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VIA Email

Re: Comments on Initial Study/Negative Declaration for the Joshua Tree GPA and Zone Change Project (PROJ-2024-00017; State Clearinghouse No. 2025041298)

Dear Director Wardlaw and Mr. Cruz:

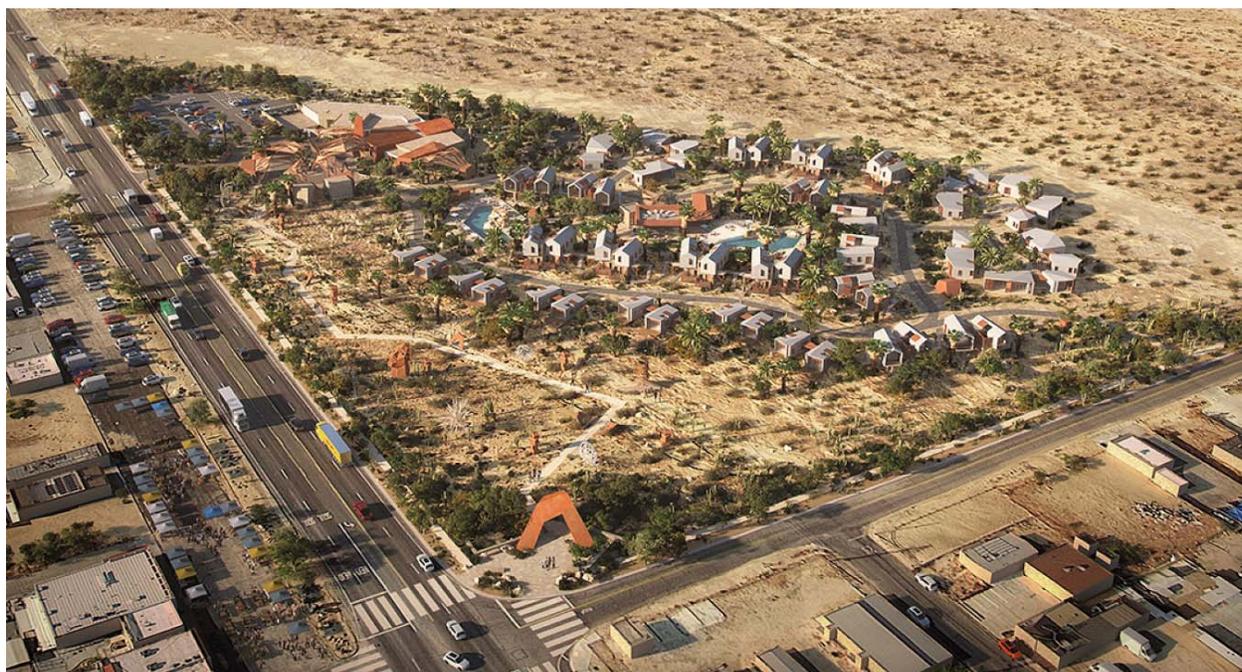
These comments are submitted on behalf of the Center for Biological Diversity (the “Center”) in response to San Bernardino County’s (the “County”) Notice of Intent to adopt an Initial Study/Negative Declaration (“IS/ND”) for the proposed Joshua Tree General Plan Amendment (“GPA”)/Policy Plan Amendment and Zone Change Project (the “Project”), concerning Assessor’s Parcel Number 0602-371-06 (the “Property”), located in the unincorporated community of Joshua Tree, California.

The Center is a nonprofit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.8 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people throughout San Bernardino County, including in Joshua Tree.

As detailed detail below, the County’s IS/ND fails to comply with the California Environmental Quality Act (“CEQA”). Most notably, the County improperly segments environmental review by treating the GPA and rezoning as isolated policy actions, despite clear evidence that these approvals are the first step toward significant development of what is currently a relatively intact, undeveloped site.

The IS/ND repeatedly downplays the Project’s reasonably foreseeable environmental consequences by asserting that “no development” is proposed, that the Project will not generate any construction or development, and that the proposed actions are limited to policy map changes. (*See, e.g.*, IS/ND at 20, 21, 25, 26, 28, 30, 33, 37, 40, 42, 43, 49, 50, 56, 57–59, 61–63, 67, 69, 70.) However, CEQA does not permit agencies to ignore the reasonably foreseeable consequences of their discretionary actions simply because future discretionary approvals may still be required.

Publicly available information—including architectural renderings published by the international design firm 10 Design—confirms that a “luxurious” resort development, identified as the “Joshua Tree Resort,” is already being planned for the Property (“Phase II”). According to 10 Design’s website, Phase II would occupy the area south of Joshua Tree Creek, which bisects the Property, and appears to align with the commercial rezoning expansion contemplated in the Project.¹



Rendering of proposed development on APN 0602-371-06
(<https://www.10design.co/work/architecture/hospitality/joshua-tree-resort>)

¹ *See* Ex. 1, 10 Design, *Joshua Tree Resort*, <https://www.10design.co/work/architecture/hospitality/joshua-tree-resort> (last accessed May 15, 2025). Notably, 10 Design identifies Pacific Transwest Real Estate as the client for the Joshua Tree Resort project. According to the California Secretary of State, Pacific Transwest Real Estate lists its principal address as 6211 Camino de La Costa, La Jolla, CA 92037—the same address associated with the Project applicant, Fredrick Kleinbub, as shown on a San Bernardino County Grant Deed. *Compare* Ex. 2, California Secretary of State, Business Search: Pacific Transwest Real Estate, Inc., *with* IS/ND at 343.

