N. Arrowhead Ave

San Bernardino, CA, 92415-0187

[Our job is to create a county in which those who reside and invest can prosper and achieve well-being.](http://www.SBCounty.gov)

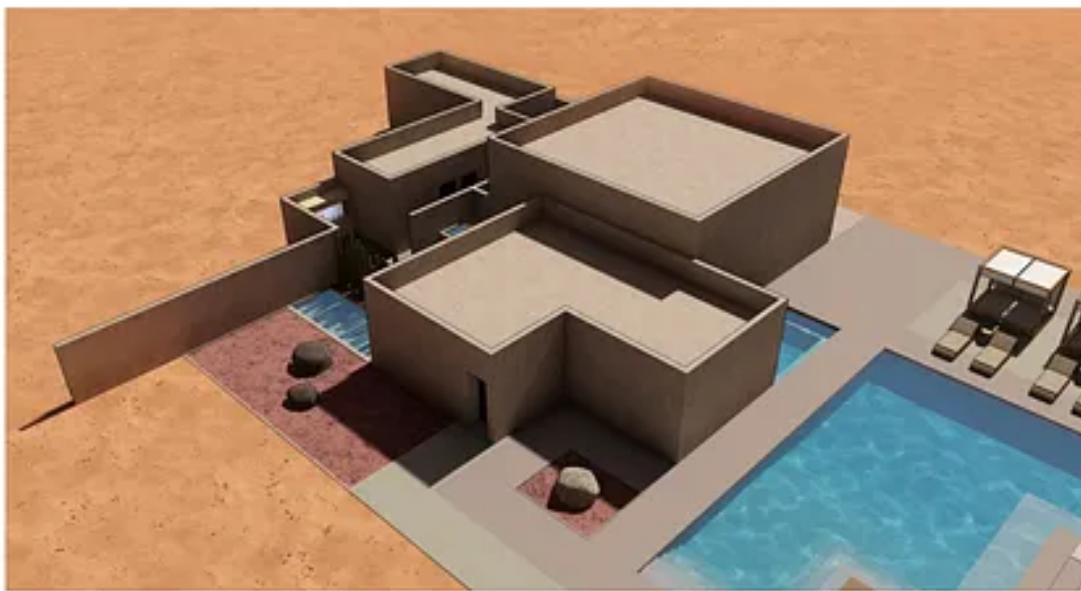
www.SBCounty.gov

Center Comments
Ex. B

Agenda Preview: San Bernardino County Planning Commission, Thursday, October 8, 2026

A Cactus Club LLC the County never saw, connections the applicant denies and state filings show, and a 20-room hotel with guest-only amenities for 415 or more. The Commission votes Thursday.

[Cindy Bernard](#) 2 hours ago



Applicant's rendering of the Cactus Club Hotel, from the staff report. The pool and water features shown appear nowhere in the Mitigated Negative Declaration.

A note to our readers: On October 1, we were informed that the DEW Foundation, which has been a generous supporter of the Desert Trumpet, is closing. DEW has supported 1/3 of our budget for the last two years, for which we are grateful. However, this means we need to raise an additional \$25,000 over the next few months. Accordingly we are now accepting paid promotions from fellow nonprofits. Email editor@deserttrumpet.org for details. We also have some exciting giving opportunities coming up, where your contributions will qualify for a 1:1 match. Watch your email for more info soon.

The County Planning Commission meets Thursday, October 8, at 9 a.m. at the Government Center in San Bernardino. There is one item on the agenda.

and it is in the Basin: a 20-room hotel, 7,705 square feet of guest rooms attached to 17,850 square feet of amenities, two restaurants, a café, a wine bar, a club room and a spa, on the southeast corner of Twentynine Palms Highway and Mile Square Road in Joshua Tree.

Staff recommend that the Commission adopt the Mitigated Negative Declaration (MND), the environmental document that found no significant impacts after mitigation, and approve a redrawn parcel map and the Conditional Use Permit. The visual impact study, Appendix H to the MND and the basis for its finding on views, was written by the applicant and was not readable by the public until the afternoon of October 6.

The applicant, Evoque Modern LLC, told the County that Fieldtrip, which lists 48 short-term rentals under Joshua Tree on its website, "has no legal or operational connection to the project"; state records show the two companies share a manager.

The Commission's decision can be appealed to the Board of Supervisors.

- The agenda is [here](#).
- The meeting streams at <https://lus.sbcounty.gov/planning-home/planning-commission/>.
- Written comment goes to PlanningCommissionComments@lus.sbcounty.gov; comments received before the meeting starts are forwarded to the Commission.

A Closer Look: Cactus Club Hotel, PROJ-2023-00061

Applicant's rendering of the Cactus Club Hotel, from the staff report. The pool and water features shown appear nowhere in the Mitigated Negative Declaration.

The project.

What's proposed. The applicant is seeking a Tentative Parcel Map and a Conditional Use Permit for the Cactus Club Hotel project. Three existing parcels, 15 acres in all, run from the highway back to Cactus Drive, and each is split between two zones: Neighborhood Commercial (CN) along the highway, Multiple Residential (RM) behind. The request would redraw them as one 5.27-acre CN parcel fronting the highway and three RM parcels behind it, of 2.57, 2.56 and 2.24 acres.

A hotel of 20 rooms or fewer is a permitted use in the CN zone, and the applicant first applied for a Minor Use Permit, a low level of review. The County upgraded it and required a higher level of review. The staff report says "a project that is likely to result in controversy must be processed as a Conditional Use Permit," or CUP, and cites the comments received after the 2023 notices, on "land use compatibility, increased traffic, and habitat protection," as the evidence of controversy.

The hotel's guest rooms total 7,705 square feet. Its amenities total more than twice that: a 3,500-square-foot restaurant, a 1,300-square-foot restaurant, a 1,300-square-foot café, an 1,800-square-foot wine bar, a 3,600-square-foot club room, a 3,800-square-foot spa and a 2,550-square-foot lobby. The three rear parcels, zoned Multiple Residential, would stay vacant for now; the staff report says any development there "will be processed under separate

can report any development there will be processed under separate entitlement applications."

The site is a tenth of a mile east of Más o Menos, the coffee shop and bar at 66031 Twentynine Palms Highway. The nearest home is to the south; the County's documents give its distance from the hotel as 130 feet, 330 feet and "approximately 350 feet" in three different places, without saying whether they measured to the same house.

Screenshots from Bizfile taken on October 5, 2026.

Who is behind the Cactus Club Hotel? Four different names appear as applicant or property owner across the County's documents; state records tie all of them to one address and one registered agent.

- The agenda: applicant "Yucca Trail 11 / Marlow LaFontaine."
- The County's 2023 project notice, as quoted in a neighbor's objection letter: applicant Evoque Modern LLC.
- The parcel map: owner and developer Yucca Trail 11 LLC.
- The site plan: property owner Sullivan 80 LLC.

The agenda itself never uses the project's name. Item 2 is identified as "Yucca Trail 11 / Marlow LaFontaine," PROJ-2023-00061, at the southeast corner of Twentynine Palms Highway and Mile Square Road; "Cactus Club Hotel" appears on the County's environmental documents page, the

environmental document, and every page of the staff report.

State records show Yucca Trail 11 LLC and Sullivan 80 LLC, both formed in 2020, at 6 Via Pergola, Rancho Palos Verdes, with Dan Tseng as registered agent. This is the same address and agent as Evoque Modern LLC, which the MND names as applicant and project sponsor on its cover and in the header of every page, and whose president, Archer Stephenson, wrote the responses to public comment.

Evoque Modern's biennial Statement of Information, the filing that identifies a company's managers, was due May 31, 2025 and has not been filed; bizfile flags it as overdue, though the company's standing is still listed as good. The last one on file, from July 2022, lists Tseng and LaFontaine as its managers or members. County assessor records list Evoque Modern LLC as owner of 45 parcels in the Morongo Basin, including Twentynine Palms, Yucca Valley and Joshua Tree. The applicant's response to comments states that Evoque Modern "has maintained the same ownership since its formation."

Evoque Modern bought the lot and designed and built this short-term rental in Indian Cove. Fieldtrip now lists it as The Maya, sleeping 12; title is held by Josh Seigel, Fieldtrip's CEO. (Photo: Kat Talley-Jones)

[We reported on Evoque Modern in February 2023](#), when the Twentynine Palms City Council was considering a short-term-rental appeal in Indian Cove. Our reporting then, drawn from state corporate records and Fieldtrip co-founder Josh Seigel's own published account, showed Tseng as a principal of Evoque Modern and a co-founder of Fieldtrip Hospitality, an STR company; the two shared an office in Yucca Valley, where both names were still on the building as of December 2025 (Google Street View). Evoque Modern LLC held title to several Indian Cove lots. Marlow LaFontaine was the named owner on a Twentynine Palms STR permit at 68982 Sullivan Road, with Fieldtrip as the contact.

City records current to June 2026 show LaFontaine still holds the STR permit at 68982 Sullivan Road, renewed in February 2026, with "Fieldtrip

Twentynine Palms" as agent. Title to that house is held by Tramonto Olivera LLC and Evoque Modern LLC; its property tax bills go to 17145 Margay Ave. in Carson.

Cactus Club 1 LLC, formed March 14, 2023, agent Dan Tseng. Its first Statement of Information has not been filed. Bizfile, Oct. 7, 2026.

A fifth company, Cactus Club 1 LLC, was formed on March 14, 2023, with Tseng as agent, at that Carson address. Its first Statement of Information, due June 12, 2023, has never been filed; the state has no record of who runs it. It appears in none of the County's documents.

Public comment.

The neighbors. Nine letters are in the record, and none supports the Cactus Club Hotel project. Three came from neighbors in 2023, after the County mailed project notices to the 14 property owners within 300 feet. Thomas A. Fowler wrote:

My wife and I are twenty-two-year residents of the Panorama Heights Planned Community and will be significantly and detrimentally affected by the proposed hotel complex. We strongly urge you to act in opposition to this project and deny the requested Conditional Use Permit (CUP).

The 2025 letters. Six came during the environmental review in October 2025. Two are agency comments on the environmental document, from the California Highway Patrol and the California Department of Fish and Wildlife; four raise objections: the Center for Biological Diversity, the Desert Tortoise Council, the Morongo Basin Conservation Association, and Joshua Tree restaurant owner Levon Kazarian.

Notice of Thursday's hearing was mailed September 24 to the same 14 property owners and to anyone who had asked for it. The Morongo Basin Conservation Association told us it received the notice; the Center for Biological Diversity, whose letter asked the County to preserve records for possible litigation, told us it did not. The staff report says no comments had come in by the time the report was written.

The staff report does not say whether or where the notice was published. We reviewed the legal notices in the *Hi-Desert Star* for September and found none for this hearing. County hearing notices for Morongo Basin projects are often published in the *San Bernardino Sun*, which has scant Basin coverage.

We read all nine letters, the draft environmental document, the staff report and its 178 pages of exhibits.

The Morongo Basin Conservation Association. MBCA President Steve Bardwell argued that with amenities more than twice the room square footage, the project is a resort being processed as a hotel, and that the traffic study used trip rates for a 20-room hotel, not for two restaurants, a wine bar, and a spa.

The Development Code says accessory uses must be "clearly incidental and subordinate to the primary land use," and that "whenever the accessory uses are questioned," the Planning Director determines whether a use qualifies, after notice to adjoining owners. The applicant replied that the Code has no "resort" classification, that the "functional and operational relationship" between uses, not square footage, determines what is accessory, and that notifying owners within 1,000 feet of the CUP satisfied "the spirit and intent" of the notice requirement.

Asked whether a Director's determination was made, Land Use Services Communications Analyst Amelia Maldonado wrote to the *Desert Trumpet* on October 6: "A Director's determination is not required in this instance, as the on-site amenities are for hotel guests only and are not open to the general public, per the applicant."

The applicant's May 2026 response to MBCA says the restaurant and café "may be open to the public on a limited basis" and that "the CUP will include conditions ensuring accessory uses remain subordinate in operation, including limits on public access and event activity." The 163 conditions of approval set the hours for the restaurants, café, wine bar, and spa. None limits them to hotel guests. We have asked which document the County relied on.

Kazarian and CHP. Kazarian questioned whether a septic system can serve a hotel with two restaurants, a café, and a wine bar; the environmental document describes a 4,800-gallon, three-chamber system that will be "pumped out by a waste disposal truck" when full. CHP's Morongo Basin commander wrote that the project "could have a negative impact on our

operations due to the increased traffic congestion."

Center for Biological Diversity. The Center's 27-page letter asked for a full EIR and put the County on notice to preserve records for possible litigation. Much of it concerns the February 2023 biological survey:

That survey covered 5.28 acres of land, or approximately four football fields, in a mere one-hour and thirty-five minutes. This superficial snapshot of the Project Site could not possibly account for shy, seasonal, and nocturnal animals, let alone provide ample opportunity to observe the numerous species that transiently move through or use the property for hunting, shelter, or forage.

The letter also disputes the survey's statement that the site has no small-mammal burrows, pointing to one visible in the survey's own Site Photo 3 and attaching a photograph of rodent holes taken from the public road in September 2025 by Brendan Cummings, CBD's conservation director and a Joshua Tree resident.

The shell-company allegation. Kazarian also alleged that Evoque Modern and Fieldtrip have used shell companies to accumulate STR licenses. The applicant's response called the allegations "factually inaccurate," stated that "Evoque Modern does not own any short-term rental properties in San Bernardino County," and that Fieldtrip "has no legal or operational connection to the project before the County for approval." The response does not address Fieldtrip's connection to the people behind the project, or the fact that Evoque Modern LLC is a co-owner of record of 68982 Sullivan Road, a Twentynine Palms house whose short-term rental permit is held by LaFontaine with Fieldtrip as agent.

6919 Sierra Avenue, Joshua Tree, October 6, 2026. The sign reads Evoque Modern. County records list the house as a permitted short-term rental managed by Fieldtrip, overnight occupancy 8. Photo: Cindy Bernard.

Nor does it address who runs Fieldtrip. Fieldtrip Hospitality LLC's Statement of Information, filed with the Secretary of State on June 2, 2026, lists Dan Tseng as a manager or member. Evoque Modern LLC's most recent Statement of Information, filed in 2022, lists Tseng as a manager or member and bears his signature. County short-term rental permit records list Fieldtrip as the manager of seven houses within a few blocks south of the site, on Sierra Avenue, Mount Shasta Avenue and Mile Square Road, with a combined permitted overnight occupancy of 56; one of them, 6919 Sierra Avenue, carries Evoque signage.

County assessor records list the owners of the three Sierra Avenue houses as single-purpose LLCs with a Brea mailing address. Fieldtrip markets the three as Panorama Villas: Peak, Crest and Vista. The LLCs on title are 6873 Peak LLC, 6933 Crest LLC and 6919 Vista LLC. Evoque Modern is not on title, but the chain starts at the same address. All three lots were bought in 2020 by Desert Resort Rentals LLC, formed in 2019 at 6 Via Pergola, Rancho Palos Verdes, the address Yucca Trail 11, Sullivan 80 and Evoque Modern share; a sister company, Desert Resort Rentals Member LLC, lists Tseng as agent. Blu Sequoia Modern, the third company in our 2023 reporting, owned the lot at 6873 Sierra Avenue from 2019 to 2020.

What the applicant promised, and what's in the conditions.

Two views of the site, two and a half years apart. Left: Site Photo 3 from the February 2023 biological survey, which states the site “does not contain any burrows for any small mammals” (burrow circled, as identified by the Center for Biological Diversity). Right: one of what CBD called ‘dozens’ of rodent holes, photographed from the road in September 2025 by Brendan Cummings.

The tortoise. The biological survey was one visit, February 2, 2023, 9:55 to 11:30 a.m., a reconnaissance-level walk in a month when tortoises are underground. It found the site “marginally suitable” for desert tortoises and recommended a pre-construction survey. The survey’s species table says the site has no suitable habitat, and the tortoise is “considered absent,” using the same sentence it applies to all 31 species it considered, from desert bighorn sheep to least Bell’s vireo, a riparian songbird.

The Desert Tortoise Council’s letter, from consulting biologist Ed LaRue, supplied data from 16 surveys within a half mile of the site, including Copper Mountain College across the highway, where LaRue wrote that more than 25 tortoises have been found since 2005. “Many of these animals were hatchlings or juvenile tortoises.” The Council said a formal protocol survey under federal and state endangered-species law should have been done before the environmental document was written, not left as a condition to be met after the project is approved. The tortoise was uplisted from threatened to endangered under state law in July 2025; the circulated document still called it threatened.

In its May 2026 response, the applicant agreed. It committed to a “full USFWS 2019 protocol-level survey” by an agency-approved biologist, data no more than a year old, exclusion fencing if tortoises are found, and wrote that the measure “shall be mandatory (‘shall’), not precatory (‘should’).”

None of that is in the documents the Commission is asked to adopt. The Mitigation Monitoring and Reporting Program’s BIO-1 still reads:

These surveys should be conducted by a qualified biologist and at an appropriate time of day/year to observe signs of desert tortoise using the 2018 Desert Tortoise Survey Protocol from the USFWS.

The only addition is a work-stoppage clause if a tortoise is found during construction. The staff report nonetheless tells the Commission the Errata “revises BIO-1 ... by committing to protocol-level surveys before ground disturbance.” The Errata does not mention BIO-1.

Burrowing owl. The 2023 survey found “no suitable habitat” and said no further surveys were needed. CDFW disagreed, citing recorded occurrences within two miles, and supplied a new measure, BIO-5, calling for a first survey “no less than 14 days prior” to ground disturbance. The Errata and MMRP adopted it as “no more than 14 days before.” The applicant’s response said CDFW’s measures would be incorporated “verbatim.”

Other commitments not in the conditions. The applicant’s responses promise, as conditions of approval: bird-safe glazing, raven-proof trash containers, no rodenticides, warm-spectrum shielded lighting, quiet hours after 10 p.m., no outdoor amplified sound without a permit, and a County-approved Native Plant Plan before grading. The 23-page Conditions of Approval contain none of them.

Where the record is inconsistent

The Cactus Club project itself. The County’s Notice of Availability, which announced the September 8–October 7, 2025 comment period, does not match the environmental document it was announcing, and the technical studies behind that document describe the project differently again.

- The notice: two ten-room hotel buildings totaling 11,220 square feet, an 870-square-foot café, a 4,652-square-foot spa, no wine bar; about 28,080 square feet in all.
- The environmental document, staff report, and state clearinghouse form: three guest-room buildings totaling 7,705 square feet, a 1,300-square-foot café, a 3,800-square-foot spa, a 1,800-square-foot wine bar; 25,555 square feet.
- The biological survey: five two-story guest-room buildings.
- The air quality and drainage studies: 26,500 square feet of building.
- The drainage study: a lobby, 17 rooms, 3 suites and one restaurant; no café, wine bar, club room or spa.

The dates matter because they rule out the simplest explanation for the mismatch, that the notice described the project as it stood and the design changed afterward. The environmental document is dated November 2024. The notice is dated September 2025. The notice came ten months after the environmental study it announced, yet described a larger configuration than

the one in the study.

Nothing in the staff report, the environmental document, or the applicant's responses explains the different configurations or when the design changed. The project the public was invited to comment on, as the notice described it, is 2,525 square feet larger than the one the Commission is being asked to approve.

The visual impact study. The environmental document's finding that the project's effect on views is less than significant rests on a Visual Impact Study, Appendix H. The Center for Biological Diversity reported in October 2025 that the file on the County's website was corrupted and could not be opened. In May 2026 the applicant acknowledged the problem, said it would supply a clean copy for the County to post, and stated that the study "was properly prepared and submitted as part of the application package." On the morning of October 6 we tried both the County's copy and the state clearinghouse's; neither opened. We called Land Use Services; by afternoon a readable copy was on the County's site.

It is a 25-page document dated May 2023, prepared by "Corozal" of Joshua Tree with Matthew Stephenson as contact, at the same phone number the applicant's president, Archer Stephenson, lists on the state clearinghouse form. It describes the site as follows:

- "on the foothills of the San Bernardino Mountains," at "approximately 1,584 feet above sea level." The cultural resources report puts the site at 2,470 to 2,510 feet, northeast of the Little San Bernardino Mountains.
- "served by public water, sewer, and electrical services." The project is on septic.
- "located in a drainage basin that drains to the Colorado River" and "not subject to flooding." The Morongo Basin is a closed watershed; its washes end in dry lakes, not the Colorado River. The study itself

describes the surrounding terrain as "the lower drainages of coyote dry lake." The drainage study says an upstream wash "could flood the site."

- "The air quality in the area is good." The air quality study says the basin is in nonattainment for ozone and particulates.
- "near a number of recreational amenities, including hiking trails, fishing lakes, and golf courses."

- Planned under the General Plan for "light rail, bus rapid transit, and bicycle and pedestrian paths."
- Governed by "the County's Guidelines for Determining Significance for Visual Resources" and a "Resource Protection Ordinance" adopted in 1994, with reference to "a viewer on vacation in San Diego County." Those are San Diego County's documents.
- Adjacent to Highway 62, "designated as a scenic highway in 1986." The environmental document itself says the highway is "an eligible state scenic route," not a designated one.

The applicant's four "key observation points," KP1 through KP4, all inside the project boundary (red). Figure 4, Visual Impact Analysis, May 2023.