Given the Project’s role in facilitating development—including expanded commercial use—and the evidence that planning for that development is already underway, the County cannot lawfully defer environmental analysis to a later stage. CEQA demands a comprehensive review now (*Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal. 3d 376, 395. (explaining the basic tenant of CEQA, which mandates that environmental review occur as early as possible in the planning process, enabling environmental considerations to influence project program and design)).

In addition to unlawfully segmenting its review, the County’s decision to proceed by negative declaration violates CEQA’s fundamental standards for environmental review. As detailed in Section II below, CEQA requires the preparation of an Environmental Impact Report (“EIR”) whenever substantial evidence supports a fair argument that a project may have a significant effect on the environment. The Project—and the foreseeable development that will follow—will result in a wide range of potentially significant impacts, including, but not limited to: impacts on biological resources; destruction and fragmentation of habitat for the western Joshua tree and desert tortoise; impairment of wildlife corridors; degradation of riparian resources; increased greenhouse gas emissions from the loss of desert carbon sinks; air quality and traffic impacts from increased vehicle use; and numerous other effects related to hydrology, light, noise, and urban infrastructure expansion.

Because the IS/ND fails to fully describe the Project, identify its foreseeable consequences, or evaluate these impacts in a meaningful way, the County must prepare and circulate a legally adequate EIR before taking any further action to approve the Project.

I. The IS/ND Impermissibly Piecemeals Environmental Review by Ignoring the Reasonably Foreseeable Development Enabled by the GPA and Zone Change

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.)

Although a project may proceed through multiple stages of approval, CEQA requires that environmental review at the *first discretionary approval* evaluate the impacts of the ultimate development authorized by that approval. This foundational principle prevents agencies from chopping up large projects into smaller components with seemingly minimal individual environmental impact to evade full environmental disclosure. (See Cal. Code. Regs. 14 § 15003(h)). Courts have repeatedly affirmed that CEQA prohibits such segmentation. (*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 type of impermissible “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 GPA and rezoning clearly represent the first step toward significant development of the site. The law is clear that environmental review must evaluate the reasonably foreseeable consequences of these initial approvals—including the development that the proposed rezoning would enable—not just the discrete act of rezoning. (See Cal. Code. Regs. 14 § 15064(d); see also *City of Carmel-by-the-Sea v Board of Supervisors* (1986) 183 CA3d 229, 243–244, 251–252.) It is irrelevant that subsequent entitlements may still be needed, that development plans are not formally submitted, or that development might not ultimately proceed. The relevant inquiry is whether development is reasonably foreseeable—which, as confirmed by the 10 Design materials, it clearly is.

Notably, the IS/ID itself repeatedly acknowledges that development of the site is anticipated. For example, it states that the proposed Project “will facilitate development on the site.” (IS/ND at 71.) Additionally, in discussing the need for future environmental review, the document concedes that “since the survey was conducted in 2021 and it is not known *when development will* occur on the site, additional surveys may be required *when development is proposed*.” (IS/ND at 30 (emphases added).) Similarly, the County states that “[w]hen future development is *proposed* on the subject property, the County will undertake CEQA review and assess potential impacts on greenhouse gas emissions” (IS/ND at 44), and that “CEQA review of future development onsite will include analysis of the types of commercial uses proposed” (IS/ND at 26). These statements make clear that

development is not speculative but expected, and the timing, rather than the occurrence, is the primary uncertainty.

CEQA does not permit the County to conduct a piecemeal review that ignores the environmental impact of the project's end result or defers consideration of the project's full environmental impact. (*City of Carmel-by-the-Sea v Board of Supervisors* (1986) 183 CA3d 229, 251 (county violated CEQA by preparing negative declaration for rezoning and reserving preparation of EIR until later stage of approval)); (*Citizens Ass'n for Sensible Dev. v County of Inyo* (1985) 172 CA3d 151, 167 (county improperly prepared negative declaration for general plan amendment and rezoning for proposed shopping center followed by later negative declaration for subdivision map and road abandonment for same project, because, by bifurcating review, county failed to examine potential impacts of entire development)); (*Nelson v County of Kern* (2010) 190 CA4th 252 (county violated CEQA by limiting review to reclamation plan, ignoring impacts of mining operations).)

The Project is a textbook case of impermissible piecemealing, and the IS/ND—which fails to describe the project in its entirety—is therefore fatally flawed. CEQA requires the County to evaluate the full range of environmental impacts resulting from the reasonably foreseeable development enabled by the proposed GPA and rezoning. Anything less fails to meet CEQA's mandate for comprehensive, upfront, environmental review.

II. The County Must Prepare an Environmental Impact Report to Assess the Project's Potentially Significant Environmental Impacts.

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. (Cal. Pub. Res. Code § 21064.5; *see also id.* §§ 21064, 21080(c).) If there is substantial evidence that a project may have a significant effect on the environment, an 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.” (Cal. Code Regs. 14 § 15064(f)(1); *see also No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, *Farmland Protection Alliance v. County of Yolo* (2021) 71 Cal.App.5th 300.)

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.” (Cal. Code Regs. 14 § 15064(b)-(c).) The lead agency must consider both

direct and indirect physical changes in the environment caused by the project. (*Id.* § 15064(d).) Direct changes include dust, noise, and traffic, and indirect changes include, for example, population growth and a resulting increase in air pollution, so long as the changes are reasonably foreseeable. (*Id.*)

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 project, 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.” (Cal. Pub. Res. Code § 21002.) CEQA requires mitigation measures to be “fully enforceable through permit conditions, agreements, or other measures.” (*See id.* § 21081.6(b); Cal. Code Regs. 14 § 15126.4(a)(2).) “Formulation of mitigation measures should not be deferred until some future time.” (Cal. Code Regs. 14 § 15126.4(a)(1)(B).)

Here, the County’s IS/ND fails to meet these core requirements. By inaccurately defining the Project’s scope and omitting analysis of the reasonably foreseeable Phase II development, the County avoids grappling with the Project’s true environmental footprint. The IS/ND fails to disclose, analyze, or mitigate potentially significant impacts associated with biological resources, habitat loss and fragmentation, greenhouse gas emissions and lost carbon sequestration, increased vehicle traffic and air pollution, hydrology, groundwater, and other foreseeable environmental consequences of development, including commercial resort development.

Because CEQA does not allow agencies to defer meaningful analysis until a later phase or base review on discrete decisions that disregard reasonably foreseeable outcomes, an EIR is required here.

A. The IS/ND Fails to Adequately Disclose and Evaluate the Impacts to Western Joshua Tree and its Habitat.

The Project is located within the range of the western Joshua tree South population (YUBR South). Most recent surveys indicate that the YUBR South is distributed on 2.2 million acres, with 45.6% in private ownership, 52.3% federally owned, and just over 2% state owned (USFWS, 2023.) Increasing development, climate change, increasing drought and wildfires, invasive species that adversely affect fire dynamics, and other threats have led to 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 Project and reasonably foreseeable future developments, including Phase II, have potential to significantly impact approximately 40 acres of Joshua tree habitat and 112 western Joshua trees documented during a 2021 survey. (IS/ND at 80.) Under CEQA Guidelines, 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).) The western Joshua tree, currently protected under the Western Joshua Tree Conservation Act with interim protections as a candidate species under the CESA, clearly meets this standard. (Cal. Fish & Game Code § 1927 et seq.; Cal. Fish & Game 2020.) Accordingly, the Project's and its associated developments' impacts to the western Joshua tree must be considered significant and fully evaluated and disclosed to the public.

In addition to impacting individual western Joshua trees, developments associated with the Project will also result in significant direct or indirect impacts to western Joshua tree habitat, including impacts associated with the degradation of habitat connectivity. Habitat connectivity is critical to the successful reproduction and recruitment of western Joshua trees, which depend on a complex ecological network: their obligate pollinator moth for fertilization, rodents for seed dispersal and caching, and nurse plants to shelter emerging seedlings. Foreseeable development on the Project site threatens to sever these connections, reducing the availability and continuity of habitat necessary for sustaining pollinator and disperser populations.

Foreseeable development will also further fragment the surrounding landscape—potentially leading to broader adverse effects on nearby remnant Joshua tree woodlands. If development diminishes pollinator or rodent populations in the area, the resulting loss of reproductive viability could significantly impair the persistence of western Joshua tree populations beyond the immediate project footprint.

The County must analyze the Project's and its associated developments' impacts to the Western Joshua tree, its habitat, including habitat connectivity, and develop plans for how 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).) Impacts to the western Joshua tree, its habitat, and habitat

connectivity, which are expected to be significant, must also be mitigated to the extent feasible.

B. The IS/ND Fails to Adequately Disclose and Evaluate the Impacts to the Desert Tortoise.

The desert tortoise is listed as threatened under the Endangered Species Act and, following a recent uplisting in April 2024, endangered under CESA. (50 C.F.R. § 17.11; Cal. Code Regs. 14 § 670.5(b)(4); Schlepp, 2024.) Consequently, the Project's impacts to the desert tortoise must be considered significant and fully evaluated and disclosed to the public. (*Nelson v. Cnty. of Kern*, 190 Cal.App.4th 252, 284 (2010) (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).)