Its findings are on four BLM Visual Contrast Rating Worksheets, one for each observation point, all signed by Matthew Stephenson on May 30, 2023. The four are identical apart from the coordinates. Each rates the project's contrast with existing vegetation as "strong" in form and line, then checks "Yes" to "Does project design meet visual resource management objectives?" and "No" to "Additional mitigating measures recommended." Each says "Explain on reverse side"; no reverse side is included. All four observation points are on or inside the project boundary, within about 750 feet of one another; the forms record the view from the site, not the view of it. None is from the homes across Cactus Drive, the neighborhood to the southwest, or the slopes to the south, which are inside Joshua Tree National Park.

The applicant's viewshed analysis. Green areas can see the Hotel site. Figure 3, Visual Impact Analysis, May 2023.

The study's own viewshed map shows the site visible from those southern slopes for two to three miles. The County adopted the result. The environmental document's aesthetics section cites the study by name, repeats its methodology, and concludes: "As noted in each KOP form in the

Visual Impact Analysis, the Project design does meet the visual resource objectives for the County and no additional mitigation measures are required." The same page places the San Bernardino Mountains "approximately 16.9 miles west" of a site the study puts on their foothills.

The applicant's response to the Center describes the site as "approximately 8 miles from the National Park boundary." Thomas Fowler's 2023 letter put the boundary about a mile south of the site. We drove it on October 6: from the highway south on Mile Square Road to Baseline Road, where the Park begins, is about one mile by odometer. The study itself says "The southern viewshed limits are defined roughly by Baseline Rd." It names the Park boundary road without saying what lies on the other side of it.

Traffic. The staff report tells the Commission that "the Traffic Impact Analysis prepared for the IS/MND has adequately analyzed traffic thresholds." There is no traffic impact analysis in the record. Appendix G of the environmental document is a two-page screening memorandum from TJW Engineering, dated July 18, 2023, concluding that a traffic study is not required.

- It counts 160 daily trips using the Institute of Transportation Engineers rate for a 20-room hotel, and nothing for the two restaurants, café, wine bar, club room or spa, because they are "accessible for hotel guests only." The memo's conclusion that no traffic study is needed depends on that assumption: if anyone but hotel guests uses the amenities, the trip count is wrong. The applicant's own response to MBCA says the restaurants "may be open to the public on a limited basis." We return to how many people may actually use the Cactus Club in our conclusion.
- It is titled "Twentynine Palms Shopping Center Transportation Impact Study Screening Memorandum," places the project "in the City of Twentynine Palms," and carries a footer from a different job, "Palm Drive – Clair Avenue Mixed-Use Complex." The site is in unincorporated Joshua Tree, which is why the County, not the City of Twentynine Palms, is the permitting agency.
- The staff report cites "56 AM vehicle trips" and "51 PM vehicle trips." Those are not trip counts. In the memo, 56 and 51 are the percentages of trips arriving (as opposed to leaving) in each peak hour. The actual peak-hour totals claimed by the memo are 9 trips in the morning and 12 in the afternoon, which the staff report gives in parentheses in the same sentence.

Noise. The noise study, by MD Acoustics, found no significant impact and recommended no mitigation.

- It rests on one 15-minute measurement taken beside the highway on an August afternoon in 2023, applied to every receptor, including the home to the south with a 45-decibel nighttime limit.
- It models operational noise from ten rooftop air conditioners and a parking lot with 36 spaces. The restaurants, wine bar, club room and spa, which Condition 1 allows to operate until 10 p.m., are not noise sources in the model. The applicant's response to MBCA nonetheless says the "noise analyses accounted for the full project including any public-facing components."
- Construction noise and vibration are calculated at a residence 400 feet away; the environmental document and the air quality study, by the same firm three days earlier, put the nearest home at 130 feet.
- It refers throughout to "the City," cites a code section that is not in the County's Development Code, and its references page is headed "Error! Reference source not found."

The south shoulder of Twentynine Palms Highway at the project site, October 6, 2026. The drainage study routes the site's overflow into a "Twentynine Palms Hwy Road gutter." There is no curb or gutter; sand washed from the site fans onto the shoulder. At right, a channel cut through the shoulder by storm runoff at the same spot, with rippled sediment and a debris line left by standing water. Photos: Cindy Bernard.

Drainage. Anyone who lives south of the highway knows the pattern: in a monsoon, runoff comes down the north–south roads and across Highway 62, the one road connecting the Morongo Basin's communities. The drainage study, prepared for County Public Works in September 2023, notes a wash upstream of the site that "could flood the site" in a 100-year storm.

- It says the basin's emergency overflow will discharge "into Twentynine Palms Hwy Road gutter." There is no gutter on that stretch of 62, and no storm drain for one to feed; the overflow would go onto the highway.
- It offsets the project's added runoff almost entirely with permeable paving on the roads and parking lot, 16,831 of the 17,919 cubic feet of storage it credits. The retention basin holds the rest, about 8,000 gallons.
- Condition 32 of the conditions of approval, from County Fire, states that the same paving "will not be approved on this submittal" for access

the same paving will not be approved on the submitted for access roadways and requires a separate alternative-materials report before building permits.

- Neither the basin nor the paving is a mitigation measure in the Mitigation Monitoring and Reporting Program.

Other numbers that don't agree. The same project is described differently depending on which County or applicant document you read:

- Parking: 36 spaces in the noise study; 58 on the agenda, staff report and site plan; 80 in the air quality study, the applicant's responses and Condition 1.
- Daily trips: 160 in the traffic memo and air quality study; 136 elsewhere in the environmental document; 478 in the noise study's highway model.
- Who may use the restaurants: "exclusively available to guest members" on the site plan; "may be open to the public on a limited basis" in the applicant's response to MBCA; hours set in Condition 1 with no guest-only limit.
- Jobs: "5-10" in the environmental document, 9 on the state clearinghouse form, 18 in the staff report and the site plan's parking table.
- Nearest home: 130 feet, 330 feet, "approximately 350 feet" and 400 feet, depending on the document.
- Joshua trees: present on the site according to the paleontological report, absent from the biological survey's plant list; three conditions of approval require a Joshua tree relocation plan.
- Protected plants and drainage: the biological survey found silver cholla, protected under the County's native plant ordinance, and no drainage features; the site plan is stamped "NO NATIVE PROTECTED PLANTS PRESENT" and labels a "BLUE LINE STREAM" across the parcel.
- Water features: the site plan and the staff report's renderings show a swimming pool, a "decorative water feature," and what appear to be reflecting pools along the buildings; the environmental document mentions none of them.
- Disturbed area: the air quality study lists 2.41 acres of paving and

- Disturbed area: the air quality study lists 3.11 acres of paving and models construction on 'approximately 0.31 acres'; the visual impact study says the project disturbs 1.71 acres."
- Where it is: "in the City of Twentynine Palms" (traffic memo), "near the City of Twentynine Palms" (cultural and paleontological reports), "in the City of Joshua Tree" (drainage study). It is in unincorporated Joshua Tree.
- Caltrans: Finding 5 says access has been "reviewed and accepted by the California Department of Transportation"; four conditions list Caltrans review as outstanding, and the applicant says it is "in progress."
- The environmental document, written for this hotel, refers in two places to "the campground" and "the campsites."

Thursday's vote.

What the Commission is voting on. Adoption of the Mitigated Negative Declaration and MMRP, the findings, the parcel map and the CUP, subject to the conditions as written.

What the Commission has in front of it Thursday is an applicant whose statement that Fieldtrip has no connection to the project is contradicted by state filings, conditions of approval that omit commitments the applicant made in writing, a traffic analysis that was never done, a visual impact study written by the applicant that the public could not open until two days before the hearing, and a project whose size, parking, trips and nearest neighbor differ depending on which document you read.

What a site visit would have found. County Planning Director Paul Gonzales, part of the Land Use Services leadership that took over this year, [told us in August](#): "I want the planners to go out there, do a site visit, and get familiar with the area." Every study in this record predates him. A site visit would have found no gutter on Highway 62; a project in Joshua Tree, not Twentynine Palms; the National Park boundary a mile south, not eight; homes across Cactus Drive that no observation point was taken from; and rodent burrows on a site the survey said had none.

Who is the Cactus Club for? The scale of the Cactus Club's amenities, relative to 20 rooms, raises the question of whether they would serve a broader network of short-term rentals operating under the Evoque and Fieldtrip brands across the Morongo Basin. The hotel holds 40 guests at

most; it comes with two restaurants, a café, a wine bar, a spa and a club room. Fieldtrip, which shares a manager with Evoque Modern, runs seven short-term rentals within a few blocks of the site permitted for 56 guests, lists 48 houses under Joshua Tree with room for 375, and describes itself as a company that "acquires, develops, custom-designs and operates a portfolio of luxury vacation homes."

The traffic memo counted no trips for the amenities because they are

"accessible for hotel guests only." Nothing in the 163 conditions defines a hotel guest or bars anyone else. So the question for the Commission is simple: who is the Cactus Club for? Forty people, or 415?

The Commission can approve, deny, or continue the item to a later meeting. If it approves, the staff report notes the decision may be appealed to the Board of Supervisors; residents considering an appeal should confirm the deadline and filing requirements with Land Use Services at (909) 387-8311.

This preview was produced by humans [with AI assistance](#) according to our policy.

Support the *Desert Trumpet's* coverage of the San Bernardino County Planning Commission — subscribe or become a paid subscriber!

The *Desert Trumpet's* reporting will always be free. That said, did you know that paid subscribers receive discounts on our DT Social events and invites to DT Front Porch, intimate discussions featuring local officials and notable residents?

Leave your thoughts in the comments below. Please note that we do not allow anonymous comments. Please be sure your first and last name is on your profile prior to commenting. Anonymous comments will be deleted.

[Leave a comment](#)

This coverage is free - please share this article!

[Share](#)

Más o Menos is a supporter of the *Desert Trumpet*.

2

San Bernardino County Development Code § 84.01.020(d), Determination of Accessory Uses, June 2026 edition as amended by Ordinance 4504; read on gocodebook.com, not the County's official code site.

Additional sources: Planning Commission agenda and staff report with Exhibits A–O, including the 163 conditions of approval (read in full); Draft IS/MND, November 2024/August 2025 (read in full); IS/MND Appendices B through H (read in full; Appendix H text read in full, figures reviewed from the copy the County posted October 6) and Appendix A (read through Section 6.1); County Notice of Availability, September 2025; California Secretary of State bizfile records and Statements of Information for Yucca Trail 11 LLC, Sullivan 80 LLC, Evoque Modern LLC, Fieldtrip Hospitality LLC, Cactus Club 1 LLC, Desert Resort Rentals LLC and Desert Resort Rentals Member LLC; City of Twentynine Palms STR permit data, June 2026; San Bernardino County short-term rental permit records, October 6, 2026; San Bernardino County assessor and title records via Realist Tax; CEQAnet SCH 2025090539; Land Use Services Desert Region environmental documents page; stayfieldtrip.com property listings, accessed October 6, 2026; email from Amelia Maldonado, Land Use Services, October 6, 2026; Desert Trumpet, "Digging Deeper on Fieldtrip, Evoque and Blu Sequoia," Feb. 25, 2023; distance from the project site to the Joshua Tree National Park boundary at Baseline Road measured by odometer, October 6, 2026.

EXHIBIT C



Post Office Box 24
Joshua Tree CA 92252
www.mbconservation.org

October 7, 2025

PROJ-2023-00061 Cactus Club Hotel, APNs- 0608-051-02, 03, and 04

Lead Agency: County of San Bernardino Land Use Services Department 385 N. Arrowhead Avenue, 1st Floor San Bernardino, CA 92415-0182

Oliver Mujica E-mail: Oliver.Mujica@lus.sbcounty.gov

cc: Dawn.Rowe@bos.sbcounty.gov

Dear Mr. Mujica,

The Morongo Basin Conservation Association is pleased to submit the following comments on the proposal of issuance a Mitigated Negative Declaration for the above project.

MBCA's mission encompasses advocacy for the economic well-being of our high desert communities and, while this project would serve that purpose, any economic benefits must be balanced with the environmental and social impacts such a significant development would have on the unincorporated desert community.

The project for which a Conditional Use Permit is being applied requires re-definition to enable the proper evaluation of its potential environmental impact. The Notice of Completion & Environmental Transmittal describes the project as: *...and a Conditional Use Permit for the development and operation of a twenty (20) room two-story hotel on Parcel 1 and **associated infrastructure***. However, the written description within the IS states:

*...Conditional Use Permit for the development and operation of a twenty (20) room two-story hotel on Parcel 1 and associated infrastructure. The hotel Project consists of a single-story hotel lobby building with a greeting area, office, guest laundry facility, and mechanical room. The guest rooms will be in separate buildings, consisting of a total of 20 rooms in three separate structures with a **total of 7,705** square feet. Additional structures include a **1,300** square foot coffee shop/cafe, **1,300** square foot restaurant, **3,600** square foot club room, **1,800** square foot wine bar, **2,550** square foot lobby/office/mechanical/laundry building, **3,500** square foot hotel restaurant, and **3,800** square foot spa.*

Hotel = 7,705 sf _____ Accessory Uses = 17,550 sf

Further, it is unclear if the project and the 'associated infrastructure' or 'amenities' will be open to the public. Will the many other uses: café, restaurant, club room, wine bar, hotel restaurant and spa be open to the public? If so, then the project should be evaluated as a significant commercial development before entitlement. If the amenities are to be used solely by the guests of the hotel, then it would appear the sf areas allocated to these uses is out of proportion to their intended customer base. (See below re: parking.)

The additional uses beyond the 20-room hotel are described as accessory, amenities uses or 'associated infrastructure'. Within the Development code, CHAPTER 84.01: ACCESSORY STRUCTURES AND USES, accessory uses are described as being '**subordinate to the primary use**'. With the cumulative area of the accessory uses being over twice the area of the hotel units the description of the project as a hotel requires revision. The project presented would appear to be closer to a Resort and the environmental analysis must be evaluated accordingly.

It appears the proposed project would trigger notification (from Development Code 84.01: ACCESSORY STRUCTURES AND USES) and the project description makes no mention of the following.

the Director shall be responsible for determining if a proposed accessory use meets the criteria in this Chapter. Before making a determination, the Director shall give notice to contiguous property owners in compliance with [§85.02.030](#)

Some issues of concern we believe have not been adequately addressed or require additional consideration are:

1. The request for the CUP should be clarified and revised to describe what appears to be a Resort development.
2. The scale of the development is out of character with the community. The development as designed would effectively form a wall along 29 Palms Highway obscuring views of, and towards the National Park to the south. The 5-acre parcel along would be densely developed with only a small portion at the eastern portion of the site remaining as open space. The lot coverage calculation requires verification to include impervious surfaces.
3. The project description proposes: '*Tentative Parcel Map (TTM) No. 20774 to combine three (3) existing parcels to create four (4) new parcels (Parcel 1, 5.28 acres; Parcel 2, 2.57 acres; Parcel 3, 2.56 acres; and Parcel 4, 2.24 acres)*'. The 'Exhibit of Project Location' does not include the residential parcels fronting on Cactus Dr. The exhibits do not illustrate the locations of the three parcels to be included within the TTM or the specific zoning designations of the parcels.
4. From the project description: "*The project site is located within a relatively undeveloped area of Joshua Tree. The site is surrounded by vacant land to the north, east, south, and west, with one rural residence to the southeast, and California Highway 62 to the north.*" However, there is a home directly to the south, and a community of homes to the south and west of the proposed development. This project could have a significant impact on the rural character of the area that must be fully disclosed. See above for need to provide notification of neighboring properties.

5. The math within the parking tabulation shown on the site plan does not add up! See above for need to accommodate parking for all the uses.
6. The development appears it will remove all existing native plants on site. The development would better fit the community and support the Goals of the Countywide vision if the design were to preserve and feature existing plants. To remove all the existing plantings only to replace with new landscaping requiring supplemental water is not appropriate for our warming and drying climate.
7. Potential traffic and **safety** issues for this development require further analysis. Access to and from 29 Palms Highway requires careful study and consideration of mitigation measures. Access to Mas O Menos, west of the development, already creates safety issues and these concerns must not be exacerbated with this Resort. The possibility of extending the frontage road to the stop light should be considered.

The analysis does not account for the potential traffic of all the proposed uses. The level of traffic generated by a Resort (see above) would differ from that for a hotel and has not been considered accordingly. The traffic study must account for the hotel, the club room, café, proposed restaurants, wine bar, and spa as well as the hotel.

8. The real potential for flooding of the development requires further study. The recent heavy rains, anticipated to become more severe as the climate continues to warm, must be accounted for.
9. A development of this scale may require utilizing a package wastewater treatment plant. The scope of work with multiple restaurants and hotel units may exceed the capability of utilizing a septic system.
10. The need for, and location for housing of the many employees that will staff this development, requires consideration within the approval process. The high desert community has a shortage of affordable rental housing. Workers will need to commute with subsequent impacts on traffic and generation of additional Vehicle Miles Traveled.
11. Traffic concerns require additional consideration on a cumulative scale. With the many proposed developments currently undergoing consideration throughout the Morongo Basin consideration of traffic impacts on an overall community scale is warranted. Developments currently being planned or are under or consideration at this time include, in addition to this proposal: The expansion of the Pioneertown Motel; the Landing in Landers; the Joshua Tree Resort in Downtown Joshua Tree, Ofland in 29 Palms and Lovemore Ranch in Joshua Tree.
12. The Countywide Plan adopted in 2020 is based upon an assumption of **limited** growth within the unincorporated east desert area. From the [Countywide Plan PEIR](#) (which was adopted as part of the final EIR):

3.4 INTENDED USES OF THE EIR (for the period 2016 to 2040)!

This is a Program EIR that examines the potential environmental impacts of the proposed Countywide Plan. This PEIR also addresses various actions by the County and others to adopt and implement the Countywide Plan. It is the intent of the PEIR to evaluate the environmental impacts of the proposed Project, thereby enabling the County of San Bernardino, other responsible agencies, and interested parties to make informed decisions.

Joshua Tree CPA	827 Population	238 housing units	53 employment	39,970 sf
-----------------	----------------	-------------------	---------------	-----------

(8) **No growth** is projected in the East Desert region areas of Pioneertown CPA, areas **outside CPA boundaries** in the Twentynine Palms SOL, or unincorporated areas outside a CPA or SOL.

The development as proposed would be in contravention to the assumed projections on which the Countywide Plan was prepared and adopted. Its construction would add nearly 75% of the anticipated 39,970 sf of new commercial construction for the 24 year period the EIR covers. The additional employment is not paired with the needed additional housing. The lingering effect of the STR boom continues to be felt in the community.

We look forward to seeing these issues addressed within an amended environmental analysis.

As a point of information, the site plan published for soliciting comments on the proposed issuance of a Mitigated Negative Declaration is **not legible**. We believe the project should be re-circulated with a revised Initial Study with legible documents.

Thank you for your consideration.



Steve Bardwell, President
Morongo Basin Conservation Association

EXHIBIT D



Post Office Box 24
Joshua Tree CA 92252
www.mbconservation.org

October 7, 2026

Re: Cactus Club Hotel

The Morongo Basin Conservation Association (MBCA), a 501(c)3, community based, California Nonprofit Corporation, advocates for a healthy desert environment which nurtures wildlands and supports our communities' rural character, economic well-being, and culture.

The comments below refer to PROJ-2023-00061. According to the Proposal described on the PC meeting agenda the Project is located on the southeast corner of Twentynine Palms highway and Mile Square Road. The tentative parcel Map to subdivide 3 parcels totaling approximately 15 acres into 4 parcels (Parcel 1: 5.27 acres; Parcel 2: 2.57 acres; Parcel 3: 2.56 acres; and Parcel 4: 2.24 acres), and Conditional Use permit to construct and operate a 20-guest room hotel with 2,550 square foot lobby/office/mechanical/laundry building, and 58 parking spaces on Parcel 1. and **associated!** (emphasis added) guest amenities:

- 1,300 square foot coffee shop/cafe,
- 1,300 square foot restaurant,
- 3,600 square foot club room,
- 1,800 square foot wine bar,
- 3,500 square foot hotel restaurant,
- 3,800 square foot spa,

CEQA RECOMMENDATION: Adoption of a Mitigated Negative Declaration

Public Notification did not include the original project name.

This project was previously known as the **Cactus Club Hotel** and is listed as such on <https://lus.sbcounty.gov/planning-home/environmental/desert-region/>.

The new notification, sent only a few days ago, has a different name for the project: **Yucca Trail 11/Marlow LaFontaine**. This was confusing. The community was not given enough notification that this project was going in front of the Planning Commission. This project will fundamentally

change the face of that area of Joshua Tree. People cannot change their schedules on a dime to be available to find the time to absorb such a large Staff Report and Supporting Documents, and to be available to comment.

Project Description – square footage doesn't add up

From the project description in the Staff report:

A single-story hotel lobby building with a greeting area, office, guest laundry facility, and mechanical room. The guest rooms will be in separate buildings, consisting of a total of **20 rooms in three separate structures with a total of 7,705 square feet.** Additional structures include a 1,300 square foot coffee shop/cafe, 1,300 square foot restaurant, 3,600 square foot club room, 1,800 square foot wine bar, 2,550 square foot lobby/office/mechanical/laundry building, 3,500 square foot hotel restaurant, and 3,800 square foot spa.

The amenities add up to 15,850 square feet, more than twice the room square footage, so MBCA believes the project must be analyzed for each of the components, or amenities as a total, and not as a hotel where the guests alone would be those utilizing the amenities.

The IS does not describe or analyze who the MANY distinct uses included within the Cactus Club are intended serve. Will the multiple dining areas facilities and the wine bar be open to the public? Will the Spa be open to the public? Will the Wine Bar be open to the public? Will the Club room be for just the 20 rooms? What is this 'club room'?