Despite decades of state and federal protection, desert tortoise populations continue to decline throughout their range. (Allison & McLuckie, 2018; CDFW, 2024.) The Property at issue lies on the boundary of the Western Mojave and Colorado Desert Recovery Units. Desert tortoise populations in the Western Mojave Recovery Unit have experienced the steepest decline in abundance: data indicates a 54% decline from 2001 to 2020. (CDFW, 2024.) Between that same 19-year period, densities declined 17% in the Colorado Desert Recovery Unit. (CDFW, 2024.)

Not only does the proposed Project occur within the range of the desert tortoise, but according to survey results from 2021, desert tortoises have been documented around the Project area. Accordingly, the Project has potential to directly and indirectly impact the tortoise, its habitat and habitat connectivity. The County must therefore analyze the developments' indirect, direct, and cumulative impacts to the tortoise, its movement, habitat and habitat connectivity, and if found to be significant, mitigate those impacts to the extent feasible. Potential indirect impacts include, but are not limited to, increases in water and trash during future foreseeable construction, commercial resort operation, and maintenance that may attract and increase densities of known tortoise predators like ravens, coyotes, and domestic dogs. (CDFW, 2024.) The increase in traffic from future resort occupants or residents may also increase road-killed carcasses, which will further attract predators that are known kill tortoises and allow predator populations to flourish. (CDFW, 2024.)

C. The IS/ND Fails to Adequately Disclose and Evaluate the Impacts to Other Special Status Species.

According to the Initial Study, several special status bird species have been observed within approximately one mile of the Project site. The Property contains suitable foraging habitat for both Cooper's hawk and the prairie falcon—species

identified on the California Department of Fish and Wildlife's Watch List. Additionally, the site supports nesting and foraging substrates for loggerhead shrike and LeConte's thrasher, both of which are designated as a California Species of Special Concern by CDFW and listed Birds of Conservation Concern by the U.S. Fish and Wildlife Service.

Despite acknowledging that "development onsite has the potential to adversely affect loggerhead shrikes and LeConte's thrashers," the IS/ND fails to meaningfully analyze these impacts or propose mitigation measures. Instead, it improperly defers further study and mitigation to "the time that development is proposed." (IS/ND at 30.) This approach violates CEQA's prohibition against deferring environmental analysis and mitigation for known and foreseeable impacts. Where potential harm to sensitive species is acknowledged, CEQA requires that those impacts be analyzed and mitigated to the extent feasible *before* project approval—not left to future study.

Accordingly, the County must analyze the Project's and all reasonably foreseeable future developments' impacts to impacted special status species, including their foraging and nesting habitats, and, if found to be significant, must be mitigated to the extent feasible.

D. The IS/ND Fails to Adequately Disclose and Evaluate the Impacts to Wildlife Connectivity.

The IS/ND dismisses and downplays the Project area's wildlife connectivity value. Although the IS/ND acknowledges the northern portion of the Property falls within the Modeled Habitat Linkage, it states that the Project site and vacant lands in the immediate Project vicinity "are isolated by surrounding urban development and roadways, and would not qualify as wildlife corridors due to their location, size and conditions." (IS/ND at 31.) It further states that "[e]ven Joshua Tree Creek running through the Project site has been altered and impacted by surrounding development and channelization," and concludes that "[n]o significant impact is anticipated from future development onsite," without providing substantial evidence to support such claims. (*Id.*)

The Project must be considered in the context of the landscape it is located in and surrounded by. The Project site is located near Joshua Tree National Park, and partially within an important wildlife connectivity corridor, as identified in the Desert Renewable Energy Conservation Plan. (Penrod et al., 2012.) The proposed Project and associated foreseeable development, including Phase II, includes destroying undeveloped desert habitat that helps connect Joshua Tree National Park to open lands north of the Project. Special-status species and sensitive habitats that occur in, near, and in the vicinity of the proposed Project will be significantly impacted by a development project that will increase traffic, noise,

light pollution, and carbon emissions. Despite this, the IS/ND fails to adequately disclose, assess, and mitigate the Project's and its associated foreseeable developments' impacts to wildlife connectivity over the larger landscape.

The IS/ND must adequately disclose the existing conditions of the site and adequately assess and mitigate the Project's impacts to wildlife connectivity. As detailed in a 2021 Center Report (Yap et al., 2021), development creates barriers that lead to habitat loss and fragmentation, which harms native wildlife, plants, and people. As barriers to wildlife movement, poorly-planned development and roads can affect an animal's behavior, movement patterns, reproductive success, and physiological state, which can lead to significant impacts on individual wildlife, populations, communities, landscapes, and ecosystem function. (Brehme et al., 2013; Ceia-Hasse et al., 2018; Haddad et al., 2015; Marsh & Jaeger, 2015; Mitsch & Wilson, 1996; Trombulak & Frissell, 2000; van der Ree et al., 2011.) For example, habitat fragmentation from roads and development has been shown to cause mortalities and harmful genetic isolation in mountain lions in southern California (Ernest et al., 2014; Riley et al., 2014; Vickers et al., 2015), increase local extinction risk in amphibians and reptiles (Brehme et al., 2018; Cushman, 2006), cause high levels of avoidance behavior and mortality in birds and insects (Benítez-López et al., 2010; Kantola et al., 2019; Loss et al., 2014), and alter pollinator behavior and degrade habitats (Aguilar et al., 2008; Goverde et al., 2002; Trombulak & Frissell, 2000.)

Habitat loss and fragmentation also severely impact plant communities. An 18-year study found that reconnected landscapes had nearly 14% more plant species compared to fragmented habitats, and that number is likely to continue to rise as time passes. (Damschen et al., 2019.) The authors conclude that efforts to preserve and enhance connectivity will pay off over the long term. (*Id.*) In addition, connectivity between high quality habitat areas in heterogeneous landscapes is important to allow for range shifts and species migrations as climate changes. (Cushman et al., 2013; Heller & Zavaleta, 2009; Krosby et al., 2018.) Loss of wildlife connectivity decreases biodiversity and degrades ecosystems while reducing climate change resilience. It also prevents the reestablishment of native species, like desert tortoise, which are known to occur near the Project area.

It is widely recognized that the continuing fragmentation of habitat by humans threatens biodiversity and diminishes our (humans, plants, and animals) ability to adapt to climate change. In a report for the International Union for Conservation of Nature (IUCN), renowned scientists from around the world stated that “[s]cience overwhelmingly shows that interconnected protected areas and other areas for biological diversity conservation are much more effective than disconnected areas in human-dominated systems, especially in the face of climate change” and “[i]t is imperative that the world moves toward a coherent global approach for ecological connectivity conservation, and begins to measure and monitor the effectiveness of

efforts to protect connectivity and thereby achieve functional ecological networks.” (Hilty et al., 2020.)

The proposed Project’s and associated foreseeable developments’ impacts to wildlife connectivity include habitat loss and increasing human activities that will encroach on and degrade an important habitat linkage. An EIR is required to comply with CEQA.

E. The IS/ND Fails to Adequately Disclose and Evaluate the Impacts to Riparian Habitat.

Although the IS/ND concludes that the Project will have no impact on Joshua Tree Creek, it recognizes that if any future development “has the potential to impact the creek, a jurisdictional water delineation will be required,” as well as “a 1602 Streambed Alteration Agreement from CDFW . . . for all activities that alter streams.” (IS/ND at 31.) Despite this recognition, the IS/ND fails to disclose, analyze and mitigate the Project’s and its associated reasonably foreseeable future developments’ impacts to Joshua Tree Creek.

Despite past alterations to Joshua Tree Creek, the 2021 Focused Tortoise Survey & Habitat Assessment noted that “conditions on the subject property support at least one rare plant species (desert unicorn-plant), both protected (acacia and smoke tree) and unprotected streamside growth (Mexican palo verde and a half-dozen mesic-adapted shrubs), and cover for both coyotes and bobcats, which may not occur on such an isolated site without this growth providing cover within the main channel on the southern part of the site.” (IS/ND at 89.)

Riparian ecosystems have long been recognized as biodiversity hotspots performing important ecological functions in a transition zone between freshwater systems and upland habitats. Many species, including mountain lions and bobcats, often use riparian areas and natural ridgelines as migration corridors or foraging habitat (Dickson et al., 2005; Hilty & Merenlender, 2004; Jennings & Lewison, 2013; Jennings & Zeller, 2017.) The Project’s inadequate disclosure, evaluation and mitigation will deteriorate the riparian habitat and connectivity value for the special-status and sensitive species that rely on the corridor for live-in and move-through habitat.

It is estimated that 90-95% of historic riparian habitat in the state has been lost. (Bowler, 1989; Riparian Habitat Joint Venture, 2009.) Using 2002 land cover data from CalFire, the Riparian Habitat Joint Venture estimated that riparian vegetation makes up less than 0.5% of California’s total land area at about 360,000 acres (Riparian Habitat Joint Venture, 2004.) This is alarming because riparian habitats perform a number of biological and physical functions that benefit wildlife, plants, and humans, and loss of what little is left will have severe, harmful impacts on special-status species, overall biodiversity, and ecosystem function.

To comply with CEQA, the proposed Project's and its associated foreseeable developments' impacts on Joshua Tree Creek and the surrounding riparian corridor must be adequately assessed and mitigated.

F. The IS/ND Fails to Fully Account for the Greenhouse Gas Impacts of Lost Carbon Sequestration and Storage from Desert Habitats.

The IS/ND fails to assess and mitigate the Project's greenhouse gas ("GHG") impacts. California is at the forefront of the climate crisis. Poor land-use planning and extreme weather events have led to an onslaught of disasters harming communities and threatening the state's ecosystems and people's livelihoods. By developing sensitive, largely intact desert lands, the Project's GHG impacts include the lost carbon storage and sequestration potential of these desert habitats.