We believe these questions require a thorough analysis and explanation during this review process that to date has not occurred.

MBCA continues to express concerns with the use a cluster of Short-Term Rentals (STRs) as a 'Boutique Hotel' requires thorough analysis and evaluation for their potential effects on the residential communities in which they operate. We understand the applicant for the Cactus Club has some interest or relationships with many STRs throughout the Basin. We offer this example of a grouping of STRs located on Mile Square Road very close to this proposed development, that appears to be potentially a project of the same applicants:

<https://www.travelandleisure.com/panorama-villas-by-fieldtrip-joshua-tree-california-11776916>

This is marketed as 10-acre Desert Escape when it actually consists of separate dwellings on separate legal parcels being marketed as a 'whole commercial' lodging operation. The STR ordinance restricts the number of STRs that may be issued to a single owner or entity. Why was this not enforced? The use of LLCs to circumvent this limitation needs to be addressed and revised within the STR ordinance. Why did this resort not apply for a CUP, as should have been required?

Given the imbalance of areas and uses of the 'amenities' proposed in relation to the limited size of the 20-room hotel, we believe the IS has incorrectly analyzed the project. Without further

explanation provided, we believe the IS must analyze each of the components as a stand-alone use and their cumulative impact as a development be considered.

Following are topics within the CEQA environmental review checklist:

1. AESTHETICS – Would the project:

(a) Have a substantial adverse effect on a scenic vista?

YES. The Project would block the view of the National Park from the highway. The national Park is a prime element within the Basin and views of this resource should be emphasized and not diminished or obscured.

XIV. POPULATION AND HOUSING. Would the project

(a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure?

YES. There would be a cumulative increase in development in the Basin.

XIX. UTILITIES AND SERVICE SYSTEMS. Would the project

(a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which would cause significant environmental effects?

YES. The Project will require a large septic system on site and will not be connected to wastewater treatment facilities.

How much wastewater? From an AI Overview:

Based on standard EPA guidelines and typical state commercial onsite wastewater design codes the estimated wastewater generated would be approximately 10,250 Gallons Per Day (GPD).

Estimated Daily Wastewater Breakdown

	Facility Component Estimated Flow	Sizing Assumption/ Conversion		Standard Flow Rate (GPD)	
GPD	20-Room Hotel	20 Rooms	100 GPD per room		2,000
	Hotel Laundry Facilities	20 Rooms	40 GPD per room		800
GPD	1,300 SF Coffee Shop	~40 seats	5 GPD per seat		200 GPD

GPD	1,300 SF Restaurant	~ 85 seats (dense quick service)	40 GPD per seat	3,400
GPD	1,800 SF Wine Bar	~60 seats	10 GPD per seat	600
	3,500 Restaurant	~100 seats (full service and kitchen)	25 GPD per seat	2,500 GPD
	3,800 SF Spa	~38 occupants max)	20 GPD per person	760 GPD
TOTAL ESTIMATED FLOW				<u>10,260 GPD</u>

This volume of wastewater generated would require the Colorado Regional Water Quality Control Board to be notified. No such notification has occurred. MBCA believes recommending adoption of a MND for this project without requiring a detailed analysis of water and wastewater is inappropriate and in violation of CEQA.

XVII. Transportation - Would the project

(b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3 subdivision(b).

YES. The analysis of VMT and traffic accounts for only the hotel. See above for multiple amenities. The analysis must account for the traffic generated by the multiple and **significant** additional uses proposed. This is a very dangerous area of the highway with great potential for accidents.

MBCA believes the recommended IS MND should not be granted and that a new IS be reworked to analyze the development for its true environmental impacts based on a credible and verifiable project description.

Thank you for your consideration.

Steve Bardwell, President
Morongo Basin Conservation Association

EXHIBIT E

Agenda Item 2 (PROJ-2023-00061, Cactus Club Hotel): Please deny the CUP and Parcel Map and do not adopt the MND

Lauren Waters <laurenbeawaters25@gmail.com>
To: PlanningCommissionComments@lus.sbcounty.gov

8 October 2026 at 08:06

Dear Planning Commissioners,

My name is Lauren Waters Dube, and I live in Panorama Heights in Joshua Tree at Mount Shasta Avenue and Cottonwood Drive, about 0.4 miles from the proposed Cactus Club Hotel site. **I am asking you to deny the Conditional Use Permit and the Tentative Parcel Map and not adopt the Mitigated Negative Declaration on October 8.** Please include this letter in the record for Item 2.

We moved to Panorama Heights in 2023 for one reason: quiet. Since then, the rentals around us have brought fireworks during a Red Flag Warning, guests riding off-road vehicles through our streets, intoxicated guests climbing the boulders, and two aggressive threats of violence by guests: one screamed at 3 AM and one a guest described to my neighbor after loud music woke me around 5 AM. Guests park on the street, which the short-term rental ordinance prohibits outright, and it makes it hard for an elderly relative next door to get in and out of his driveway. I have always tried to resolve these things with Fieldtrip the neighborly way, and I reported them to Fieldtrip directly on at least 8 dates. Over time, they became less responsive. After the first fireworks incident, on June 25, I asked them to do something simple: add a no-fireworks rule to their listings, as most Airbnb hosts already do. They didn't, and fireworks happened again on July 18. So this summer I started going through the County. When I complained about the street parking on September 5, the County issued a Notice of Violation, and I learned its complaint form is only for events happening right now. I believe the applicant has been deceptive with this County and with this neighborhood. The numbers are below.

I want to be clear about where I stand. I support Airbnb and short-term rentals, and I know Joshua Tree is a tourist destination whose economy depends on visitors. Before we moved here, we stayed in several Fieldtrip properties and recommended them to our family and friends, who always booked Fieldtrip when they visited. We no longer recommend them or support them, because of what we have seen, what we have been subjected to, and how disrespectful both their management and the guests at their houses near us have been. I am not against tourism. My objection is to how these rentals are run in our neighborhood, what the applicant has told the County, and the proposal to build a 17,850-square-foot commercial complex in a residential pocket.

A. Fieldtrip Connection

The applicant, Evoque Modern LLC, told the County that Fieldtrip has "no role in its development, management, or operation" and "no legal or operational connection to the project before the County for approval" (Exhibit B, Response LK-1, answering a community member's letter in Exhibit M). Fieldtrip lists 48 short-term rentals under Joshua Tree on its website. Here is how the two are tied together:

- Fieldtrip's filings with the Secretary of State (September 26, 2025, and June 2, 2026) name 4 managers, including Dan Tseng. Mr. Tseng is also the registered agent for Evoque Modern LLC, for Yucca Trail 11 LLC (the owner named on the agenda), and for Cactus Club 1 LLC, formed March 14, 2023, which carries this hotel's name. In all, he is the registered agent for 17 LLCs, plus 3 terminated. County parcel records list Mr. Tseng's home address in Rancho Palos Verdes as the tax billing address for Yucca Trail 11 LLC, the owner of all three hotel parcels (APNs 0608-051-02, 03 and 04).
- The County Recorder shows Evoque Modern deeded property to Fieldtrip's co-founder twice (July 10, 2020 and August 6, 2021), taking a deed of trust back the same day each time. On September 14, 2026, 24 days before this hearing, Evoque Modern executed a deed of trust and assignment of rents in favor of Mr. Tseng personally (document 2026-0239289).
- Evoque Modern has about 50 recorded property acquisitions since 2019, and Fieldtrip operates the houses. A Fieldtrip co-founder told Forbes (September 17, 2025) that some co-founders personally invested in the

Sierra Avenue villas, which he said run on "hotel-scale budgets." The owners and the operator are the same people.

- In February 2023, the Twentynine Palms City Council denied an appeal involving this model, 4-to-1. Fieldtrip's co-founder told the council he had no stake in Evoque Modern.
- I found no operator named in the staff report or the applicant's responses, and Condition 1 refers to future "tenants" and "lessees." If Fieldtrip is not connected, the applicant should be able to say who will run this hotel. The Commission should not approve a hotel whose operator it cannot name.

The people profiting do not live here:

- Fieldtrip has a Los Angeles headquarters. County property records put Mr. Tseng's home in Rancho Palos Verdes, and the nonprofit he runs, Joshua Tree Food and Wine Inc. (filed February 21, 2024), uses that home as its principal address. Its website tells attendees to book "a luxury accommodation managed by Fieldtrip."
- Three villas on Sierra Avenue were deeded in fall 2025 to 3 new LLCs whose agent is an attorney in Brea. None of the entities behind these houses file an address in Joshua Tree.
- 6736 Mount Shasta was transferred in January 2024 for \$35,000, on a property assessed at about \$1.37 million (2.6%).
- In my experience, Fieldtrip is unwilling to work with neighbors. A company that manages 8 houses here, and now wants a hotel at the edge of the neighborhood, can essentially hold the rest of us hostage.
- If a bar, a club room, and a 24-hour operation were proposed beside their homes, I do not believe they would accept it.

B. Current Impact: Fieldtrip/Evoque Modern and Mas o Menos

County parcel data for the 287 parcels in Panorama Heights (the neighborhood area I mapped) shows 145 vacant lots and 124 homes:

- At least 49 of the 124 homes (40%) are owner-occupied, and 61 (49%) have owners with out-of-area mailing addresses.
- 18 homes have been built here since 2020. Only 2 of them are owner-occupied, 16 have out-of-area owners, and 7 are Fieldtrip-managed rentals. Of the 106 older homes, 47 (44%) are owner-occupied.
- County short-term rental permit records name Fieldtrip Hospitality as property manager for 8 houses in the neighborhood. That is 6% of the homes, but 39% of the newest ones.

Sheriff call data (High Desert Crime Tracker; 453 calls within one mile of my home, January 4, 2025 to October 2, 2026; 335 after removing traffic calls):

- 36 calls were for music, parties, noise, barking dogs, neighbor disturbances, or fireworks. 25 (69%) were at Mas o Menos, the bar on Highway 62. Excluding it, 8 of the remaining 11 (73%) were at addresses where Fieldtrip manages rentals: 5 at the 6859 Mount Shasta block and 3 at the Sierra Avenue villas.
- On the 6859 Mount Shasta block, 5 calls occurred over 87 days from June 25 to September 20, 2026, including fireworks on June 25 at 12:52 PM and music at 5:43 AM on September 20.
- The feed holds 2 fireworks calls in nearly two years, both at Fieldtrip-managed houses (June 25 and July 18, 2026).
- From October 1 to November 8, 2025, deputies were called for music or party disturbances 13 times in 39 days, all within 0.3 miles of my home.

County enforcement records:

- The County's 2026 weekly reports (through September 13) show 7 entries at 6873 Sierra and 6859 and 6736 Mount Shasta: 1 Citation, 3 Notices of Violation, 2 Educational, and 1 Unconfirmed. Across the 22 Fieldtrip permits I matched by permit number, they show 22 entries, including 4 Citations and 6 Notices of Violation.
- The 3 Sierra villas drew unpermitted-rental complaints in September, October, and November 2025. The County issued a Notice of Violation for the Crest villa on November 12, 2025, 11 weeks before its permit was issued on February 1, 2026.

- Fieldtrip's Better Business Bureau rating is F: 3 complaints in 3 years, 2 unanswered, including a guest who paid \$8,472.58 for the Sierra Avenue "Peak" villa and reported live and dead mice.
- Chapter 84.28 requires all guest vehicles to be parked on the rental property (section 84.28.060(c)), bars parties and commercial activity such as corporate retreats and filming (section 84.28.070(a)), and requires the owner or agent to be able to reach the property within 1 hour (section 84.28.070(g)). Fieldtrip markets the villas for "retreats and productions."

My log:

- It holds 15 incidents at three Fieldtrip houses between May 2024 and September 2026: 6 at 6859 Mount Shasta, 6 at 6736 Mount Shasta, and 3 at 6873 Sierra. The County's weekly reports show entries for only 2 of those dates (June 25 and September 5), because its complaint form only takes events happening right now. The September 5 entry is the parking Notice of Violation from my complaint.
- Examples: On May 18, 2024, at 6873 Sierra, 20 to 30 or more cars and a spray-painted parking lot, which Joshua Tree Food and Wine told me was a "private residence." On June 25, 2026, fireworks went off during a Red Flag Warning; then guests rode off-road vehicles/ATV-type machines through the neighborhood at excessive speeds, causing massive amounts of dust. On September 4 and 5, 2026, at 6736 Mount Shasta, a gathering that looked far larger than the permitted overnight occupancy of 8, with at least 3 cars on the street on the 4th and about 4 on the road on the 5th, although the Airbnb listing allows a maximum of 3 cars and no on-street parking, then at about 3 AM loud music was being played, and a woman was heard screaming that she would kill someone. On September 20, loud music woke me around 5 to 5:15 AM. I first called the County (complaint #1604) and emailed videos taken at 5:34 and 5:35 AM, noting I could still hear the music at 5:43 AM. The County called the Sheriff to go out. With no relief by 6:01 AM, I called the Sheriff myself. My neighbor spoke with the guest, who described a threat of violence, and then he left; I called to cancel. I have photos, videos, and a dated log.
- This morning, October 8, I photographed the light pollution coming from Fieldtrip's houses and the trash at 6736 Mount Shasta. The photos are attached.

C. The Applicant's Statements

In its responses to comments, the applicant promised 6 protections: no outdoor amplified sound without a special event permit, limits on public access and events, fixtures at or below 3000K, bird-safe glass, raven-proof trash, and no rodenticides. It said they would become conditions. I searched all 163 conditions in Exhibit F. 0 of the 6 appear. The word "guest" appears only in the project description, never as a limit on who may use the amenities, and the club room has no hours.

Parking is 36 spaces in the noise study, 58 in the staff report, and 80 in Condition 1, against a code minimum of 20. Lot coverage is 70% in the staff report, while the applicant says buildings cover about 16% of the parcel and that the calculation "will be verified" (Response MBCA-3). The staff report describes the three lots as 15.0 acres, while its own four new parcels add up to 12.65 acres, the same as the assessor's total.

The noise study rests on one 15-minute measurement. The draft environmental document called the surroundings vacant land, which the applicant admits was inaccurate (Response MBCA-4). The nearest home is 330 feet away.

The tortoise survey is from February 2023, 3 years and 8 months old. The applicant accepted data showing tortoise sign at 10 of 16 survey sites within half a mile (Exhibit B, DTC). Measure BIO-1 still says surveys "should" be done under a 2018 protocol, and the errata (Exhibit C) contains no change to it.

Staff say the hotel "lessens the footprint of vacation rentals" with no supporting evidence, while the operator behind these rentals lists 48 houses in this town, and a 2021 study found over a quarter of Joshua Tree's housing already listed as short-term rentals.

D. This is a Major Commercial Project Under the Guise of a 20-Room Hotel

The application describes a 20-room hotel, the largest size the Development Code allows in its category of hotels with 20 or fewer guest rooms. The numbers describe something much bigger:

- At two guests per room, the hotel would hold about 40 guests (the application states no maximum), staffed by approximately 18 employees per shift, and the listed buildings add up to 17,850 sq ft of non-room space, 2.3 times the 7,705 sq ft of guest rooms.
- 11,500 sq ft of that is for eating, drinking, and gathering: restaurants of 3,500 and 1,300 sq ft, a 1,300 sq ft cafe, a 1,800 sq ft wine bar, and a 3,600 sq ft club room. That is about 290 sq ft per overnight guest.
- About 40 guests cannot support that. The only way to use it is for outside customers and events. The applicant says the fine-dining restaurant and cafe "may be open to the public" (Response MBCA-2), the staff parking table sets aside 20 spaces for "guest visitors," and Condition 1 approves 80 spaces against 20 required for the rooms.
- The applicant lists 0 employees for the 3,600 sq ft club room (Response CBD-3), and the conditions give it no hours.
- A commenter asked the County to evaluate the project as a resort because the non-room space exceeds the room space. The applicant replied that square footage does not decide it and that the CUP would include "limits on public access and event activity" (Response MBCA-1). Exhibit F contains none.
- The traffic analysis counts 160 daily trips for the hotel and 0 for the amenities.

Please evaluate this as what it will be: a restaurant, bar, club, and spa complex with a hotel attached, in a residential neighborhood.

E. Joshua Tree National Park

Panorama Heights sits at the boundary of Joshua Tree National Park, an International Dark Sky Park. That is why people come here, and it is why we live here. Guests already climb through and over the park's boundary fence, and more guests in this area means more potential damage to the park. The record shows the County never looked at this project from the park's side:

- The Center for Biological Diversity told the County (October 6, 2025) that the study of the project's light and views ignored its proximity to the park and the view from the park and its foothills. The Visual Impact Study that was supposed to answer that was inaccessible to the public (Response CBD-18).
- The Desert Tortoise Council told the County (October 7, 2025) that the site appears to be linkage habitat connecting the Ord-Rodman Tortoise Conservation Area to the park. The County's study said the project is not in a wildlife corridor. More than 25 tortoises have been found since 2005 at Copper Mountain College, across the highway.
- The Desert Tortoise Council also told the County that uncovered trash cans and dumpsters feed ravens and coyotes and increase predation on tortoises. The applicant promised raven-proof trash containers, but they are not in the conditions. My photos from this morning of trash at 6736 Mount Shasta are attached.
- The Morongo Basin Conservation Association told the County the buildings would form a wall along 29 Palms Highway that blocks views toward the park.
- The conditions rely on the County's general Dark Sky ordinance. The applicant's promised 3000K lighting limit is not in them. My photos from this morning (attached) show the light already coming from Fieldtrip's houses (built by Evoque Modern).

F. Suitable Alternative Locations

I am not against hotels or restaurants in the desert. I object to this one in this place. The parcel is zoned Neighborhood Commercial, and a hotel of 20 rooms or fewer is allowed there with a Conditional Use Permit. But a CUP is discretionary, and County Policy LU-2.1 requires development to be "located, scaled, buffered, and designed" to minimize negative impacts on adjacent neighborhoods. Staff's finding on that policy says only that the project meets the Development Code. It does not analyze location or scale.

This is a small residential pocket. Staff's own land use table lists single-family homes to the south and west. A neighbor told the County in 2023 (Exhibit O) that this seven-mile stretch of Highway 62 is "overwhelmingly populated by single family homes," with one active commercial establishment.

The project would be built on 5.27 acres of what staff call an "undisturbed Project site."

Boutique lodging and dining already work in established commercial areas. Hotel Wren in Twentynine Palms and

Ramsey 29 with Kitchen in the Desert are examples. Twentynine Palms, downtown Joshua Tree, and Yucca Valley all have commercial districts where this kind of project belongs.

The application leaves 7.4 acres of multiple-residential land behind the hotel (three parcels) with "separate entitlement applications" to follow. This looks like the first phase, not the last.

G. Process

Notice went to 14 owners within 300 feet. The staff report gives 15 notices and two mailing dates, September 23 and 24. The applicant acknowledged in May 2026 that the Visual Impact Study was inaccessible on the County's website (Response CBD-18). The record contains 9 letters, none supporting the project as proposed. I did not receive notice of this hearing, and none of the neighbors I have spoken with did either. The County limits each owner, including an LLC, to 2 short-term rental permits (section 84.28.040(a)(4)), and moving the Sierra villas into 3 LLCs looks like a way around that limit. I ask the County to look at it.

Please deny the Conditional Use Permit and the Tentative Parcel Map, and do not adopt the Mitigated Negative Declaration. Please find that this location and scale are not compatible with the adjacent neighborhood under Policy LU-2.1, and that the findings required for approval cannot be made on a record where the applicant's statements conflict with the County's own documents.

I am not asking you to delay this decision or to add conditions. This project does not belong in our neighborhood.

I reserve the right to appeal any approval to the Board of Supervisors. Please notify me of the Commission's decision.

Thank you for reading this.

Sincerely,
Lauren Waters Dube
Mount Shasta Avenue and Cottonwood Drive, Joshua Tree, CA 92252
313-296-6172

 **Lauren Waters Dube Attachments.pdf**
3790K

EXHIBIT F

The Cactus Club Hotel: What It Means for Your Neighborhood

On October 8, 2026, the County Planning Commission approved a 20-room hotel with two restaurants, a café, a wine bar, a club room, a spa and a pool at the southeast corner of Highway 62 and Mile Square Road, at the edge of Panorama Heights. Pick the issues that matter to you. Each one shows what's planned, why it matters, and what happens once it's built.

What the County approved

This is the County's own description, from the Notice of Determination it filed on October 8, 2026:

What	Size or count
Hotel	20 guest rooms (7,705 sq ft, per the environmental study)
Restaurant	3,500 sq ft
Second restaurant	1,300 sq ft
Café	1,300 sq ft
Wine bar	1,800 sq ft
Club room	3,600 sq ft
Health spa	3,800 sq ft
Lobby and office	2,550 sq ft
Parking	58 spaces on Parcel 1
Total building space	25,555 sq ft: 7,705 for the rooms, 17,850 for everything else

The land. The same approval splits 3 parcels (about 15 acres) into 4: Parcel 1 (5.27 acres, the hotel) and Parcels 2, 3 and 4 (2.57, 2.56 and 2.24 acres). Parcels 2–4 are zoned for multi-family housing, with development left to "separate entitlement applications" later.

The environmental review. The County found the project "will not" have a significant effect on the environment and approved it with a Mitigated Negative Declaration. No environmental impact report was prepared.

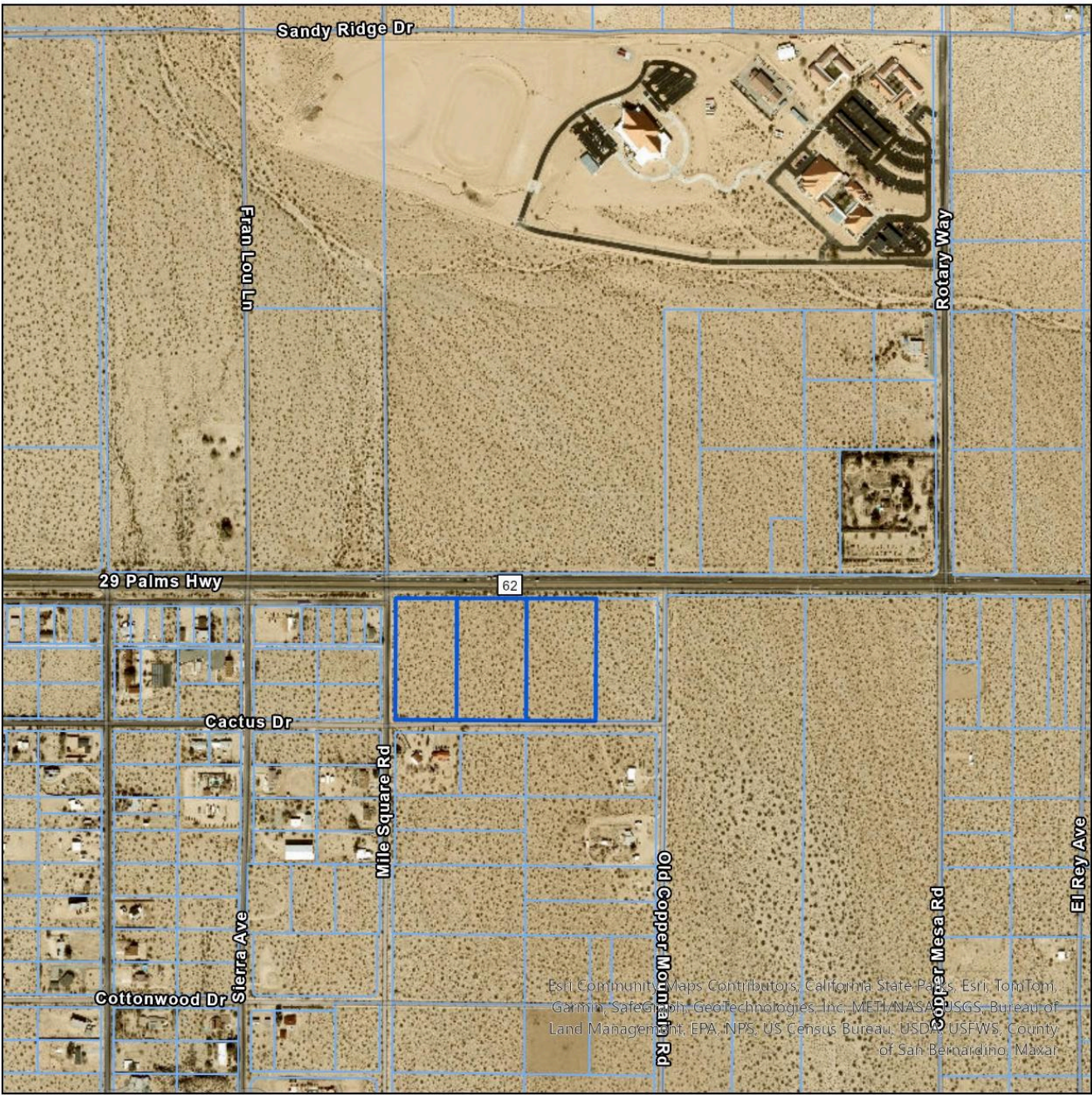
What the County's official description leaves out:

- The swimming pool and decorative water feature on the site plan
- Any limit on building height
- The 80 parking spaces in the actual conditions of approval (the notice says 58)
- Any definition of who counts as a "registered hotel guest"

That is 17,850 square feet of restaurants, bar, club room, spa and lobby for a hotel with 20 rooms.

The site

The hotel would sit on the southeast corner of Highway 62 and Mile Square Road. Cactus Drive runs along the south edge, with Panorama Heights just beyond. All images below come from the County's own staff report.



Vicinity Aerial Map
PROJ-2023-00061 // Cactus Club Hotel

Legend

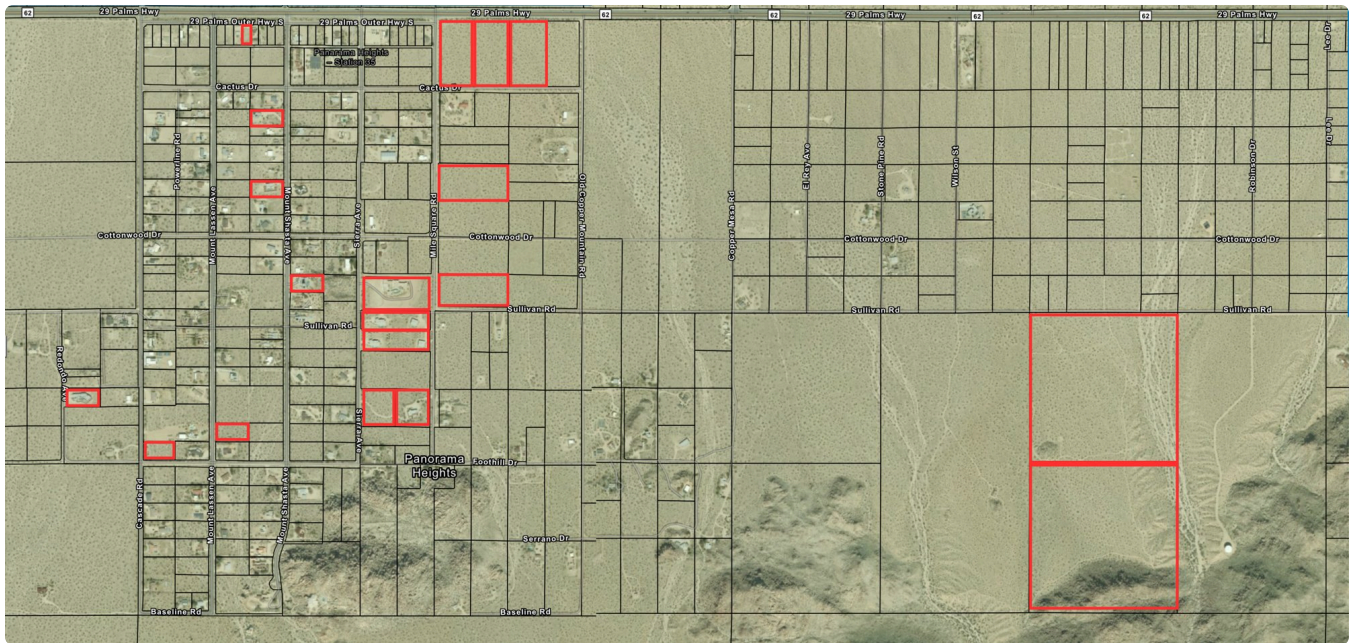
- PROJ-2023-00061
- Parcels



0 500 1,000 2,000 Feet

The County's aerial map. The three parcels outlined in blue are the project site; Cactus Drive and Panorama Heights are directly south.

Interactive map: [Fieldtrip + Evoque Modern LLCs](#). It shows 19 parcels owned by LLCs linked to the hotel applicant and Fieldtrip, built from County assessor records, County short-term rental permit records and Secretary of State filings. Locations are approximate. **Together they cover about 123 acres**, including the 12.6-acre hotel site itself: roughly **93 football fields**, or about one-fifth of a square mile. Not counting the hotel site, that is another 110 acres, nearly 9 times the hotel's own land. Zoom in to find your own street and see how close they are.



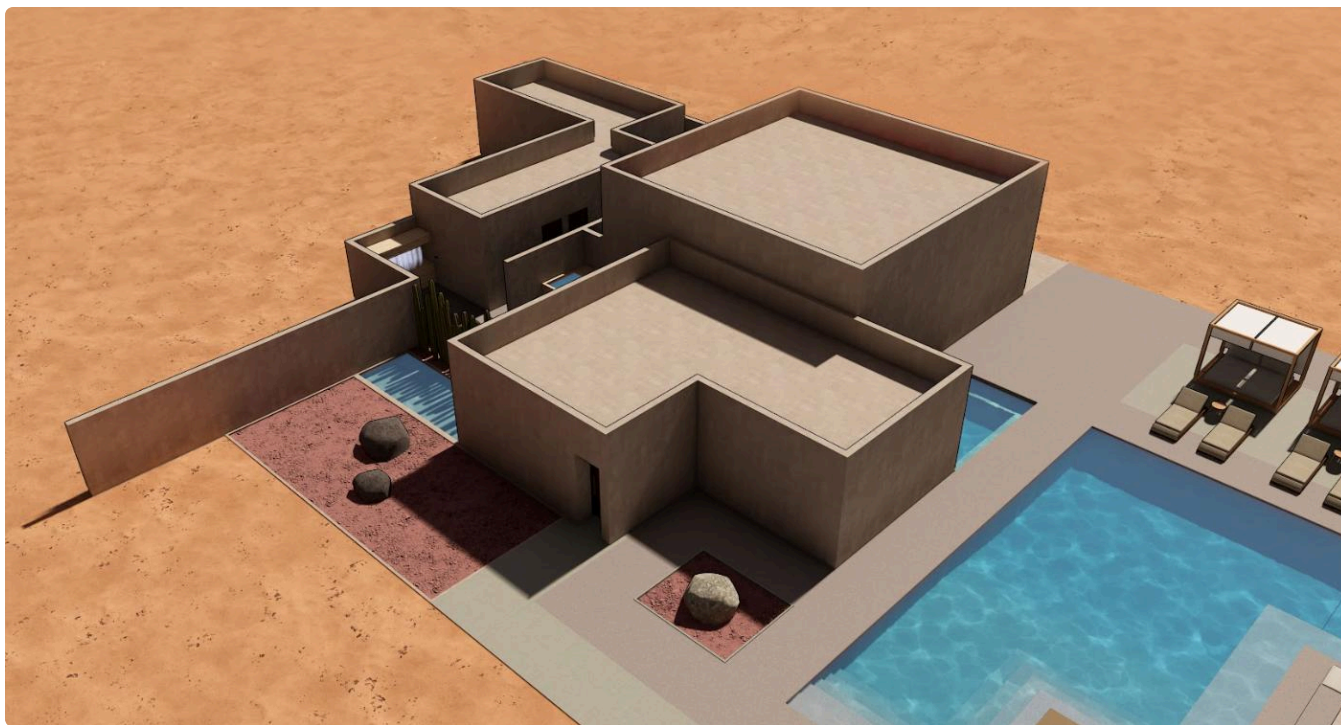
The 19 parcels owned by LLCs linked to the hotel applicant and Fieldtrip, outlined in red (County assessor records, County short-term rental permit records and Secretary of State filings). The three parcels along Highway 62 at the top are the hotel site. The two large parcels at the lower right are about 40 acres each.



The applicant's site plan. Note the "swimming pool," the "decorative water feature" and the "blue line stream" the environmental study says isn't there.



The applicant's rendering of the club room and restaurant buildings.



The applicant's rendering of the guest room buildings, with the pool that appears nowhere in the project description.

Noise and activity

Noise

Two restaurants, a wine bar, a club room, a spa and a pool, staffed 24 hours a day. The County's noise study never modeled any of them. The promised quiet hours and ban on outdoor amplified sound are not in the conditions of approval.

Once it's built: no quiet hours, no neighbor contact, no required response time. The permit runs with the land, permanently.

Around-the-clock activity

About 18 staff per shift, 24 hours a day, plus security. Shift changes mean cars coming and going at night.

Once it's built: 24-hour operation is written into the approval.

Deliveries and trash pickup

Restaurant supply trucks, plus garbage pickup at least twice a week. None of these truck trips were counted in the traffic analysis.

Once it's built: no limits on delivery hours, permanently.

Smells

Two restaurant kitchens and a café venting daily, over a septic system rated for 70–80 people.

Once it's built: no odor standard and no one to call.

Traffic and safety

Traffic and the hotel corner

A new commercial driveway at Highway 62 and Mile Square Road, where a rollover with a major injury already happened in August 2025. There were 37 traffic calls on this stretch of highway in under two years. The County did no traffic study and requires no traffic control, despite CHP's warning that it would be needed.

Once it's built: the driveway is permanent, and nothing in the approval requires a fix if crashes increase.

Turning into Mas o Menos, times two

Drivers already slow to a near-stop in the fast lane to turn into the bar, and CHP logged cars parked in the roadway there. The bar is also the neighborhood's biggest nuisance source: 25 of the 36 noise, party and disturbance calls to the Sheriff within a mile of Panorama Heights (January 2025 to October 2026) were at Mas o Menos. The hotel adds a second commercial driveway with a bar and restaurants on the same stretch.

Once it's built: two late-night drinking spots side by side, with no turn lane, frontage road or noise limits required.

Drinking and driving

A wine bar and restaurants open until 10 pm send drivers onto a highway with a crash history at this corner.

Once it's built: the bar is a permanent part of the approval, with no limits on how alcohol is served.

Getting out in an emergency

Highway 62 is the main evacuation route, and the nearest fire station is 5.5 miles away. CHP warned of added enforcement and emergency-response demand.

Once it's built: more people on the same single route, permanently, with no evacuation plan required.

Cactus Drive

The approval requires a 26-foot paved road tied to Cactus Drive and shows an "emergency only" entrance there. This was never explained to neighbors.

Once it's built: the road is paved, and nothing says how "emergency only" is enforced.

Lights, height, views and design

Lights and dark skies

We border Joshua Tree National Park, an International Dark Sky Park. The applicant promised warm, fully shielded lighting, but it is not required, and no lighting plan exists yet. The same builder's rental homes are already visible across several properties at 4 am.

Once it's built: the lighting plan is approved by staff with no public review, and there is no one to call about glare.

Height

The zone allows up to **35 feet**, roughly a three-story building. The County's own documents give four different heights for this project:

- "below twenty-two (22) feet" in the staff report
- 28 feet in the staff report's code table and the applicant's responses
- "two-story" in the environmental study's project description
- "over two story" in the environmental study's aesthetics section

None of the 163 conditions of approval sets a height limit.

Once it's built: whatever height staff approves is permanent, up to 35 feet.

Views

Views were judged only from the highway, never from Cactus Drive or Panorama Heights. A neighbor's 2023 question to the County about losing valley views was never answered. The visual study was not available to the public during review.

Once it's built: lost views don't come back.

Privacy

Two-story buildings, with up to 35 feet allowed, and nothing protecting backyards from view.

Once it's built: no screening or setback from homes can be added later.

Size and character

25,555 square feet of buildings, about 10 times the size of the builder's own large rental homes nearby. Twice as much space goes to restaurants, bar, spa and club as to guest rooms. No design drawings were reviewed; the final design is left to County staff, with no public input.

Once it's built: the design is permanent, and neighbors never see it before construction.

Events, the operator and who gets in

Events, weddings and parties

The likely operator, Fieldtrip, publicly says its niche is "group gatherings, film productions, and retreats" (Travel + Leisure, July 2025). Its company deck targets weddings and corporate retreats. The County bans those uses at short-term rentals. A hotel with a club room and bar would give that business a permanent home next to our neighborhood.

Once it's built: no condition bans events.

Who's really behind it

The applicant told the County it has "no connection" to Fieldtrip. State filings show the same person as a manager of both companies, and Fieldtrip's CEO calls him a co-founder. No hotel operator has been named. Fieldtrip already manages 10 permitted rentals near us, with most of the non-bar noise calls.

Once it's built: the permit can be sold or leased to any operator without a new hearing.

"Guests only" isn't defined

The amenities are limited to "registered hotel guests," but the term is never defined. If guests of nearby rentals count, the amenities could serve **80 more people from Fieldtrip's own rentals in our neighborhood** (10 permitted rentals at 8 addresses), on top of the hotel's own 40 guests. That is double the number of guests the hotel was analyzed for.

Once it's built: opening the amenities to the public needs only a staff sign-off, with no public hearing.

Fieldtrip-managed rentals near us, by permitted overnight guests (County short-term rental permit records)

Address	Listing	Permitted guests
6873 Sierra Ave	Peak	12
6919 Sierra Ave	Vista A	8
6919 Sierra Ave	Vista B	6
6933 Sierra Ave	Crest A	8
6933 Sierra Ave	Crest B	6
7011 Redondo Ave	Cactus Cove	10
6640 Mount Shasta Ave	Sundial	8
6736 Mount Shasta Ave	Suncrest	8
7030 Mile Square Rd	Casa Milla	8
6859 Mount Shasta Ave	Boulder Cove	6
Total	10 rentals at 8 addresses	80

Guests wandering

Guests from nearby rentals already climb boulders, ride off-road vehicles on our streets and cross the National Park's fence.

Once it's built: more visitors, with no requirement to keep them on site.

Flooding, water, septic and construction

Flooding and drainage

The County's own parcel map shows a FEMA flood hazard zone and a stream crossing the site. The environmental study says there is no stream. CHP logged highway flooding at Mt Shasta Avenue in 2025, and **this past weekend's storm (October 10-11) brought flooding and damage again**. The study's drainage plan depended on permeable TrueGrid pavers to absorb the extra runoff, but **the Fire Department rejected those pavers** in the conditions of approval. The plan the County relied on can't be built as described.

Once it's built: if runoff floods neighbors or the highway, nothing in the approval requires a fix.

Septic

The system is rated for 70–80 people. It would serve two restaurants, a spa, a pool, 40 guests and staff around the clock. No one calculated how much wastewater the project will produce.

Once it's built: a failing system is an Environmental Health matter, with no notice to neighbors.

Groundwater

A pool, a water feature and restaurants in the desert, in a water district that draws down stored groundwater in dry years. No one calculated how much water this project will use.

Once it's built: there is no cap on water use.

Construction

Heavy equipment, dust and trucks, 7 am to 7 pm, Monday through Saturday, for the length of the build. Air quality here already fails state and federal dust standards. We are already living with dust and noise all day from one new Airbnb being built by the developer of Villa de Cascade, and that is a single house. The hotel is about 25,555 square feet of buildings across several structures, plus parking, paving, a pool and a road connection to Cactus Drive: many times the dust and noise, on the same roads, next to the same homes.

While it's being built: the conditions require dust control but no neighbor contact. Complaints go through general County channels only.

Fuel and chemicals

The conditions require permits for an above-ground storage tank and for hazardous materials. Neighbors were never told what will be stored.

Once it's built: storage is handled by Fire Department permits, with no notice to neighbors.

Wildlife and the land

Desert tortoises

More than 25 desert tortoises, including hatchlings, have been found across the highway at Copper Mountain College, and the species is now state-endangered. The County relied on one 95-minute winter survey from 2023. The stronger tortoise protections the

applicant promised were never adopted.

Once it's built: the habitat is gone for good.

Ravens and coyotes

Restaurant food waste attracts ravens, which prey on young tortoises. Animal-proof trash was promised but not required.

Once it's built: no animal-proof trash requirement, permanently.

Native plants

The site's desert would be cleared.

Once it's built: the desert doesn't grow back.

Tribal resources

The San Manuel Band of Mission Indians requested protections. The County's only measures are general ones that don't name the tribe or require tribal monitors during grading.

Once it's built: anything disturbed during grading is gone.

The long term

Precedent

This one project uses about 64% of all the new commercial space the County planned for the entire Joshua Tree area through 2040, according to MBCA's reading of the County's own growth study.

Once it's built: the next project along the corridor is easier to approve.

The land behind it

The approval also splits off 7.4 acres of multi-family land behind the hotel, toward Cactus Drive, with no limits on what comes next.

Once it's built: the new lots exist permanently and can be developed later.

We weren't told

Notice of the hearing went to only 14 owners within 300 feet, so most of Panorama Heights never heard about it.

Once it's built: changes to the approved project can be made by staff, with no notice to neighbors.

The County's own documents don't agree

The County approved this project on a record that contradicts itself on its most basic facts: how big it is, how tall it is, how many cars it brings, and whether there is a stream, a flood zone or protected wildlife on the site. A neighbor-led review of all 178 pages of the approval packet and the 90-page environmental study found the conflicts below.

Topic	One County document says	Another County document says
Parking	58 spaces (staff report and the County's Notice of Determination)	80 spaces (the actual approval, Condition 1); 36 (noise study)
Height	"below twenty-two (22) feet"	28 feet; "two-story"; "over two story"
Building coverage	70% of the lot	about 16% of the lot
Site size	15 acres	the four new parcels add up to 12.64 acres
Daily car trips	136 (environmental study text)	160 (the table on the same page)
Stream	"No drainage features," "no permit... will be required"	A "blue line stream" drawn on the parcel map; a Streambed Alteration Agreement now required
Flood zone	FEMA Zone X (low risk)	FEMA Zone A (flood hazard) on the County's own parcel map
Burrowing owl	"Absent," "no further surveys are required"	Two owl surveys now required
Sewer	Sewer service "will serve"	No sewer exists; a septic system rated for 70–80 people

Topic	One County document says	Another County document says
Water	The vacant site "is currently served by water"	The applicant must still get a letter on "whether or not" water will be provided
Neighbors	Site "surrounded by vacant land"	Homes to the south and west, the nearest 130 to 400 feet away depending on the document
Distance to the National Park	"Approximately 8 miles" (applicant)	"Barely one mile" (a neighbor's 2023 letter, never answered)
Amenities	For hotel guests only	Restaurant and café "may be open to the public"; spa "may accept outside appointments" (applicant)
Pool	Not in the project description	A "swimming pool" on the site plan and two pool permits in the conditions
Tortoise surveys	Promised as mandatory ("shall")	Adopted as optional ("should")
Caltrans review	Highway access "reviewed and accepted" by Caltrans	Caltrans review "currently in progress" (applicant)
Who's applying	Yucca Trail 11 LLC	Evoque Modern LLC; Sullivan 80 LLC; plus Cactus Club 1 LLC in state records

Text copied from other projects. The environmental study for this hotel includes language that plainly belongs to other projects:

- "The design of the **campsites...**"
- Dust rules for "sites over **100 acres** such as the proposed Project" (this site is about 5 acres)
- "The **city's** noise ordinance" (the site is in the unincorporated county)
- A species of concern to "the **County of Los Angeles**"

The study is posted as an August 2025 draft, but every page is dated **November 2024**. The legal findings also cite the wrong parcel map number.