As detailed in a 2024 report, "The California Desert's Role in 30x30: Carbon Sequestration and Biodiversity," California deserts are significant carbon sinks that should be included in carbon calculations. (Allen et al., 2024; *see also* Yap et al., 2023.) In California, desert landscapes consist of dunes, desert scrub, sandy soil grasslands, juniper-pinyon woodlands and rock formations. The Mojave Desert is dominated by deep-rooted shrub species, including creosote bush and white bursage, as well as many forbs, trees, grasses, and dunes. In the Project area, the landscape consists of a variety of vegetation, including western Joshua Tree, and a plant community best described as Mojavean 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 (Allen et al., 2024; Janzen, 2004; Meyer, 2012; Mi et al., 2008; Thomey et al., 2014; Wang et al., 2010; Zamanian et al., 2016.)

Any loss of nature-based carbon storage must be accounted for when assessing a Project's GHG impacts. When calculating carbon loss from habitats, it is important to consider the types of habitats. Although more research is needed to understand the carbon storage and sequestration potential for all desert systems, it is clear that various desert habitats store and sequester different amounts of carbon. For example, Evans et al. (2014) found that areas of the northern Mojave Desert in Nevada store an average of approximately 4.17 metric tons of carbon per acre, and these areas were found to sequester 0.4 to 0.51 metric tons of carbon per acre per year. (Jasoni et al., 2005; Wohlfahrt et al., 2008.) However, desert ceanothus (*Ceanothus gregii*) was found to store up to 41 metric tons of carbon per acre in their aboveground biomass and up to 5.8 metric tons of carbon per acre in their belowground biomass while accumulating 2.4 metric tons of carbon per acre per year (this does not include organic or inorganic soil carbon) (Bohlman et al., 2018.) And experts estimate that the combined vegetation types, creosote bajada scrub and

microphyll woodland, could sequester an average of 1.5 million tons of carbon per year. (Allen et al., 2024.)

Given that one of the dominant perennial species in the Project area includes creosote bush, it is likely that the area stores and sequesters a significant amount of carbon. The reasonably foreseeable destruction and degradation of intact desert habitats such as the Property at issue not only release significant amounts of carbon but also impair the landscape's capacity to sequester carbon in the future. These and other GHG impacts of the Project and associated developments must be thoroughly analyzed and disclosed.

G. The IS/ND Fails to Adequately Disclose and Evaluate Additional Environmental Impacts.

As discussed above, the Project represents only the first step in a foreseeable sequence of development, culminating in significant physical changes to the environment. By failing to accurately define the full scope of the Project—including foreseeable development such as the proposed Joshua Tree Resort—the IS/ND is legally deficient. This narrow framing leads to an improper omission of numerous environmental impacts that CEQA requires the County to identify, analyze, and mitigate at the earliest opportunity.

Specifically, the IS/ND fails to disclose and evaluate environmental impacts associated with future construction, site operation, and occupancy. These include, but are not limited to, potential impacts on hydrology, groundwater, scenic vistas, increased light and noise pollution, traffic generation, air quality degradation, and greenhouse gas emissions. Considering the planned Phase II development, these impacts are not speculative—they are foreseeable and substantial.

For example, the operation of a resort will inevitably increase solid waste generation, water consumption, and GHG emissions. Increased vehicle trips associated with construction and resort operation will degrade air quality, particularly along unpaved roads (such as Verbena Road), where increased traffic will elevate particulate matter and dust. This has direct implications for public health and environmental quality.

Further, the IS/ND acknowledges the need to address traffic impacts for any future proposed development, yet fails to do so. The Project site is located near an intersection that currently lacks basic traffic control infrastructure, such as traffic lights. Increased vehicle volumes without corresponding roadway improvements will exacerbate existing safety issues and create new hazards for residents, visitors, and wildlife.

These cumulative and indirect effects must be analyzed under CEQA. The County cannot lawfully defer this analysis or rely on the false premise that the Project has

no physical impacts simply because formal development applications have not yet been submitted. The IS/ND's failure to assess these reasonably foreseeable impacts renders it inadequate as a matter of law.

* * *

Thank you for the opportunity to submit comments on the Joshua Tree General Plan Amendment/Policy Plan Amendment and Zone Change Project. Because the IS/ND for the Project is inadequate for the reasons above, the Center requests that the County remedy these deficiencies and analyze and disclose the Project's significant environmental impacts in an EIR.

Given the possibility that the Center will be required to pursue legal remedies to ensure that San Bernardino County complies with its legal obligations including those arising under CEQA, we would like to remind the County of its statutory duty to maintain and preserve all documents and communications that may constitute part of the "administrative record" of this proceeding. (Cal. Pub. Res. Code § 21167.6(e); *Golden Door Properties, LLC v. Superior Court*, 53 Cal.App.5th 733, 762-65 (2020).) The administrative record encompasses any and all documents and communications that 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 . . ." (*Cty. Of Orange v. Superior Court*, 113 Cal.App.4th 1, 8 (2003).) The administrative record further includes all communications, including but not limited to all correspondence, emails, and text messages sent to or received by the County's representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the County's representatives or employees and the Applicant'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 repository is made.