Why it matters. The Board of Supervisors is being asked to approve a project whose size, height, parking and environmental conditions the County's own documents can't agree on. Neighbors can't know what is actually being built, and the County can't enforce limits it never settled. Page references for every item are in the full review, available on request.

The bottom line for every neighbor

Whatever bothers you, the approval gives you no way to raise it once it's built.

- **It's permanent.** The permit runs with the land and can be sold to any operator.
- **The promises aren't binding.** Quiet hours, lighting limits, animal-proof trash and tortoise surveys were promised to win approval but never written into the conditions.
- **There's no one to call.** Short-term rentals must answer complaints within an hour and keep a complaint log. The hotel's 163 conditions require neither.

The approval is under appeal to the Board of Supervisors. Now, before the Board votes, is the only point when any of this can still change.

What you can do

Deadline: 7:00 pm Thursday, October 15. That's very short notice, for a reason: most of us only learned about this project after the *Desert Trumpet* reported on it. The County's hearing agenda didn't list it as "Cactus Club Hotel." It was listed under the name of an LLC, "Yucca Trail 11 / Marlow LaFountaine," and mailed notice went to only 14 property owners. If you're hearing about this for the first time now, you're not alone, and that's part of the problem.

1. Send a short email or letter

Email it to Lauren at info@stopcactusclub.com by 7:00 pm Thursday. Your letter will be submitted to the Board of Supervisors with the appeal. It doesn't need to be long. One or two concerns in your own words carry real weight.

Include:

- Your name and your address/street (or how close you live to Highway 62 and Mile Square Road)
- How long you've lived here, if you'd like
- The issues from this guide that matter most to you, and how they would affect you personally

- Anything you've already experienced: noise, lights, traffic, flooding, guests from nearby rentals
- A closing request, for example: *"I ask the Board of Supervisors to deny the Conditional Use Permit and Tentative Parcel Map for the Cactus Club Hotel (PROJ-2023-00061), or at minimum require a full Environmental Impact Report."*

2. Send wildlife photos from the neighborhood

We're putting together a file showing that wildlife lives here and would be threatened by this project. Desert tortoises and kit foxes would be especially valuable, but anything helps:

- Desert tortoises, kit foxes, burrowing owls, badgers, bobcats, coyotes
- Roadrunners, quail, hawks, owls, or birds nesting in cholla and creosote
- Snakes, lizards, tracks, burrows or dens

For each photo, please include the **date**, the **approximate location** (street or cross streets) and, if possible, the **original photo file** rather than a screenshot. The original keeps the date and location data.

3. Stay involved

The appeal goes to the San Bernardino County Board of Supervisors. Let Lauren know if you'd like to be told when the hearing date is set, so you can attend or speak. Please share this guide with your neighbors. Most of them haven't heard about it either.

EXHIBIT G



DESERT TORTOISE COUNCIL

3807 Sierra Highway #6-4514

Acton, CA 93510

www.deserttortoise.org

eac@deserttortoise.org

Via email only

October 6, 2025

Oliver Mujica, Contract Planner III
County of San Bernardino
Land Use Services Department, Planning Division
385 N. Arrowhead Ave First Floor
San Bernardino, CA 92415-0187
Oliver.Mujica@lus.sbcounty.gov

RE: Proposed Cactus Club Hotel (PROJ-2023-00061; APN: 0608-051-02, 03, and 04)

Dear Mr. Mujica,

The Desert Tortoise Council (Council) is a non-profit organization comprising hundreds of professionals and laypersons who share a common concern for wild desert tortoises and a commitment to advancing the public's understanding of desert tortoise species. Established in 1975 to promote conservation of tortoises in the deserts of the southwestern United States and northern Mexico, the Council routinely provides information and other forms of assistance to individuals, organizations, and regulatory agencies on matters potentially affecting desert tortoises within their geographic ranges.

Both our physical and email addresses are provided above in our letterhead for your use when providing future correspondence to us. When given a choice, we prefer to receive emails for future correspondence, as mail delivered via the U.S. Postal Service may take several days to be delivered. Email is an "environmentally friendlier way" of receiving correspondence and documents rather than "snail mail."

We appreciate this opportunity to provide comments on the above-referenced project. Given the location of the proposed project in habitats potentially occupied by the Mojave desert tortoise (*Gopherus agassizii*) (synonymous with Agassiz's desert tortoise), our comments include recommendations intended to enhance protection of this species and its habitat during activities that may be authorized by the County of San Bernardino, Land Use Services Department, Planning Division (County), which we recommend be added to project terms and conditions in the authorizing documents [e.g., issuance of permits, etc.] as appropriate. Please accept, carefully review, and include in the relevant project file the Council's following comments and attachment for the proposed action.

The Mojave desert tortoise is among the top 50 species on the list of the world's most endangered tortoises and freshwater turtles. The International Union for Conservation of Nature's (IUCN) Species Survival Commission, Tortoise and Freshwater Turtle Specialist Group, now considers the Mojave desert tortoise to be Critically Endangered (Berry et al. 2021), "... based on population reduction (decreasing density), habitat loss of over 80% over three generations (90 years), including past reductions and predicted future declines, as well as the effects of disease (upper respiratory tract disease/mycoplasmosis). *Gopherus agassizii* (sensu stricto) comprises tortoises in the most well-studied 30% of the larger range; this portion of the original range has seen the most human impacts and is where the largest past population losses have been documented. A recent rigorous rangewide population reassessment of *G. agassizii* (sensu stricto) has demonstrated continued adult population and density declines of about 90% over three generations (two in the past and one ongoing) in four of the five *G. agassizii* recovery units and inadequate recruitment with decreasing percentages of juveniles in all five recovery units."

This status, in part, prompted the Council to join Defenders of Wildlife and the Desert Tortoise Preserve Committee (DTPC) to petition the California Fish and Game Commission (Commission) in March 2020 to elevate the listing of the Mojave desert tortoise from Threatened to Endangered under the California Endangered Species Act (CESA) (Defenders of Wildlife et al. 2020). Importantly, following California Department of Fish and Wildlife's (CDFW) (2024a) status review, in their April 2024 meeting the Commission voted unanimously to accept the CDFW's petition evaluation and recommendation to uplist the tortoise from threatened to endangered under the CESA. This unanimous vote was based on the scientific data provided on the species' status, declining trend, numerous threats, and lack of effective recovery implementation and land management (CDFW 2024b). On July 15, 2025, the tortoise was officially uplisted to endangered status under the CESA (Commission 2025).

Thank you for including the Council on the County's list of Affected Interests and contacting us via email on 9/5/2025 regarding the public comment period on this "Initial Study and Mitigated Negative Declaration for the Cactus Club Hotel (PROJ-2023-00061; APN: 0608-051-02, 03, and 04) (County 2024) (Initial Study/Mitigated Negative Declaration). In the Initial Study/Mitigated Negative declaration, we found the following project description.

The following comments are for the "Biological Resources Assessment, Jurisdictional Delineation, and Native Plant Protection Plan for the Proposed Cactus Club Hotel Project in Joshua Tree, California" (Biological Resources Assessment) prepared by Jennings Environmental, LLC (Jennings Environmental 2023) and for the "Initial Study/Mitigated Negative Declaration, PROJ-2023-00061, Proposed Cactus Club Hotel, for *Evoque Modern* APN: 0608-051-02, 03, and 04" (Initial Study/Mitigated Negative Declaration) prepared by the County in 2024. According to the Initial Study/Mitigated Negative Declaration, "[t]he Project proposes Tentative Parcel Map No. 20774 to combine three (3) existing parcels to create four (4) new parcels (Parcel 1, 5.28 acres; Parcel 2, 2.57 acres; Parcel 3, 2.56 acres; and Parcel 4, 2.24 acres) and a Conditional Use Permit for the development and operation of a twenty (20) room two-story hotel on Parcel 1 and associated infrastructure." The guest rooms, consisting of a total of 20 rooms will be "in three separate structures with a total of 7,705 square feet. Additional structures include a 1,300 square foot coffee shop/cafe, 1,300 square foot restaurant, 3,600 square foot club room, 1,800 square foot wine bar, 2,550 square foot lobby/office/mechanical/laundry building, 3,500 square foot hotel restaurant, and 3,800 square foot spa, and associated infrastructure including American with Disabilities Act

(ADA) parking spaces, ADA ramps and walkways, native plantings, downward facing lighting, refuse enclosure, on-site drainage improvements, a septic system, and paved access roads. Parcels 2, 3 and 4 will remain vacant.”

We note on page 4 of the Biological Resources Assessment (Jennings Environmental 2023) that the consultant was retained to perform a “...literature review and reconnaissance-level survey.” On page 5, they report, “Jennings biologist, Gene Jennings, conducted the *general reconnaissance survey* [*emphasis added*] within the Project site to identify the potential for the occurrence of special status species, vegetation communities, or habitats that could support special status wildlife species. The surveys were conducted on foot, throughout the Project site between 0955 and 1130 hours [*emphasis added*] on February 2, 2023.”

We were unable to find in the Biological Resources Assessment the project location or description of where the reconnaissance-level survey was conducted.

There are multiple problems associated with the Biological Resources Assessment (Jennings Environmental 2023) and, as presented in the Initial Study/Mitigated Negative Declaration, the County’s approach to assessing impacts to tortoises on this site from the construction, operation, and maintenance of the proposed Project. Some of them are described below.

(1) Rather than a reconnaissance survey, a formal tortoise protocol survey (USFWS 2019) should have been performed to comply with the Federal Endangered Species Act (FESA) and CESA. CDFW has adopted the USFWS’s 100% coverage survey walking transects 10 meters wide of the “action area” as the methodology to use (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281283-reptiles>) to determine tortoise presence/use of the action area and compliance with FESA and CESA.

The “action area” is defined in 50 Code of Federal Regulations 402.2 and the USFWS Desert Tortoise Field Manual (USFWS 2009) as “all areas to be affected directly or indirectly by proposed development and not merely the immediate area involved in the action.” Thus, the action area is larger than the project footprint/project site. The size of the action area/area to be surveyed is usually determined through coordination between the project proponent and the USFWS and CDFW.

The acreage given in the NoI is 12.65 acres for the four parcels. Whereas the consultant spent approximately 1.35 hours surveying the site, several Board members have performed tortoise protocol surveys since 1990 when they were first required, and we find that an appropriate survey rate is about four acres/hour. So, it should have taken at least three hours to adequately survey the 12.6-acre site when implementing the USFWS formal tortoise protocol survey. This survey rate for the tortoise does not include surveys for burrowing owls in areas adjacent to the Project site as required by the CDFW (CDFG 2012) or surveys in the remaining part of the “action area” for the tortoise under the formal tortoise protocol survey (USFWS 2019), which would likely take several more hours.

Formal protocol surveys must be performed for the County to be able to ascertain the use of the action area by the tortoise and to comply with FESA and CESA. Consequently, the County has insufficient information to adequately determine whether tortoises use the action area and what the

impacts would be to the tortoise from the construction, operation, and maintenance of the proposed Project.

In addition, this USFWS and CDFW tortoise survey protocol specifies that the survey be conducted during the tortoise's active season, that is when air temperatures are appropriate for tortoises to be active and above ground during the day – usually April through May and September through October. The reconnaissance survey was conducted in early February when tortoises are usually in their burrows making it difficult to find them.

According to the USFWS (2019) the surveyor should provide the complete results of their work so the USFWS “can fully understand the project-specific circumstances, such as the conditions under which the survey was conducted (e.g., weather, experience of the surveyors, access to the survey area, degree of disturbance of the land, etc.).” This information should be provided in the biological report as well as when the results of the report were submitted to the USFWS and CDFW and their responses.

There is a substantial difference between conducting a reconnaissance survey of a site for evidence of use by special status species and conducting a survey protocol whose methodology is tailored to the ecological and behavioral characteristics specific to each special status species. The formal protocol survey for the tortoise has been developed using ecological and behavioral parameters for the tortoise as well as statistical analysis of the ability of qualified biologists to detect tortoises when they are above ground. Consequently, a general reconnaissance survey is more likely to result in a finding of no evidence of the special status species present (e.g., Mojave desert tortoise, burrowing owl) on a project site which in many cases would be an incorrect representation on the use of the project site by the special status species.

(2) Because this reconnaissance survey, which is inadequate with respect to meeting federal and State requirements under FESA and CESA was performed more than 2.5 years ago on February 2, 2023, the Council advises the County that the project proponent or their consultant should contact the USFWS and CDFW and inquire whether another survey is required. USFWS (2019) states the following with regards to the longevity of the validity of a given survey: “If the survey data *are more than a year old [emphasis added]*, we encourage project proponents to contact us at the earliest possible time to allow us to assess the specific circumstances under which the data were collected (e.g., time of year, drought/rainfall conditions, size and location of the site, etc.) and to discuss whether additional surveys would be appropriate. Spatial information can be provided in pdf and GIS formats.”

In addition, CDFW usually accepts survey results for up to one year after they were performed. For surveys completed more than a year ago, CDFW usually requires that the formal survey protocol for the tortoise be implemented again and cover the action area for small projects such as this one.

(3) It is laudable that, as reported on page 5 of Jennings Environmental, LLC. (2023), that they consulted the California Natural Diversity Data Base (CNDDB) and other references. However, we have found that these resources are inadequate in determining actual occurrences of the tortoise in a given region. CNDDB is not always current in entering all occurrence data reported and not all surveyors, biologists, etc. report their findings to CNDDB. Biologists with Circle Mountain

Biological Consultants, Inc. (CMBC), including the primary author of this comment letter, have performed surveys at 309 sites on 16,274 acres and 138.65 linear miles of pipeline since 1988 in the Morongo Basin, which encompasses the Project site. In Figures 1a and 1b, results of pertinent surveys are depicted as green where tortoise sign was found and red where no tortoise sign was found in Figures 1a and 1b below.

Figure 1a shows the results of 16 surveys on 10 sites between 100 feet (Survey #15, 228, 229, 230, 231, 232, 242 in the figure) and a half mile northwest (Survey #34) of the Project site, where tortoises and/or their signs were found on the dark green sites and in adjacent areas for the light green sites. The large site across Highway 62 where 7 of the 16 surveys have been performed is Copper Mountain College where more than 25 tortoises have been found on the 85-acre site since it was developed in 2005 (LaRue, personal observation). Many of these animals were hatchlings or juvenile tortoises indicating that reproduction is prevalent in the area. This tortoise recruitment is atypical for much of the tortoise population in the Western Mojave Desert (Allison and McLuckie 2018). Figure 1b shows that the nearest sites where no tortoise signs were found (shown as red polygons for sites and lines for pipelines) were 1.5 miles west (Survey #6) and 1.6 miles northwest (Survey #179, 218).

We offer these results from conducting tortoise protocol surveys as new data and evidence that tortoises are prevalent in the Project area, and that a reconnaissance survey performed by the consultant for this Project is insufficient to determine use of the Project site and action area by tortoises or to comply with FESA and CESA. Consequently, if the County's intent is to comply with FESA and CESA and adequately determine, analyze, and mitigate impacts to the tortoise under the California Environmental Quality Act (CEQA), the County should require that protocol surveys for the tortoise be conducted covering the action area by biologists deemed qualified by the U.S. Fish and Wildlife Service (USFWS) and CDFW before the County completes its Initial Study/CEQA document for this Project.

(4) On page 10, Jennings Environmental (2023) makes the following conclusions based on the reconnaissance survey results: "The habitat on site is marginally suitable for desert tortoise. *Recent occurrences in the vicinity from 2008 are documented in the CNDDDB Search [emphasis added]*. However, no sign of desert tortoise (i.e. burrows, tracks, or pellets) was observed during the survey. Additionally, no desert tortoise individuals were observed. "Findings: Because the site is marginally suitable, it is recommended that *pre-construction surveys be completed* for this species. These surveys should be conducted by a qualified biologist and at an appropriate time of day/year to observe signs of desert tortoise."

In the first paragraph, the consultant notes an occurrence in 2008. Seven of the 16 surveys depicted in Figure 1a (i.e., all of the numbers greater than 215) were performed since 2008, with Survey #242 occurring in 2010. LaRue helped survey the Copper Mountain College site in 2024 when a half dozen tortoises were found across the street from the proposed Project site. So, again, these supplemental data are being provided so the County will include them in its analysis of whether any significant impacts as defined by CEQA will occur if this site is developed, used, and maintained, as proposed.

Figure 1b depicts a regional overview of tortoise surveys in the region, where the numbers have been removed to better depict locations of tortoise sign. Tortoise signs have been found on most

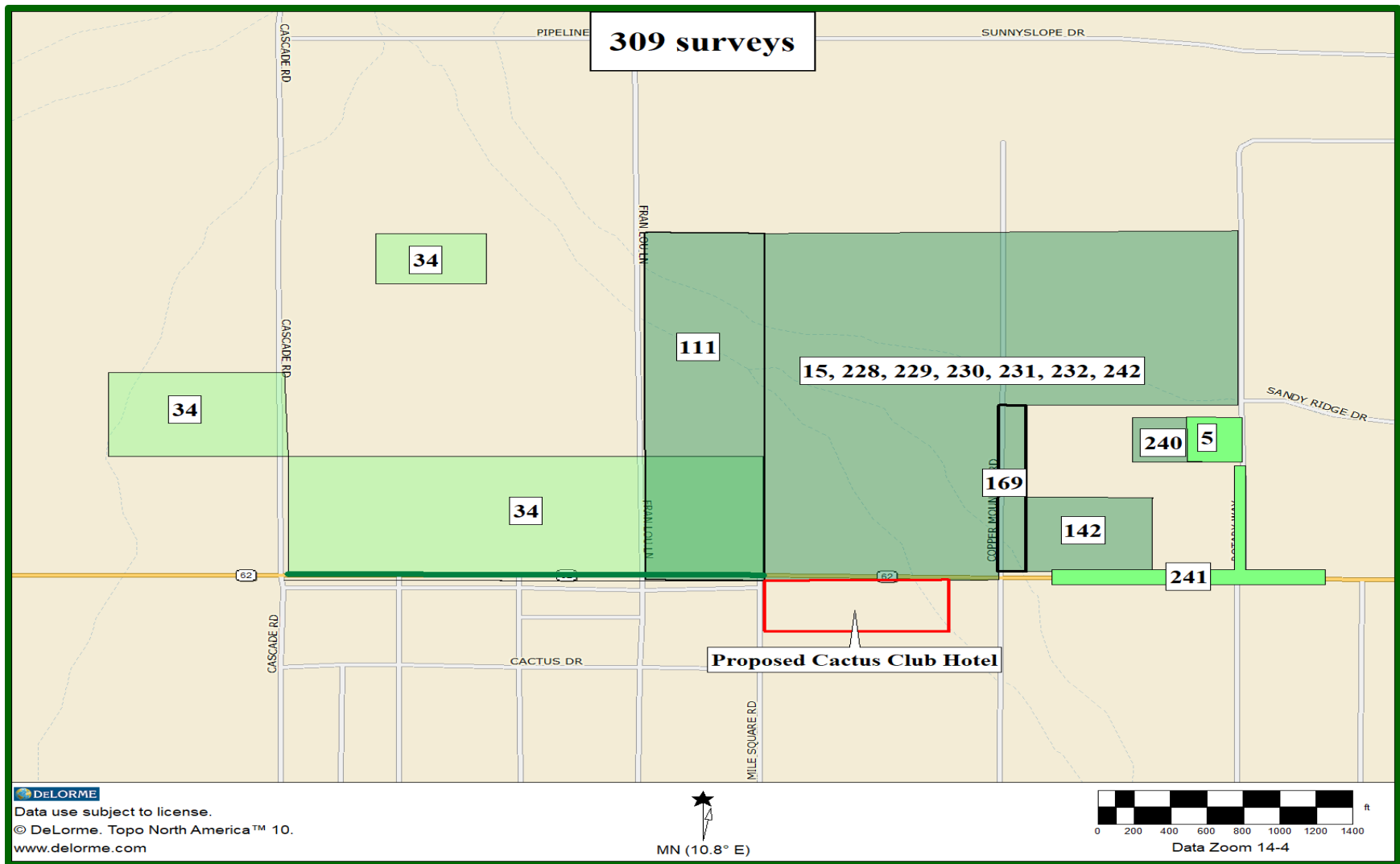


Figure 1a. Locations of recent tortoise surveys adjacent to the subject property where tortoise signs have been found either onsite or in adjacent areas on all surveys.

Figure 1b. Locations of recent tortoise surveys in the region where two red polygons and two red lines signify the only sites and pipelines, respectively, where no tortoise sign was found.

of the sites north of the community, including the region in which this site is located. These new data are provided to the County to emphasize the importance of performing USFWS (2019) protocol surveys that follow all the requirements in the survey methodology (e.g., survey width, conducted by biologists deemed qualified by USFWS and CDFW, survey the entire action area, conduct surveys within one year, etc.) to ascertain tortoise absence.

With regards to pre-construction surveys that are recommended to be implemented by Jennings Environmental (2023), we are not sure if these are formal protocol surveys or clearance surveys. The USFWS (2009) describes “clearance surveys,” which are more intense than that formal protocol surveys. The entire project site is surveyed a few days before surface disturbance is to occur and usually after a tortoise exclusion fence has been installed around the project site. The clearance survey protocol directs qualified biologists to walk transects 5 meters wide. For the next survey, the transect are walked perpendicular to the first. If a tortoise is found, the survey effort continues until no tortoises are seen. When tortoises are found they are removed from the project site and translocated following a protocol that must be approved by the USFWS (2020) and CDFW prior to initiating the pre-construction/clearance surveys.

The Council contends that the County cannot effectively assess the potential significance of impacts to the tortoise based on the promise of future surveys. And, as given above, nor can the County assess direct, indirect, cumulative, growth-inducing, and synergistic impacts based on the results of implementing a survey methodology that was inadequate to find tortoises/tortoise signs, did not cover the action area, was conducted at the wrong time of the year, and the results of which are 2.5 years old. We contend that these data should not be used to ascertain the current status of tortoises on/near the proposed Project site.

(5) We understand that the proposed Project includes a parcel split, which is a paper transaction that would not, in and of itself, result in physical impacts to the Project site, but that it would authorize the construction, operations, and maintenance of a hotel and related facilities on one of the four newly-created parcels. Therefore, there may be immediate direct impacts to the tortoise if the Project is developed as well as indirect, cumulative, growth-inducing, and synergistic impacts from both the hotel and the developments that would be authorized for the other three parcels. In the absence of new protocol-level surveys that definitively confirm the absence of tortoises, the County risks violating CEQA, CESA, and FESA by approving this Project and not ensuring that the Project proponent has complied fully with these environmental laws.

(6) In the Initial Study/Mitigated Negative Declaration (County 2024, page 34), we found the following information,:

“According to the California Essential Habitat Connectivity Project 4, the Project Site is not mapped within an area for wildlife movement. Additionally, the site is not within a wildlife linkage as mapped by Mojave Desert Land Trust⁵. The proposed Project is also not within a Habitat Conservation Plan. Therefore, the proposed Project will not have an impact on any current wildlife corridors or habitat conservation plans.”

In searching the California Essential Habitat Connectivity Project website (CDFW 2010), we discovered that the proposed Project is located in a Mitigation Target Area for the tortoise. On this webpage CDFW says that more detailed analyses under the Desert Renewable Energy

Conservation Plan (DRECP) Conservation Strategy, which was completed in 2016. Under the DRECP, linkage habitats were identified for the tortoise. The proposed Project appears to be located in an area identified as linkage habitat needed to provide population connectivity between the Ord-Rodman Tortoise Conservation Area to the northwest of the Project site and Joshua Tree National Park to the south of the Project site (BLM 2016, Averill-Murray et al. 2021).

In addition, San Bernardino County should have a Conservation and Open Space Element in its General Plan and have included an element for wildlife connectivity. Please include this information in the Initial Study/Mitigated Negative Declaration with respect to the tortoise and the Project site.

Several scientific reports and journal articles have been written on this issue of connectivity between populations for the tortoise. A recent publication by Averill-Murray et al. (2021), mentioned above, discusses the importance of connectivity of Mojave desert tortoise populations and linkage habitats. The authors emphasized that “[m]aintaining an ecological network for the Mojave desert tortoise, with a system of core habitats (TCAs = Tortoise Conservation Areas) connected by linkages, is necessary to support demographically viable populations and long-term gene flow within and between TCAs.”

“Ignoring minor or temporary disturbance on the landscape could result in a cumulatively large impact that is not explicitly acknowledged (Goble, 2009); therefore, understanding and quantifying all surface disturbance on a given landscape is prudent.” Furthermore, “habitat linkages among TCAs must be wide enough to sustain multiple home ranges or local clusters of resident tortoises (Beier and others, 2008; Morafka, 1994), while accounting for edge effects, in order to sustain regional tortoise populations.” Consequently, effective linkage habitats are not long narrow corridors. Any development within them has an edge effect (i.e., indirect impact) that extends from all sides into the linkage habitat further narrowing or impeding the use of the linkage habitat, depending on the extent of the edge effect.

Averill-Murray et al. (2021) further notes that “To help maintain tortoise inhabitation and permeability across all other non-conservation-designated tortoise habitat, all surface disturbance could be limited to less than 5-percent development per square kilometer because the 5-percent threshold for development is the point at which tortoise occupation drops precipitously (Carter and others, 2020a).” They caution that the upper threshold of 5 percent development per square kilometer may not maintain population sizes needed for demographic or functional connectivity; therefore, development thresholds should be lower than 5 percent.

The lifetime home range for the Mojave desert tortoise is more than 1.5 square miles (3.9 square kilometers) of habitat (Berry 1986) and tortoises may make periodic forays of more than 7 miles (11 kilometers) at a time (Berry 1986).

In addition, a fundamental tenet of conservation biology is the need for gene flow to occur between populations to maintain genetic diversity; this enables a species to more likely survive, especially during climate change, which enables biodiversity. Linkage habitats are important as they provide gene flow/genetic connectivity among wildlife populations to maintain viability within each species and biodiversity in the current and future distribution of species when adapting to the impacts of climate change. Consequently, development in tortoise linkage habitat that exceeds this

development threshold in non-conservation-designated tortoise habitat such as the Ord-Rodman TCA to Joshua Tree National Park linkage habitat would result in the loss of the function of the linkage habitat, the loss of population connectivity, and would be considered a significant impact to the tortoise.

The proposed Project is a permanent disturbance to this linkage habitat and would result in permanent edge effects (=indirect impacts) during construction, operations, and maintenance that extend into the linkage habitat reducing its effectiveness. The County needs to analyze the remaining linkage habitat using the criteria provided in Averill-Murray et al. (2021) to determine whether it would contain the requisite properties needed to function as linkage habitat for the tortoise from the impacts from existing development and activities, the addition of the construction and use of the proposed Project, and future planned projects and activities. This would include new roads and increased vehicle use as well as the indirect impacts mentioned in #7 of this letter. The County needs to demonstrate in the CEQA document that the proposed Project with existing and future planned projects is “wide enough to sustain multiple home ranges or local clusters of resident tortoises (Beier and others, 2008; Morafka, 1994), while accounting for edge effects [=indirect impacts], in order to sustain regional tortoise populations” (Averill-Murray et al. 2021). Consequently, effective linkage habitats are not long narrow corridors or washes. One tortoise home range is more than one square mile.

Please revise the CEQA document to include this information and the information on requirements for linkage habitats for the tortoise in Averill-Murray et al. (2021) when the County conducts its analysis of impacts to the tortoise on movements and population connectivity from the proposed Project.

(7) As previously mentioned, the proposed Project would result in indirect, cumulative, synergistic, and growth-inducing impacts to the tortoise. We remind the County of the demographic status of the tortoise. The USFWS has documented substantial declines in tortoise abundance and density since 2004, especially in California (see attachment “Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including the Tortoises in Western Mojave Recovery Unit”). The primary reason for its substantial decline has been from increased mortality caused by indirect impacts from human activities. These include human activities that result in the destruction, degradation and/or fragmentation of tortoise habitat; surface disturbance and introduction of non-native invasive plant species via construction equipment, vehicles, and other sources; replacement of native forbs with high nutritional and water value with low nutritional non-native invasive grasses (Drake et al. 2016); increased occurrence of fire size, intensive, and frequency of human-caused wildfires from fuels provided by non-native invasive plant species (Brooks and Esque 2002); increased predation from substantially increased numbers of predators that utilize subsidies of food, water, and nesting locations (Boarman 2003); and increased human access that provides opportunities for vandalism and collecting tortoises for pets. Major sources of surface disturbance include residential, commercial, (such as the proposed Project) and industrial development projects and associated roads/highways; military training; and off-highway vehicle use (USFWS 2011, Tuma et al. 2016).

An example of one indirect impact from the Project’s construction, use, and operations and how it is likely to result in take of the tortoise is increased tortoise predation. Common ravens are known to prey on juvenile desert tortoises based on direct observations and circumstantial evidence, such

as shell-skeletal remains with holes pecked in the carapace (Boarman 1993). The number of common ravens increased by 1,528% in the Mojave Desert since the 1960s (Boarman 1993). This increase in raven numbers is attributed to unintentional subsidies provided by humans in the Mojave Desert.

In the Mojave Desert, common ravens are subsidized predators because they benefit from resources associated with human activities that allow their populations to grow beyond their “natural” carrying capacity in the desert habitat. Kristan et al. (2004) found that human developments in the western Mojave Desert affect raven populations by providing food subsidies, particularly trash and road-kill. Boarman et al. (2006) reported raven abundance was greatest near resource subsidies, specifically food (= trash) and water. Human subsidies include food and water from landfills and other sources of waste, reservoirs, sewage ponds, agricultural fields, feedlots, gutters. Subsidies also include perch, roost, and nest sites on power towers, telephone poles, light posts, billboards, fences, freeway or railroad overpasses, abandoned vehicles, and buildings (Boarman 1993). The human-provided subsidies allow ravens to survive in the desert during summer and winter when prey and water resources are typically inactive or scarce. Boarman et al. (1993) concluded that the human-provided resource subsidies must be reduced to facilitate a smaller raven population in the desert and reduced predation on the tortoise.

Coyotes are known predators of tortoises. High adult tortoise mortality from coyote predation was reported by Petersen (1994), Esque et al. (2010) and Nagy et al. (2015) in part of the range of the tortoise. In some areas, numbers of ravens correlated positively with coyote abundance (Boarman et al. 2006). Lovich et al. (2014) reported tortoise predation may be exacerbated by drought if coyotes switch from preferred mammalian prey to tortoises during dry years. Because the Mojave Desert has been in a multi-decade drought (Stahle 2020, Williams et al. 2022) due to climate change and drought conditions are expected to continue and intensify in future years, increased predation pressure from coyotes on tortoises is expected to continue.

The proposed Project would likely increase the availability of human-provided subsidies for predators of the tortoise including the common raven and coyote during the construction, operation, and maintenance phases of the Project. For example, during the construction phase the water used to control dust and the waste generated during construction including food brought to the Project site by workers for meals, etc., are examples of food and water subsidies for ravens and coyotes that would attract these predators to the Project site and increase their numbers in the surrounding area. Grading the site would expose, injure, or kill fossorial animals and provide a subsidized food source for ravens and coyotes. During operation and maintenance phases, the presence of food waste in uncovered trash cans and dumpsters would provide food subsidies for ravens and coyotes that would attract them to the project area and increase the likelihood of them preying on tortoises in the project area. Vertical structures (e.g., light poles, structural canopies, etc.) provide nesting subsidies for common ravens and increase their numbers in the project area resulting in greater predation on tortoises in nearby areas.

Currently the priority for managing the tortoise is to substantially reduce mortality and manage desert tortoise habitat for persistence and connectivity of the species (Averill-Murray et al. 2021, Holcomb 2025 personal communication). The major threat to the tortoise is mortality from human sources, either directly or indirectly. These sources of mortality must be substantially reduced or eliminated if the tortoise is to survive in the near future. The indirect impacts from the proposed

Project that are not addressed in the Initial Study/Mitigated Negative Declaration include all the indirect impacts listed earlier in this letter and possibly more (e.g., presence of unleashed dogs, etc.).

Another indirect impact that is frequently overlooked is from the construction, use, and maintenance of drainage systems. Depending on their design, these systems can trap tortoises resulting in injury or mortality to tortoises, from hatchlings to adult tortoises, that enter them or can drown tortoises. These and other indirect impacts to the tortoise and its habitat from implementation of the proposed Project should be described and analyzed in the CEQA document and effective mitigation required to offset these impacts.

(8) In the section on “Mandatory Findings of Significance,” two of the three questions under the CEQA Handbook are applicable to the tortoise. They are:

Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

and

Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects?)

To assist the County in answering these two questions regarding the impacts to the tortoise from the construction, operations, and maintenance of the proposed Project, we are attaching “Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including Tortoises in the Western Mojave Recovery Unit.” Note that the proposed Project is in the Western Mojave Recovery Unit, the tortoise populations in this Unit are below the density needed for population viability (Allison and McLuckie 2018), and the density of tortoises continues to decline in the Western Mojave Recovery Unit (USFWS 2025). The adult tortoise population declined by about 50 percent and the number of juvenile tortoises decline by 91 percent between 2004 and 2014 (Allison and McLuckie 2018), and this downward trend continues (USFWS 2025). Also note that the tortoise cannot achieve recovery, that is, be removed from the list of threatened species under FESA unless it achieves recovery in all five recovery units including the Western Mojave Recovery Unit (USFWS 2011). This includes having viable populations. We conclude that having populations below the density needed for population viability means these populations are below the level needed to be self-sustaining, and any additional impacts to these populations would exacerbate this declining trend and remain below the level of self-sustaining. Using the information in this Appendix, we conclude the answer to these two questions is “yes,” which means the impacts from the proposed Project would be significant. Please include this information in the County’s analysis of the Project in the CEQA document.

Because the County has prepared an Initial Study/Mitigated Negative Declaration, it contains mitigation and monitoring sections that are supposed to demonstrate that implementation of

mitigation and monitoring actions will reduce the level of impacts from the construction, operation, and maintenance of the proposed Project to less than significant. However, until the County (1) determines the use of the Project site and surrounding area by tortoises; (2) determines the type and extent of the direct, indirect, cumulative, synergistic, and growth-inducing impacts to the tortoise/tortoise habitat from the construction, operation, and maintenance of the proposed Project; and (3) analyzes these impacts to the tortoise, the County is unable to identify the appropriate mitigation and monitoring to offset these impacts. Consequently, the County is currently unable to determine whether a mitigated negative declaration or an environmental impact report is the appropriate CEQA document to prepare for the proposed Project with respect to impacts to the tortoise.

(9) With regards to the burrowing owl, Jennings Environmental (2023) reported on page 11, “Based on the February 2023 field survey, the site does not contain suitable habitat for this species. No burrowing owls were observed during the site visit. No portion of the project site showed any evidence of past or present BUOW activity. No suitable burrows, feathers, whitewash, or castings were found. Additionally, the site does not contain a suitable burrow surrogate species (i.e., California ground squirrel (*Otospermophilus beecheyi*)).”

Like the methodologies described above for tortoises, the 2023 reconnaissance survey methodology conducted by Jennings Environmental, LLC. did not follow the survey protocol identified by the California Department of Fish and Game (CDFG 2012) for burrowing owl. For example, California ground squirrel burrows that are used by burrowing owls occur within several hundred feet of the proposed property on the college campus, and reconnaissance surveys (Jennings does not report where the transects were surveyed) may certainly have missed such burrows that would more likely be found during a protocol survey.

Equally important, CDFG (2012) requires that five transects spaced at 30-, 60-, 90-, 120-, and 150-meter intervals be surveyed in all adjacent areas for signs of burrowing owls. Given open, undeveloped lands to the south, east, and southwest (see Figure 2 below taken from the Biological Resources Assessment), these areas would need to be surveyed before Jennings Environmental could make the statement on page 11 as cited above.

Additionally, we provide the following supplemental information to the County concerning burrowing owls. Referring to Figures 1a and 1b above, CMBC has found burrowing owl signs during Surveys #111, 142, 169, and 228. Additionally, burrowing owl signs have been found during every tortoise protocol survey performed on the adjacent Copper Mountain College campus since the 50-acre sports complex was constructed in 2008, including surveys in 2024. Given this new information, the County needs to reassess its conclusion on page 32 of its Initial Study/Mitigated Negative Declaration that burrowing owls may not be significantly impacted as defined by CEQA with the construction, operation, and maintenance of this Project, because this conclusion is based on a faulty survey methodology and does not include the new information given herein.

In summary, because of the information the Council has provided to the County on occurrence data of tortoises/tortoise signs and burrowing owls/owl signs and the requirements under FESA and CESA for projects that would result in surface disturbance, the County should require the

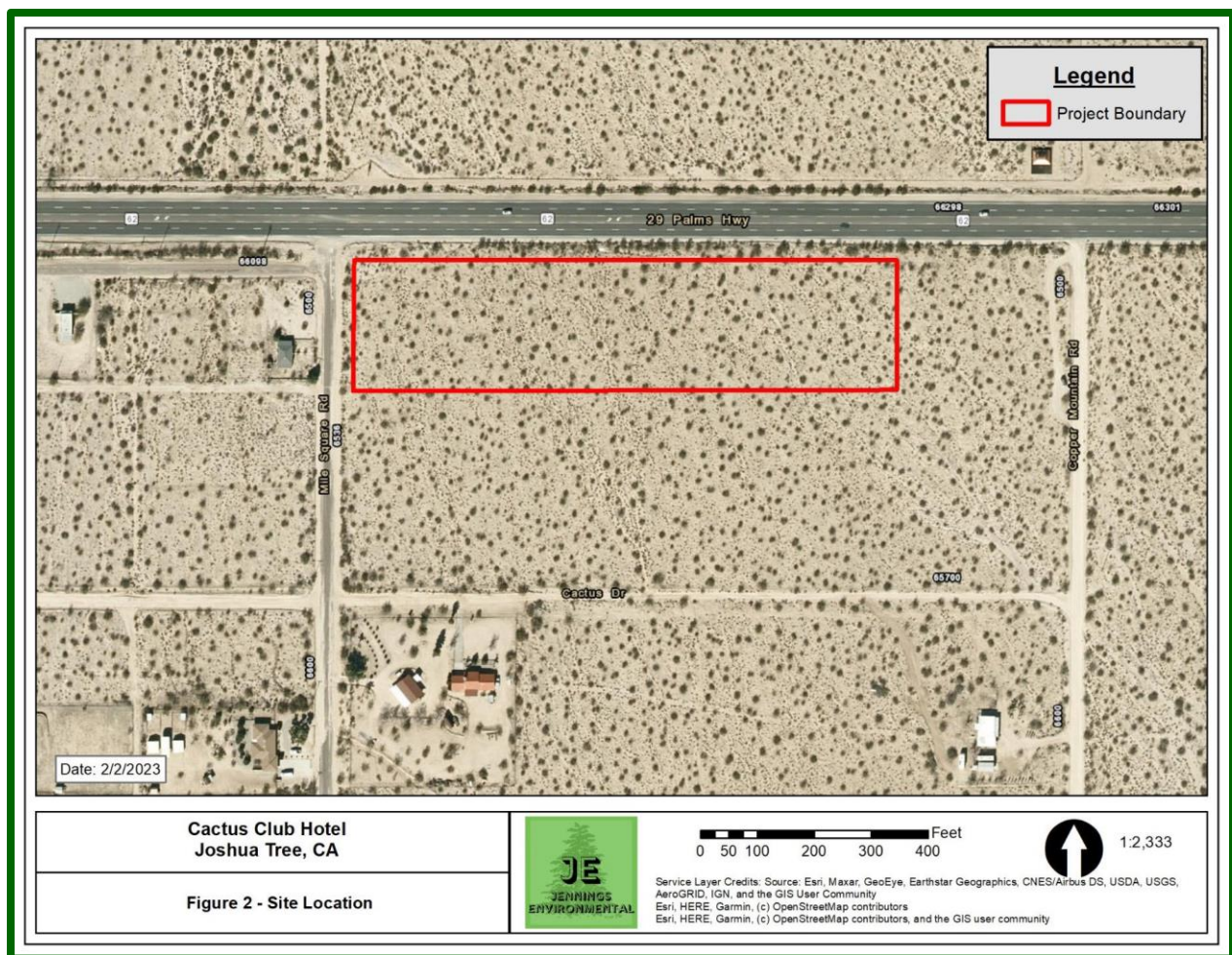


Figure 2. Cactus Club Hotel site location from Jennings Environmental LLC (2023).

Project proponent to comply with FESA and CESA requirements and have qualified biologists approved by USFWS and CDFW fully implement surveys of the action area/adjacent areas for these species. The results of these surveys should be included in the revised CEQA document and used in the analysis of the direct, indirect, cumulative, growth-inducing, and synergistic impacts to these species. Only after this process is completed will the County have sufficient information to determine the mitigation that needs to be implemented to offset these impacts to the tortoise and burrowing owl; to ensure that the impacts do not rise to the level of significance under CEQA; and to demonstrate that a mitigated negative declaration with effective mitigation that offsets the direct, indirect, cumulative, growth-inducing, and synergistic impacts is the appropriate CEQA document.

We appreciate this opportunity to provide the above comments and trust they will help protect tortoises during any resulting authorized activities. Herein, we reiterate that the Council wants to be identified as an Affected Interest for this and all other projects funded, authorized, or carried out by the County that may affect desert tortoises, and that any subsequent environmental documentation for this project is provided to us at the contact information listed above. Additionally, we ask that the County continue to notify the Council at eac@deserttortoise.org of any proposed projects that may affect the desert tortoise so we may comment on them to ensure

the County fully considers and implements actions to conserve these tortoises as part of its directive to conserve biodiversity on lands it oversees in San Bernardino County.

Please respond in an email that you have received this comment letter so we can be sure our concerns have been registered with the appropriate personnel and office for this Project.

Respectfully,



Edward L. LaRue, Jr., M.S.

Desert Tortoise Council, Ecosystems Advisory Committee, Chairperson

Attachment: Appendix A – Demographic Status and Trend of the Mojave Desert Tortoise including Tortoises in Western Mojave Recovery Unit.