Please include the attorney 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,



Zeynep J. Graves

Center for Biological Diversity

P.O. Box 549
Joshua Tree, CA 92252
510.844.7160
zgraves@biologicaldiversity.org

REFERENCES

All references cited in this document are available for download via Dropbox: <https://www.dropbox.com/scl/fo/1er2o2hbdagmdjv4dydmv/AArELBTrrU6ghCeXZg4ekqQ?rlkey=ljraio8imylf1hslhb9ltb4t1&st=nxgcxz0n&dl=0>

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EXHIBIT 1



WORK

NEWS

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ARCHITECTURE / HOSPITALITY

JOSHUA TREE RESORT

Joshua Tree, California



Leveraging its location near Joshua Tree National Park, a protected area in Southern California known for its rugged rock formations, starry skies, and desert vistas, this unique hospitality concept entails a luxurious, yet approachable resort centered on the exploration of the unique desert setting.

CLIENT:
Pacific Transwest
Real Estate

SERVICE:
Architecture



WORK

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EN 中文

ARCHITECTURE / HOSPITALITY



The resort is contemporary and designed in tune with nature, blurring boundaries between inside and outside. Art and architecture are blended to create a bold simplicity authentic to the area – like repurposing waste to make sculptural art.



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GENERAL

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EXHIBIT 2

**PACIFIC TRANSWEST REAL
ESTATE, INC. (2289615)****Request
Certificate**

<i>Initial Filing Date</i>	05/31/2002
<i>Status</i>	Active
<i>Standing - SOS</i>	Good
<i>Standing - FTB</i>	Good
<i>Standing - Agent</i>	Good
<i>Standing - VCFCF</i>	Good
<i>Formed In</i>	CALIFORNIA
<i>Entity Type</i>	Stock Corporation - CA - General
<i>Principal Address</i>	6211 CAMINO DE LA COSTA LA JOLLA, CA 92037
<i>Mailing Address</i>	6211 CAMINO DE LA COSTA LA JOLLA, CA 92037
<i>Statement of Info Due Date</i>	05/31/2026
<i>Agent</i>	Individual JANA M BECK 9255 TOWNE CENTRE DR STE 300 SAN DIEGO, CA 92121

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Joshua Tree Association of Business and Culture

P.O. Box 45

Joshua Tree, CA 92252

July 8, 2025

County of San Bernardino

Land Use Office

385 N Arrowhead Ave

San Bernardino, CA 92415

Dear Amy Rossig

It has come to the attention of the Joshua Tree Association of Business and Culture (JTABC) that a

proposed project, JT Resort, has submitted a zoning change for a 40 acre parcel at Sunset and Highway 62 in Joshua Tree, CA. We know this property is in the extended flood plain of Joshua Tree Creek and we urge the County to review the



flood of October 2018 in considering this application. As is often the case in the Morongo Basin, we question whether these developers are even aware that this area can and does flood. As we are sure the County is aware of the catastrophic potential for monsoonal flooding, we hope that this knowledge will inform your decision to limit the commercial zoning acres. Presently, 9 acres of the proposed 16 acres for conversion to commercial are in the extended flood plain. There are other considerations that may be out of the purview of the County and Land Use but should be noted here: 1) if and when something is built here who will insure it? 2) who will be responsible if the development goes forward in the flood plain and their infrastructure diverts water onto highway or into other businesses along the highway or on the side street (Sunset Dr)

As the preeminent business association in Joshua Tree, CA, we would like to be informed going forward of any new or existing projects in the downtown Joshua Tree area. We are unsure who, if anyone, was notified about this project but we will expect to receive notification in the future so we can inform our membership. All notifications can be emailed to JoshuaTreeABC.com. We would appreciate a confirmation of receipt of this missive.

Sincerely yours,

Board of JTABC

President

Amanda B'Hymer

Vice President

Seth Zaharias

Treasurer

Thomas Fjallstam

Secretary

Melissa Grisi

Member at Large

Sarah Taylor

Member at Large

Terry Taylor-Castillo

Member at Large

Susan Burnett

From: [Rossig, Amy](#)
To: [Amy Rossig](#)
Subject: Fw: Opposition to Project No. PROJ-2024-00017 – Joshua Tree General Plan Amendment and Zone Change
Date: Monday, July 14, 2025 10:47:09 AM
Attachments: [Outlook-ysu23o4a.png](#)

From: Steph c <stephcron@hotmail.com>
Sent: Tuesday, July 1, 2025 1:35 PM
To: Rossig, Amy <Amy.Rossig@lus.sbcounty.gov>
Subject: Opposition to Project No. PROJ-2024-00017 – Joshua Tree General Plan Amendment and Zone Change

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Dear Ms. Rossig,

I am writing as a long-time resident of Joshua Tree to formally oppose the proposed General Plan Amendment and Zone Change (Project No. PROJ-2024-00017) at the northwest corner of Sunset Road and Twentynine Palms Highway.