Cc: Brian Croft, Assistant Field Supervisor, Palm Springs Fish and Wildlife Office, U.S. Fish and Wildlife Office, brian_croft@fws.gov
Peter Sanzenbacher, Mojave Desert Division Supervisor, peter_sanzenbacher@fws.gov
Heidi Calvert, Regional Manager, Region 6, Inland and Desert Region, California Department of Fish and Wildlife, Heidi.Calvert@wildlife.ca.gov
Steven Recinos, Environmental Scientist, Region 6, Inland Deserts Region, California Department of Fish and Wildlife, steven.recinos@wildlife.ca.gov

Literature Cited

- Allison L.J. and A.M. McLuckie. 2018. Population trends in Mojave desert tortoises (*Gopherus agassizii*). *Herpetological Conservation and Biology*. 2018 Aug 1;13(2):433-52. http://www.herpconbio.org/Volume_13/Issue_2/Allison_McLuckie_2018.pdf
- Averill-Murray, R.C., T.C. Esque, L.J. Allison, S. Bassett, S.K. Carter, K.E. Dutcher, S.J. Hromada, K.E. Nussear, and K. Shoemaker. 2021. Connectivity of Mojave Desert tortoise populations—Management implications for maintaining a viable recovery network. U.S. Geological Survey Open-File Report 2021–1033, 23 p., <https://doi.org/10.3133/ofr20211033>. <https://pubs.usgs.gov/of/2021/1033/ofr20211033.pdf>
- Beier, P., D.R. Majka, and W.D. Spencer. 2008, Forks in the road—Choices in procedures for designing wildland linkages: *Conservation Biology* 22(4):836–851. <https://doi.org/10.1111/j.1523-1739.2008.00942.x>.
- Berry, K.H. 1986. Desert tortoise (*Gopherus agassizii*) relocation: Implications of social behavior and movements. *Herpetologica* 42:113-125. <https://www.jstor.org/stable/3892242>
- Berry, K.H., L.J. Allison, A.M. McLuckie, M. Vaughn, and R.W. Murphy. 2021. *Gopherus agassizii*. The IUCN Red List of Threatened Species 2021: e.T97246272A3150871. <https://dx.doi.org/10.2305/IUCN.UK.2021-2.RLTS.T97246272A3150871.en>

- [BLM] U.S. Bureau of Land Management. 2016. Record of Decision for the Land Use Plan Amendment to the California Desert Conservation Plan, Bishop Resource Management Plan, and Bakersfield Resource Management Plan for the Desert Renewable Energy Conservation Plan (DRECP). Dated September 2016. Sacramento, CA
- Boarman, W.I. 1993. When a native predator becomes a pest—A case study, *in* Majumdar, S.K., Miller, E.W., Baker, D.E., Brown, E.K., Pratt, J.R., and Schmalz, R.F., eds., Conservation and resource management: Easton, Pennsylvania Academy of Science, p. 186–201.
- Boarman, W. 2003. Managing a Subsidized Predator Population: Reducing Common Raven Predation on Desert Tortoises. *Environmental Management* 32, 205–217 (2003).
<https://doi.org/10.1007/s00267-003-2982-x>
- Boarman, W.I., M.A. Patten, R.J. Camp, and S.J. Collis. 2006. Ecology of a population of subsidized predators: Common ravens in the central Mojave Desert, California. *Journal of Arid Environments* 67 (2006) 248–261.
<https://www.sciencedirect.com/science/article/abs/pii/S0140196306003016>
- Brooks, M.L., and T.C. Esque. 2002. Alien plants and fire in desert tortoise (*Gopherus agassizii*) habitat of the Mojave and Colorado Deserts. *Chelonian Conservation and Biology* 4:330–340.
<https://pubs.usgs.gov/publication/1008328>
- [CDFG] California Department of Fish and Game. 2012. Staff report on burrowing owl mitigation. The 7 March 2012 memo replacing 1995 staff report, State of California Natural resources Agency, Department of Fish and Wildlife. Sacramento, CA.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>
- [CDFW] California Department of Fish and Wildlife. 2024a. Status Review for Mojave Desert Tortoise (*Gopherus agassizii*) Report to the Fish and Game Commission, February 2024.
<https://nrm.dfg.ca.gov/documents/ContextDocs.aspx?cat=CESA-Listing>
- [CDFW] California Department of Fish and Wildlife. 2024b. 2022-2024 News Releases. California Fish and Game Commission Holds Hybrid Meeting, April 23, 2024.
<https://wildlife.ca.gov/News/Archive/california-fish-and-game-commission-holds-hybrid-meeting11>
- Carter, S.K., K.E. Nussear, T.C. Esque, I.I.F. Leinwand, E. Masters, R.D. Inman, N.B. Carr, and L.J. Allison. 2020. Quantifying development to inform management of Mojave and Sonoran desert tortoise habitat in the American southwest. *Endangered Species Research* 42:167–184.
<https://doi.org/10.3354/esr01045>.
<https://www.int-res.com/abstracts/esr/v42/p167-184/>
- [Commission] California Fish and Game Commission. 2025. CESA, Petitions to List Species Under the California Endangered Species Act, Finalized Petitions.
<https://fgc.ca.gov/CESA#1089124-mojave-aka-agassizs-desert-tortoise-2025>

- [County] Sand Bernardino County. 2024. Initial Study/Mitigated Negative Declaration, PROJ-2023-00061, Proposed Cactus Club Hotel. For *Evoque Modern* APN: 0608-051-02, 03, and 04. County of San Bernardino, Land Use Services Department, November 2024.
<https://lus.sbcounty.gov/wp-content/uploads/sites/48/Draft-ISMND-August-2025.pdf>
- Defenders of Wildlife, Desert Tortoise Preserve Committee, and Desert Tortoise Council. 2020. A Petition to the State of California Fish And Game Commission to move the Mojave desert tortoise from listed as threatened to endangered.
https://defenders.org/sites/default/files/2020-03/Desert%20Tortoise%20Petition%203_20_2020%20Final_0.pdf
- Drake, K. K., L. Bowen, K. E. Nussear, T. C. Esque, A. J. Berger, N. A. Custer, S. C. Waters, J. D. Johnson, A. K. Miles, and R. L. Lewison. 2016. Negative impacts of invasive plants on conservation of sensitive desert wildlife. *Ecosphere* 7(10):e01531. 10.1002/ecs2.1531.
<https://esajournals.onlinelibrary.wiley.com/doi/pdf/10.1002/ecs2.1531>
- Esque, T.C., K.E. Nussear, K.K. Drake, A.D. Walde, K.H. Berry, R.C. Averill-Murray, A.P. Woodman, W.I. Boarman, P.A. Medica. J. Mack, and J.H. Heaton. 2010. Effects of subsidized predators, resource variability, and human population density on desert tortoise populations in the Mojave Desert, U.S.A. *Endangered Species Research*, Vol. 12-167-177, 2010, doi: 10.3354/esr00298.
<https://www.int-res.com/articles/esr2010/12/n012p167.pdf>
- Goble, D.D. 2009. The endangered species act—What we talk about when we talk about recovery: *Natural Resources Journal* 49:1–44.
<https://www.jstor.org/stable/24889187>
- Holcomb, K.L. 2025. Personal communication. Desert Tortoise Recovery Office. U.S. Fish and Wildlife Service, Palm Springs, CA.
- Jennings Environmental, LLC. 2023. Biological Resources Assessment, Jurisdictional Delineation, and Native Plant Protection Plan for the Proposed Cactus Club Hotel Project in Joshua Tree, California. Unpublished report prepared on behalf of Evoque Modern, LLC, dated February 2023. Yucaipa, CA.
- Kristan, W.B., W.I. Boarman, and J.J. Crayon. 2004. Diet composition of common ravens across the urban wildland interface of the west Mojave Desert. *Wildlife Society Bulletin* 32: 244–253.
[https://doi.org/10.2193/0091-7648\(2004\)32\[244:DCOCRA\]2.0.CO;2](https://doi.org/10.2193/0091-7648(2004)32[244:DCOCRA]2.0.CO;2)
- Lovich, J.E., C.B. Yackulic, J.E. Freilich, M. Agha, M. Austin, K.P. Meyer, T.R. Arundel, J. Hansen, M.S. Vamstad, and S.A. Root. 2014. Climatic variation and tortoise survival—Has a desert species met its match? *Biological Conservation* 169: 214–224.
<https://www.sciencedirect.com/science/article/pii/S0006320713003443>

- Morafka, D.J. 1994. Neonates—Missing links in the life histories of North American tortoises, *in* Bury, R.B., and Germano, D.J., eds., *Biology of North American tortoises*: Washington, D.C., National Biological Survey, Fish and Wildlife Research 13:161–173.
- Nagy, K.A., L.S. Hillard, M.W. Tuma, and D.J. Morafka. 2015, Head-started desert tortoises (*Gopherus agassizii*)—Movements, survivorship and mortality causes following their release: *Herpetological Conservation and Biology* 10: 203–215.
<https://escholarship.org/content/qt67f7t2n6/qt67f7t2n6.pdf>
- Peterson, C.C. 1994. Different rates and causes of high mortality in two populations of the threatened desert tortoise *Gopherus agassizii*. *Biological Conservation* 70: 101–108.
<https://www.sciencedirect.com/science/article/abs/pii/0006320794902771>
- Stahle, D.W. 2020. Anthropogenic megadrought. *Science* 368 (6488): 238-239. DOI: 10.1126/science.abb6902.
<https://par.nsf.gov/servlets/purl/10166645>
- Tuma, M.W., C. Millington, N. Schumaker, and P. Burnett. 2016. Modeling Agassiz’s Desert Tortoise Population Response to Anthropogenic Stressors. *Journal of Wildlife Management* 80(3):414–429.
<https://wildlife.onlinelibrary.wiley.com/doi/abs/10.1002/jwmg.1044>
- [USFWS] U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). December 2009. Region 8, Sacramento, California.
<https://www.fws.gov/sites/default/files/documents/Desert-Tortoise-Field-Manual.pdf>
- [USFWS] U.S. Fish and Wildlife Service. 2011. Revised Recovery Plan for the Mojave Population of the Desert Tortoise (*Gopherus agassizii*). U.S. Fish and Wildlife Service, California and Nevada Region, Sacramento, California.
<https://www.fws.gov/sites/default/files/documents/USFWS.2011.RRP%20for%20the%20Mojave%20Desert%20Tortoise.pdf>
- [USFWS] U.S. Fish and Wildlife Service. 2019. Preparing for any action that may occur within the range of the Mojave desert tortoise (*Gopherus agassizii*). USFWS Desert Tortoise Recovery Office. Reno, NV. October 8, 2019.
https://www.fws.gov/sites/default/files/documents/Mojave%20Desert%20Tortoise_Pre-project%20Survey%20Protocol_2019.pdf
- [USFWS] U.S. Fish and Wildlife Service. 2020. Revised Translocation of Mojave Desert Tortoises from Project Sites: Plan Development Guidance and Attachments 1 and 2. 52 pp.
<https://www.fws.gov/media/revised-usfws-dt-translocation-guidance>
<https://www.fws.gov/media/translocation-guidance-attachment-1-clearance-survey-protocol-0>
<https://www.fws.gov/media/translocation-guidance-attachment-2-temporary-captive-care-wild-mojave-desert-tortoises>

[USFWS] U.S. Fish and Wildlife Service. 2025. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2024 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Las Vegas, Nevada.
<https://www.fws.gov/sites/default/files/documents/2025-08/2024-range-wide-mojave-desert-tortoise-monitoring-report.pdf>

Williams, A.P., B.I. Cook, and J.E. Smerdon. 2022. Rapid intensification of the emerging southwestern North American megadrought in 2020–2021. *Nature Climate Change*. 12 (2022):232–234.
<https://doi.org/10.1038/s41558-022-01290-z>.

Appendix A

Demographic Status and Trend of the Mojave Desert Tortoise including Tortoises in the Western Mojave Recovery Unit

Status of the Population of the Mojave Desert Tortoise: The Council provides the following information for resource and land management agencies so that these data may be included and analyzed in their project and land management documents and aid them in making management decisions that affect the Mojave desert tortoise (tortoise).

There are 17 populations of Mojave desert tortoise described below that occur in Critical Habitat Units (CHUs) and Tortoise Conservation Areas (TCAs); 14 are on lands managed by the BLM; 8 of these are in the California Desert Conservation Area (CDCA).

As the primary land management entity in the range of the Mojave desert tortoise, the Bureau of Land Management's (BLM's) implementation of a conservation strategy for the Mojave desert tortoise in the CDCA through implementation of its Resource Management Plan and Amendments through 2014 has resulted in the following changes in the status for the tortoise throughout its range and in California from 2004 to 2014 (**Table 1, Table 2**; USFWS 2015, Allison and McLuckie 2018). The Council believes these data show that BLM and others have failed to implement an effective conservation strategy for the Mojave desert tortoise as described in the recovery plan (both USFWS 1994a and 2011), and have contributed to tortoise declines in density and abundance between 2004 to 2014 (**Table 1, Table 2**; USFWS 2015, Allison and McLuckie 2018) with declines or no improvement in population density from 2015 to 2024 (**Table 3**; USFWS 2016, 2018, 2019, 2020, 2022a, 2022b, 2025).

Important points from these tables include the following:

Change in Status for the Mojave Desert Tortoise Range-wide

- Ten of 17 populations of the Mojave desert tortoise declined from 2004 to 2014.
- Eleven of 17 populations of the Mojave desert tortoise are below the population viability threshold. These 11 populations represent 89.7 percent of the range-wide habitat in CHUs/TCAs.

Change in Status for the Western Mojave Recovery Unit – California

- This recovery unit had a 51 percent decline in tortoise density from 2004 to 2014.
- Tortoise populations in all three TCAs in this recovery unit have densities that are below viability.

Change in Status for the Superior-Cronese Tortoise Population in the Western Mojave Recovery Unit.

- The population in this recovery unit experienced declines in densities of 61 percent from 2004 to 2014. In addition, there was a 51 percent decline in tortoise abundance.
- This population has densities less than needed for population viability (USFWS 1994a).

Table 1. Summary of 10-year trend data for the 5 Recovery Units and 17 CHUs/TCAs for Mojave desert tortoise. The table includes the area of each Recovery Unit and CHU/TCA, percent of total habitat for each Recovery Unit and CHU/TCA, density (number of breeding adults/km² and standard errors = SE), and the percent change in population density between 2004 and 2014. Populations below the viable level of 3.9 breeding individuals/km² (10 breeding individuals per mi²) (assumes a 1:1 sex ratio) or showing a decline from 2004 to 2014 are in red.

Recovery Unit: Designated Critical Habitat Unit ¹ /Tortoise Conservation Area	Surveyed area (km ²)	% of total habitat area in Recovery Unit & CHU/TCA	2014 density/km ² (SE)	% 10-year change (2004–2014)
Western Mojave, CA	6,294	24.51	2.8 (1.0)	–50.7 decline
Fremont-Kramer	2,347	9.14	2.6 (1.0)	–50.6 decline
Ord-Rodman	852	3.32	3.6 (1.4)	–56.5 decline
Superior-Cronese	3,094	12.05	2.4 (0.9)	–61.5 decline
Colorado Desert, CA	11,663	45.42	4.0 (1.4)	–36.25 decline
Chocolate Mtn AGR, CA	713	2.78	7.2 (2.8)	–29.77 decline
Chuckwalla, CA	2,818	10.97	3.3 (1.3)	–37.43 decline
Chemehuevi, CA	3,763	14.65	2.8 (1.1)	–64.70 decline
Fenner, CA	1,782	6.94	4.8 (1.9)	–52.86 decline
Joshua Tree, CA	1,152	4.49	3.7 (1.5)	+178.62 increase
Pinto Mtn, CA	508	1.98	2.4 (1.0)	–60.30 decline
Piute Valley, NV	927	3.61	5.3 (2.1)	+162.36 increase
Northeastern Mojave	4,160	16.2	4.5 (1.9)	+325.62 increase
Beaver Dam Slope, NV, UT, AZ	750	2.92	6.2 (2.4)	+370.33 increase
Coyote Spring, NV	960	3.74	4.0 (1.6)	+ 265.06 increase
Gold Butte, NV & AZ	1,607	6.26	2.7 (1.0)	+ 384.37 increase
Mormon Mesa, NV	844	3.29	6.4 (2.5)	+ 217.80 increase
Eastern Mojave, NV & CA	3,446	13.42	1.9 (0.7)	–67.26 decline
El Dorado Valley, NV	999	3.89	1.5 (0.6)	–61.14 decline
Ivanpah Valley, CA	2,447	9.53	2.3 (0.9)	–56.05 decline
Upper Virgin River	115	0.45	15.3 (6.0)	–26.57 decline
Red Cliffs Desert	115	0.45	15.3 (6.0)	–26.57 decline
Range-wide Area of CHUs - TCAs/Range-wide Change in Population Status	25,678	100.00		–32.18 decline

¹ U.S. Fish and Wildlife Service. 1994b. Endangered and threatened wildlife and plants; determination of critical habitat for the Mojave population of the desert tortoise. Federal Register 55(26):5820-5866. Washington, D.C.

Table 2. Estimated change in abundance of adult Mojave desert tortoises in each recovery unit between 2004 and 2014 (Allison and McLuckie 2018). Decreases in abundance are in red.

Recovery Unit	Modeled Habitat (km ²)	2004 Abundance	2014 Abundance	Change in Abundance	Percent Change in Abundance
Western Mojave	23,139	131,540	64,871	–66,668	–51%
Colorado Desert	18,024	103,675	66,097	–37,578	–36%
Northeastern Mojave	10,664	12,610	46,701	34,091	270%
Eastern Mojave	16,061	75,342	24,664	–50,679	–67%
Upper Virgin River	613	13,226	10,010	–3,216	–24%
Total	68,501	336,393	212,343	–124,050	–37%

Table 3. Summary of data for Agassiz’s desert tortoise, *Gopherus agassizii* (=Mojave desert tortoise) from 2004 to 2024 for the 5 Recovery Units and 17 Critical Habitat Units (CHUs)/Tortoise Conservation Areas (TCAs). The table includes the area of each Recovery Unit and CHU/TCA, percent of total habitat for each Recovery Unit and CHU/TCA, density (number of breeding adults/km² and standard errors = SE), and percent change in population density between 2004-2014 (USFWS 2015). Populations below the viable level of 3.9 breeding individuals/km² (10 breeding individuals per mi²) (assumes a 1:1 sex ratio) (USFWS 1994a, 2015) or showing a decline from 2004 to 2014 are in **red**.

Recovery Unit: Designated CHU/TCA &	% of total habitat area in Recovery Unit & CHU/TCA	2004 density / km ²	2014 density/ km ² (SE)	% 10-year change (2004– 2014)	2015 density / km ²	2016 density / km ²	2017 density / km ²	2018 density / km ²	2019 density / km ²	2020 density / km ²	2021 density / km ²	2024 density /km ²
Western Mojave, CA	24.51		2.8 (1.0)	–50.7 decline								
Fremont-Kramer	9.14		2.6 (1.0)	–50.6 decline	4.5	No data	4.1	No data	2.7	1.7	No data	1.8
Ord-Rodman	3.32		3.6 (1.4)	–56.5 decline	No data	No data	3.9	2.5/3.4*	2.1/2.5*	No data	1.9/2.5*	2.7
Superior-Cronese	12.05		2.4 (0.9)	–61.5 decline	2.6	3.6	1.7	No data	1.9	No data	No data	No data
Colorado Desert, CA	45.42		4.0 (1.4)	–36.25 decline								
Chocolate Mtn AGR, CA	2.78		7.2 (2.8)	–29.77 decline	10.3	8.5	9.4	7.6	7.0	7.1	3.9	7.4
Chuckwalla, CA	10.97		3.3 (1.3)	–37.43 decline	No data	No data	4.3	No data	1.8	4.6	2.6	No data
Chemehuevi, CA	14.65		2.8 (1.1)	–64.70 decline	No data	1.7	No data	2.9	No data	4.0	No data	No data
Fenner, CA	6.94		4.8 (1.9)	–52.86 decline	No data	5.5	No data	6.0	2.8	No data	5.3	No data
Joshua Tree, CA	4.49		3.7 (1.5)	+178.62 increase	No data	2.6	3.6	No data	3.1	3.9	No data	No data
Pinto Mtn, CA	1.98		2.4 (1.0)	–60.30 decline	No data	2.1	2.3	No data	1.7	2.9	No data	No data
Piute Valley, NV	3.61		5.3 (2.1)	+162.36 increase	No data	4.0	5.9	No data	No data	No data	3.9	4.0

Northeastern Mojave AZ, NV, & UT	16.2		4.5 (1.9)	+325.62 increase								
Beaver Dam Slope, NV, UT, & AZ	2.92		6.2 (2.4)	+370.33 increase	No data	5.6	1.3	5.1	2.0	No data	No data	1.7
Coyote Spring, NV	3.74		4.0 (1.6)	+ 265.06 increase	No data	4.2	No data	No data	3.2	No data	No data	2.7
Gold Butte, NV & AZ	6.26		2.7 (1.0)	+ 384.37 increase	No data	No data	1.9	2.3	No data	No data	2.4	No data
Mormon Mesa, NV	3.29		6.4 (2.5)	+ 217.80 increase	No data	2.1	No data	3.6	No data	5.2	5.2	No data
Eastern Mojave, NV & CA	13.42		1.9 (0.7)	-67.26 decline								
El Dorado Valley, NV	3.89		1.5 (0.6)	-61.14 decline	No data	2.7	5.6	No data	2.3	No data	No data	
Ivanpah Valley, CA	9.53		2.3 (0.9)	-56.05 decline	1.9	No data	No data	3.7	2.6	No data	1.8	
Upper Virgin River, UT & AZ	0.45		15.3 (6.0)	-26.57 decline								
Red Cliffs Desert**	0.45	29.1 (21.4-39.6)**	15.3 (6.0)	-26.57 decline	15.0	No data	19.1	No data	17.2	No data	No data	17.5†
Rangewide Area of CHUs - TCAs/Rangewide Change in Population Status	100.00			-32.18 decline								

*This density includes the adult tortoises translocated from the expansion of the MCAGCC, that is resident adult tortoises and translocated adult tortoises.

**Methodology for collecting density data initiated in 1999.

†Results from 2023

Change in Status for the Mojave Desert Tortoise in California

- Eight of 10 populations of the Mojave desert tortoise in California declined from 29 to 64 percent from 2004 to 2014 with implementation of tortoise conservation measures in the Bureau of Land Management's Northern and Eastern Colorado Desert (NECO), Northern and Eastern Mojave Desert (NEMO), and Western Mojave Desert (WEMO) Plans.
- Eight of 10 populations of the Mojave desert tortoise in California are below the viability threshold for density. These eight populations represent 87.45 percent of the habitat in California that is in CHU/TCAs.
- The two viable populations of the Mojave desert tortoise in California are declining. If their rates of decline from 2004 to 2014 continue, these two populations will no longer be viable by about 2030.

Change in Status for the Mojave Desert Tortoise on BLM Land in California

- Eight of eight populations of Mojave desert tortoise on lands managed by the BLM in California declined from 2004 to 2014.
- Seven of eight populations of Mojave desert tortoise on lands managed by the BLM in California are no longer viable.

Change in Status for Mojave Desert Tortoise Populations in California that Are Moving toward Meeting Recovery Criteria

- The only population of Mojave desert tortoise in California that did not decline is on land managed by the National Park Service, which increased 178 percent from 2004 to 2014.

Important points to note from the data from 2015 to 2024 in Table 3 are:

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

- The density of tortoises continues to decline in the Western Mojave Recovery Unit
- The density of tortoises from 2015 to 2024 continues to fall below the density needed for population viability.

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

- Many of the populations in this recovery unit have densities that are near the threshold for population viability.

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

- Two of the three population with densities greater than needed for population viability declined to level below the minimum viability threshold.
- Three of the four populations in this recovery unit have densities below the minimum density needed for population viability.

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

- Both populations in this recovery unit have densities below the minimum density needed for population viability.

Change in Status for the Mojave Desert Tortoise in the Upper Virgin River Recovery Unit:

- The one population in this recovery unit is small and appears to have stable densities.

The Endangered Mojave Desert Tortoise: The Council believes that the Mojave desert tortoise meets the definition of an endangered species. In the FESA, Congress defined an “endangered species” as “any species which is in danger of extinction throughout all or a significant portion of its range...” In the California Endangered Species Act (CESA), the California legislature defined an “endangered species” as a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant, which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes (California Fish and Game Code § 2062). Because most of the populations of the Mojave desert tortoise were non-viable in 2014, most are declining, and the threats to the Mojave desert tortoise are numerous and have not been substantially reduced throughout the species’ range, the Council believes the Mojave desert tortoise should be designated as an endangered species by the USFWS and California Fish and Game Commission. Despite claims by USFWS (Averill-Murray and Field 2023) that a large number of individuals of a listed species and an increasing population trend in part of the range of the species prohibits it from meeting the definitions of endangered, we are reminded that the tenants of conservation biology include numerous factors when determining population viability. The number of individuals present is one of a myriad of factors (e.g., species distribution and density, survival strategy, sex ratio, recruitment, genetics, threats including climate change, etc.) used to determine population viability. In addition, a review of all the available data does not show an increasing population trend (please see Tables 1 and 3).

Literature Cited in Appendix A
Demographic Status and Trend of the Mojave Desert Tortoise
including Tortoises in the Western Mojave Recovery Unit

Allison L.J. and A.M. McLuckie. 2018. Population trends in Mojave desert tortoises (*Gopherus agassizii*). Herpetological Conservation and Biology. 2018 Aug 1. 13(2):433–452.
http://www.herpconbio.org/Volume_13/Issue_2/Allison_McLuckie_2018.pdf

or

<https://www.fws.gov/media/allison-and-mcluckie2018mojave-desert-tortoise-population-trends>

[USFWS] U.S. Fish and Wildlife Service. 1994a. Desert tortoise (Mojave population) Recovery Plan. U.S. Fish and Wildlife Service, Region 1, Portland, Oregon. 73 pages plus appendices. https://ecos.fws.gov/docs/recovery_plan/940628.pdf

[USFWS] U.S. Fish and Wildlife Service. 1994b. Endangered and threatened wildlife and plants; determination of critical habitat for the Mojave population of the desert tortoise. Federal Register 55(26):5820-5866. Washington, D.C.

[USFWS] U.S. Fish and Wildlife Service. 2011. Revised Recovery Plan for the Mojave Population of the Desert Tortoise (*Gopherus agassizii*). U.S. Fish and Wildlife Service, California and Nevada Region, Sacramento, California.

<https://www.fws.gov/sites/default/files/documents/USFWS.2011.RRP%20for%20the%20Mojave%20Desert%20Tortoise.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2015. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2013 and 2014 Annual Reports. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2015%20report.%20Rangewide%20monitoring%20report%202013-14.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2016. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2015 and 2016 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2016%20report.%20Rangewide%20monitoring%20report%202015-16.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2018. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2017 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2018%20report.%20Rangewide%20monitoring%20report%202017.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2019. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2018 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2019%20report.%20Rangewide%20monitoring%20report%202018.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2020. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2019 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. 42 pages. https://www.fws.gov/sites/default/files/documents/2019_Rangewide%20Mojave%20Desert%20Tortoise%20Monitoring.pdf

[USFWS] U.S. Fish and Wildlife Service. 2022a. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2020 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2022%20report.%20Rangewide%20monitoring%20report%202020.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2022b. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2021 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Reno, Nevada. <https://www.fws.gov/sites/default/files/documents/USFWS.2022%20report.%20Rangewide%20monitoring%20report%202021.pdf>

[USFWS] U.S. Fish and Wildlife Service. 2025. Range-wide Monitoring of the Mojave Desert Tortoise (*Gopherus agassizii*): 2024 Annual Reporting. Report by the Desert Tortoise Recovery Office, U.S. Fish and Wildlife Service, Las Vegas, Nevada.
<https://www.fws.gov/sites/default/files/documents/2025-08/2024-range-wide-mojave-desert-tortoise-monitoring-report.pdf>

EXHIBIT H

RECAP: San Bernardino County Planning Commission approves Cactus Club Hotel in under 30 minutes

Third District Commissioner absent. No remote comment available. The applicant denied a connection that state filings, County records and a sign on Sierra Avenue show. Appeals are due October 18.

[Cindy Bernard](#) Oct 11, 2026



Detail of site map shown by staff during presentation of the project. Archer Stephenson, who signed the applicant's responses to public comment as Evoque Modern's president, asserted the Cactus Club Hotel was eight miles from the Joshua Tree National Park boundary. Our measurement placed it at about one mile from the boundary. (Detail from video screenshot)

The San Bernardino County Planning Commission approved the Cactus Club Hotel (PROJ-2023-00061) in Joshua Tree on October 8 by a 3-0-2 vote, with two absences. The applicant on the agenda is Yucca Trail 11 LLC, represented by Marlow LaFontaine; the environmental document names Evoque Modern LLC as the applicant. Both LLCs list Don Teong as registered

Evoque Modern LLC as the applicant. Both LLCs list Dan Tsering as registered agent at the same Rancho Palos Verdes address.

Contract Planner Oliver Mujica introduced the item at 9:06 a.m.; the vote came at 9:35. No member of the public spoke. Ten comment letters arrived after the agenda was posted October 1. Staff told the Commission the count and that copies were at the dais, but did not say who the letters were from, what they asked for or whether they supported or opposed the project.

The Commission adopted the Mitigated Negative Declaration, approved the tentative parcel map and conditional use permit, and added one condition limiting the restaurants, café, wine bar, spa and club room to registered hotel guests.

Land Use Services Director Miguel Figueroa opened the meeting by thanking the Commission for helping to move "multiple projects that have been in the entitlement process for a good number of years." The Cactus Club application was filed in 2023.

Relevant links:

- [The Agenda](#)
- [Our Preview](#)
- [Video of the meeting](#)

Who was at the dais





Planning Commission Vice Chair Kareem Gongora represents the 5th District. He filled in as chair in the absence of District 3 Commissioner Michael Stoffel. (Video screenshot)

Three of five commissioners were present: Vice Chair Kareem Gongora (5th District), who presided, Matthew Slowik (2nd District) and Jonathan Weldy (1st District). Absent were Commission Chair Michael Stoffel, Supervisor Dawn Rowe's 3rd District appointee, and Suket Dayal (4th District). The acting chair did not announce excused absences or give a reason for either. The Cactus Club Hotel was the only project on the agenda, and it is in the 3rd District.

Supervisor Rowe told the *Desert Trumpet* by email on October 9 she learned of the absence after the hearing:

I found out yesterday my planning commissioner was not present. It is my understanding he let the Land Use team know he was unavailable about a month ago, but I was not aware until after the Planning Commission meeting.

The hearing notice was issued September 24, roughly two weeks after that. Rowe said she is asking Land Use Services for a quarterly list of projects expected to move forward so she can "ensure he is present for the 3rd District projects." Chair Stoffel did not respond to questions about his absence sent on October 9 by the time of publication.

Notice

How the County notifies Basin residents of land use hearings has been a recurring question in our coverage of Land Use Services, [one Director Figueroa told us in August the department sees "the same way."](#) This hearing added two more instances of notice issues: a group that asked in writing to be notified wasn't, and the group that was notified couldn't tell which project the notice was for.

In its October 6, 2025 comments on the environmental document, the Center for Biological Diversity asked the County to "include the contact listed below on the County's notice list for all future updates, notices, and materials associated with the Project." It was not notified of the hearing. The morning before the hearing, Mujica wrote to CBD: "With apologies, a notice was not sent to your organization." The staff report states notice was mailed to surrounding owners and "others who had requested written notice."

Contract planner Mujica told the Commission CBD "were not on the mailing list per se" and "were not specifically provided with a copy notice," while describing its statement that it received no notice as "inaccurate," because the group learned of the hearing another way.

The Morongo Basin Conservation Association (MBCA) confirmed to the *Desert Trumpet* that it received the mailed notice. MBCA's letter to the

Commission said the notice, under the name "Yucca Trail 11/Marlow LaFountaine," did not carry the project's name as listed on the County's own website, Cactus Club Hotel, and "was confusing."

County code requires mailed notice to anyone who asks for it in writing. Development Code § 85.03.080(a)(2) reads:

Notice shall be given by first class mail to any person who has filed a written request for a specific application.

Government Code § 65092, as quoted in a County staff report earlier this year, says notice "shall also be mailed or delivered at least 10 days prior to the hearing to any person who has filed a written request for notice." In March the County took an ordinance to this same Commission to clarify those provisions, describing its own code as "a narrow application of requests for notice."

CBD's letter asked the Commission to continue the hearing. Supervising Deputy County Counsel Jason Searles told the commissioners CBD had "requested a continuance based on not receiving a hearing notice," that "a notice defect standing alone isn't something by itself that would substantiate setting aside an approval," and that the group "did receive actual notice" since it submitted a letter. The Commission proceeded.

Asked whether notice had run in "the newspaper," Planning Director Paul Gonzales said, "we put in the *San Bernardino Sun*, and we also have a section in there for local noticing that we're utilizing as well." The *Sun*, whose site is behind a paywall, is a daily published roughly 75 miles from the site. The *Hi-Desert Star*, the Basin's paper of record, was not mentioned.

Vice Chair Gongora noted that "an article posted from the Desert Tortoise" was among the documents before the Commission, adding, "it looks like there was some good communication out there." The article was ours, published October 7 and attached as an exhibit to CBD's letter.

Remote participation

Land Use Services Director Miguel Figueroa suggested that the Planning Commission be “proactive” in enabling remote participation. (Video screenshot)

Figueroa asked whether remote access was available. Gonzales:

So we do have availability for remote access, so that is something they could do as well.

No remote site was in operation for the hearing. Mujica then described the County’s practice:

If we identify that there’s people that are interested — I don’t want to say controversial project — but just something of high interest in those communities, like out in Joshua Tree or what have you, we will make

those sites available as in past meetings where we’ve had remote comments presented. In this case, we did not receive any comments either from the project notice or from the public hearing notice where there were individuals out in that area that would request the need.

Figueroa:

Given recent history, I believe it would be good for us to be proactive, and regardless of us not receiving any comments, that we do make space

available for people that do want to participate, because I know there will be people that will express that sentiment. I know the sensitivity of projects in that district of our county, and I do believe firsthand, being there and hearing the people, that they do have interest to participate.

Three months earlier, at the July 9 hearing on the County's mining ordinance, the Commission took public comment by video from the Joshua Tree Community Center.

The applicant denies an association with Fieldtrip

Cactus Club Applicant representatives Archer Stephenson and Marlow LaFontaine. (Video screenshot)

The applicant did not give a presentation. Called forward by the Vice Chair, Archer Stephenson and Marlow LaFontaine took questions. Stephenson signed the applicant's responses to public comment as Evoque Modern's president; the project's Visual Impact Study lists him as Matthew Stephenson. LaFontaine is the applicant named on the agenda. Asked about the "connectivity to another organization" raised in public comment letters, LaFontaine said:

We have no association with Fieldtrip whatsoever, no ownership, no interest beyond knowing the gentlemen that operate it. They are kind of the premier operating platform up in the upper desert, but beyond that, there's certainly no association with this project whatsoever.

LaFontaine's denial is contradicted by state filings, property records, County and City permits and a sign on Sierra Avenue. Evoque Modern and Fieldtrip share a manager, addresses, and at least two houses.

The people: Dan Tseng is a manager on Evoque Modern's 2022 Statement of Information. He is also a manager on Fieldtrip Hospitality LLC's Statements of Information filed September 26, 2025 and June 2, 2026. LaFontaine holds a City of Twentynine Palms short-term rental permit for 68982 Sullivan Road, renewed in February 2026, with "Fieldtrip Twentynine Palms" as agent; title to the house is held in part by Evoque Modern LLC. A Cactus Club 1 LLC was formed March 14, 2023, with Tseng as agent, at the Carson address where that house's tax bills are mailed. The LLC appears nowhere in the County's file.

Secretary of State records for Evoque Modern, Yucca Trail 11 (the applicant named on the agenda) and Cactus Club

1. Dan Tseng is registered agent for all three. See [our preview](#) for more on the entities behind the project. Bizfile, October 5, 2026.

The addresses: Evoque Modern and Fieldtrip share an office at 54934 Twentynine Palms Highway in Yucca Valley; both names appear on the building in Google Street View imagery from December 2025. A Town of Yucca Valley pre-application filed by Evoque Modern in November 2022 lists the property owner's email as marlow@evoquemodern.com at 6 Via Pergola, Rancho Palos Verdes, the address Desert Resort Rentals LLC and Desert Resort Rentals Member LLC gave the Secretary of State; Tseng is the

Resort Rentals Member LLC gave the Secretary of State; Tseng is the Member LLC's registered agent.

The houses: County short-term rental permits list Fieldtrip Hospitality as manager of seven houses south of the hotel site. Fieldtrip markets three of them, on Sierra Avenue, as part of Panorama Villas, a five-villa compound. [A Travel + Leisure article](#) based on Fieldtrip's press release describes the compound as sitting "just beyond the northern boundary of Joshua Tree National Park," less than a ten-minute drive from the Park entrance. One of the five, 6919 Sierra Avenue, carries an Evoque Modern sign at the street.

6919 Sierra Avenue, Joshua Tree, October 6, 2026. The sign reads Evoque Modern. County records list the house as a permitted short-term rental managed by Fieldtrip, overnight occupancy 8. Photo: Cindy Bernard.

Fieldtrip co-founder Ramin Savar, quoted in the same article, described the compound as "purpose-built" for group gatherings, film productions and retreats.

No commissioner asked a follow-up question.

The applicant on the Park

Stephenson told the Commission, "We both live in Joshua Tree," and that the project would use dark-sky lighting throughout. His signed response to public comment put the Park boundary "approximately 8 miles" from the site. Staff's Regional Aerial Map, shown in the presentation , confirms our

measurement of about a mile south. Fieldtrip's marketing for the Sierra Avenue houses, a half mile south of the site, places them "just beyond the northern boundary of Joshua Tree National Park." No commissioner asked about the distance between the site and the Park boundary.

On October 5, the *Desert Trumpet* emailed Supervisor Rowe, copying Figueroa and Gonzales, asking whether the County should consider a Park buffer similar to Twentynine Palms' National Park Buffer Zone, noting that no National Park Service comment appears in the Cactus Club file. At the hearing three days later, Gonzales told the Commission:

There isn't anything in our code that really talks about distance from Joshua [Tree National Park], and that's something that we will most likely be taking a look at in the future.

The applicant on being a good neighbor

Asked how the project would be a good neighbor, Stephenson said, "all these comments come from the idea that there's too many short-term rentals out there," and that "having a hotel out there would actually reduce the overall area that is occupied by people coming in." LaFountaine: "We're there not that we want to change Joshua Tree. We want to integrate into it."

The applicant's response to MBCA put full occupancy at 40 guests. The amenities approved Thursday total 15,300 square feet: two restaurants, a café, a wine bar, a 3,600-square-foot club room and a 3,800-square-foot spa. Fieldtrip's website lists 48 houses under "Joshua Tree" with a combined capacity of 375 guests; the seven south of the site have a County-permitted occupancy of 56. Nobody at the hearing noted the scale of the amenities or asked whom the amenities are for.

The new condition

Planning Director Paul Gonzales (Video Screenshot)

Gonzales said the initial study had analyzed the commercial uses as open to the public, "so it was overanalyzed for those uses." With the applicant agreeing to call them guest amenities, he said, "less parking is going to be required, and there will be less trips to the site." He read the added condition into the record:

Hotel guest amenities, the restaurants, café, wine bar, health spa, club room, and other associated hotel amenities approved as part of the conditional use permit shall be limited to use by registered hotel guests and shall not be independently operated or made available to the general public. Any proposed modifications to allow public access to these amenities shall require prior review and approval by the Land Use Services Department through the applicable land use approval process.

The traffic study does not support "overanalyzed." Its trip generation table has a single line: 20 hotel rooms at 7.99 trips per room, 160 daily trips. The restaurants, café, wine bar, club room and spa have no entries, and the study's own scope describes them as "accessible for hotel guests only." The condition matches what the traffic study already assumed; the trips it never counted remain uncounted. The environmental document was not revised.

What staff's own slides showed

Top: The applicant's drainage study asserted there were gutters and a drainage system on Highway 62 at the project site (labeled 29 Palms Hwy on the staff slide). That was contradicted by slides shown in the staff presentation. (Video screenshot) Bottom: The corner of the project site at Highway 62 and Mile Square Rd. On October 11, the morning after Tropical Storm Rachel passed through the Morongo Basin. (Photo: Cindy Bernard)

Staff's slides of 29 Palms Highway, both street view images of the highway frontage, show no curb or gutter; the drainage study relies on gutters along Twentynine Palms Highway to carry runoff. No commissioner asked about that, or any other discrepancy in the environmental document.

Mujica did not respond by our publication date to a question about whether he had visited the site.

After the vote

"That was appalling," a representative of the Center for Biological Diversity wrote to the *Desert Trumpet* after the hearing.

The Commission's decision becomes final 10 days after the vote. An appeal to the Board of Supervisors must be filed by October 18, 2026. The fee for a non-applicant appeal is \$1,389 under the County Fee Ordinance effective July 1, 2026. The Board hears appeals within 30 days.

This recap was produced by humans [with AI assistance](#) according to our policy.

Support the *Desert Trumpet's* coverage of the San Bernardino County

EXHIBIT I

Cactus Club Comments 10/8/2026

Janet Johnston, I live in Joshua Tree.

I thought we could comment remotely via zoom??? It

The notification was really short. People have work, appointments, and plans they cannot just change on a couple days' notice. This is also a very busy time for our community. More people would have been here if they had known.

The project name was changed, so this threw off folks as well.

I do not believe that this Planning Commission is legal. Its representation is based on dividing up the entire county population, when it only has jurisdiction over the unincorporated areas.

The representation should be based off of the unincorporated population only. For example, Supervisor Hagman has 4 square miles and no distinct unincorporated communities in his district. Supervisor Rowe has 1855 sq miles and 74 distinct unincorporated communities in her district, yet they get an equal vote on this Commission. Thus, I question the legitimacy of this Commission, especially considering none of the Commissioners live in or even near the Morongo Basin.

After all the work done to get the Countywide Plan into place in 2020, the legally required work to bring the General Plan, Community Plans, Development Code, and Zoning all into consistency with each other did not happen. Thus, I am not sure how any land use decisions are currently legitimate.

This group has a track record of projects that are WAY out of scale and out of character for the community. They over-graded a site on Sierra Ave destroying huge percentage of the lot unnecessarily , that should have been reviewed through a CUP.

The traffic in that stretch of highway is very dangerous as it is. A traffic light should go in for something of this scale. The traffic study is not adequate.

There is a lot of flooding on the road at that location.

This is out of scale and out of character for our community.