Joshua Tree is a unique and fragile community that draws people from around the world because of its open spaces, small-town character, and irreplaceable desert environment. Changing zoning designations to accommodate higher density development and commercial expansion threatens to erode the very qualities that make Joshua Tree special. The push to adjust zoning in favor of corporate interests feels like a step toward unsustainable growth that prioritizes profit over the well-being of the community and the environment.

Projects like this often result in increased traffic, strain on local resources, and irreversible impacts on our desert ecosystem. I urge the County to reject this proposal and to instead uphold the vision and integrity of the existing General Plan, which was designed to protect the unique character of Joshua Tree.

Please include this letter as part of the official public record for this project.

Thank you for your consideration.

Sincerely,
Steph Cronshaw

From: [Rossig, Amy](#)
To: [Amy Rossig](#)
Subject: Fw: PROJ-2024-00017 - Joshua Tree Resort -Comments
Date: Monday, July 14, 2025 11:06:20 AM
Attachments: [PastedGraphic-1.tiff](#)

From: David Fick <idavidgraficks@earthlink.net>
Sent: Thursday, July 10, 2025 3:11 PM
To: Rossig, Amy <Amy.Rossig@lus.sbcounty.gov>
Cc: Marstall, Kevin <Kevin.Marstall@lus.sbcounty.gov>
Subject: PROJ-2024-00017 - Joshua Tree Resort -Comments

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July 10th, 2025

County of San Bernardino
Land Use Office
385 N. Arrowhead Ave
San Bernardino, CA 92415

Dear Amy Rossig,

My name is David Fick, 40 year resident of Joshua Tree, 20 year board member of Morongo Basin Conservation Association (www.mbconservation.org) - MBCA and several years board member of Joshua Basin Water District.

I'm commenting as an individual with lots of experience on these types of matter.

Although the 400 plus pages go on and on about the rezoning of this 37 acre parcel - it doesn't say WHY. This has always been a troubled parcel West of downtown Joshua Tree because of the often unmanageable flooding by the Joshua Tree Creek (headwaters at the 'SunnyVista area' of Friendly Hills of SouthEast Joshua Tree). because of the downhill grade and the historical record of extraordinary raining in that area - downtown Joshua Tree floods.

This project was brought to notice of the Joshua Tree public through the project being found on California Statewide Clearinghouse notice and then pursued through the internet - NOT from San Bernardino County notice.

The County Landuse still has great problems in public notice. Former Consultant County Planner Ron Cruz (the generous preparer for this Initial Study) did a terrible job of the Initial Study notice of circulation on 4/25/2025. You're now the Planner handling this Initial Study circulation notice on June 16th, 2025 to July 16th, 2025. I was told by County Planning (during the Lovemore Project) if the project is larger than 20 acres there should be a quarter mile (1,320 ft) notification radius. That didn't happen. In fact, OUR Joshua Basin Water District which is a PUBLIC entity and multi-parcel adjacent landowner and DOWNSTREAM of said JT Resort project - DIDN'T get any notice of the rezoning effort.

We in Joshua Tree had to find an illustration of the Joshua Tree Resort intention and why they want 16 acres commercial instead of the 7 acres commercial:



You'll notice that the project places itself adjacent to the Unmanageable Joshua Tree Creek. This JT Creek at times widens to about 500 ft in width - often. We in Joshua Tree KNOW THIS - we have photos of three foot deep sand deposited on Hwy 62.

The yellow line is 500 feet long - the sand deposited up to 3 feet deep was probably 600-700 feet in width on the Hwy. How much water did this to deposit that much sand? (This is Google Earth image)



Photos below by friend Kirra

Downtown Joshua Tree looking West at Hwy 62 and Park.



Storage yard a hundred feet East of JT Creek on Southside of Hwy.



That's a VW on Hwy 62 mired in the sand



Morongo Basin Ambulance stuck Westbound on Hwy 62 - closer to downtown JT



So the big question is WHY THERE?

Does the County and Joshua Tree Resort love living dangerously? The Joshua Tree Resort engineers most likely will have 6-8 foot walls/dikes to protect the SouthWest corner of their development to protect that portion of the Project from inundating floodwaters.

The problem with that - as you can see with the flooding photos - is that Joshua Tree Creek doesn't stay in it's "creek bed" when crossing Northward over Hwy 62. The JT Resort Walls/Dikes will split the stormwaters like the Bow of a ship - sending more flooding waters straight East on the Hwy to downtown Joshua Tree. At least downtown Joshua Tree will know who to sue when struck with even MORE flood waters.

I talked to my CEQA lawyer about the separation of a Re-zoning and the Project itself being approved in separate concerns - he said they do it all the time (highly unethical in my world). All those 400 plus pages in the Initial Study and "they" completely avoid mention and reason for this re-zoning. Why the mystery? - it just adds to the cynicism of this unwanted project.

This flooding issue as in the rest of the USA, is only going to get more prominent through these coming years.

This rezoning should be DENIED. They don't know WHAT they're doing.

David Fick
Joshua Tree