



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: December 5, 2024

AGENDA ITEM 3

Project Description

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



32 Public Hearing Notices Sent on: November 7, 2024

Report Prepared By: Oliver Mujica, Contract Planner III

SITE INFORMATION:

Parcel Size: Approximately 14.79 acres
Vegetation: Scattered natural vegetation

TABLE 1 – SITE AND SURROUNDING LAND USES AND ZONING:

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

City Sphere of Influence:

Water Service:

Sewer Service:

Agency

N/A

Phelan Pinon Hills Community Service District

Private (OWTS)

Comment

N/A

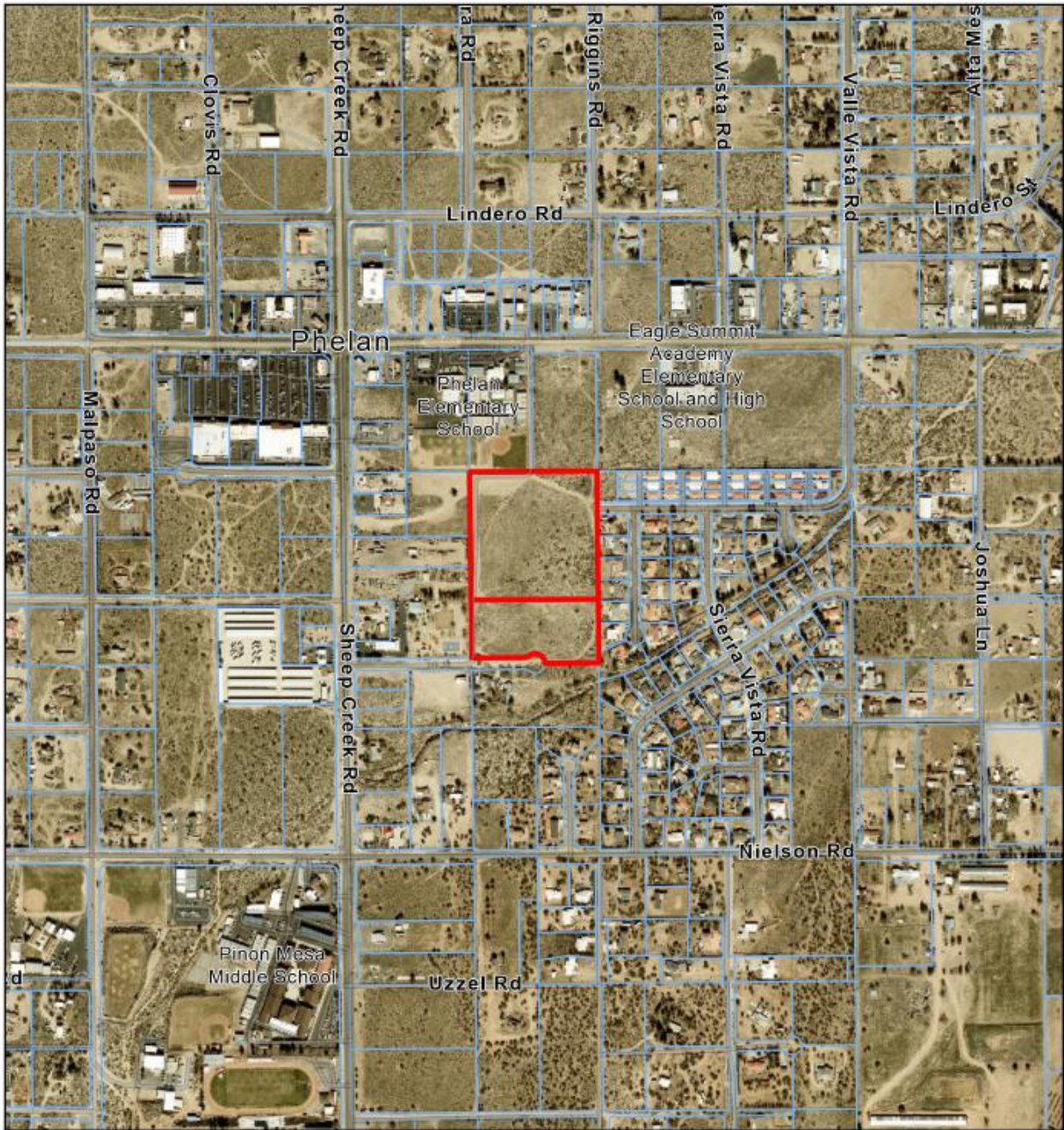
Will Serve

N/A

STAFF RECOMMENDATION: That the Planning Commission recommends¹ the Board of Supervisors: **ADOPT** the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; **ADOPT** the Findings in support of the Zoning Amendment and Conditional Use Permit; **APPROVE** an ordinance amending the Land Use Zoning District designation from General Commercial to Rural Commercial on 14.79 acres; **APPROVE** the Conditional Use Permit to construct and operate a public community park in two (2) phases comprised of multi-purpose ball/play fields, skateboard area, equestrian area, dog parks, restrooms, and other associated features on 14.79 acres, subject to the Conditions of Approval; and **DIRECT** the Land Use Services Department to file the Notice of Determination in accordance with CEQA.

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

FIGURE 1 – VICINITY MAP



Vicinity Aerial Map

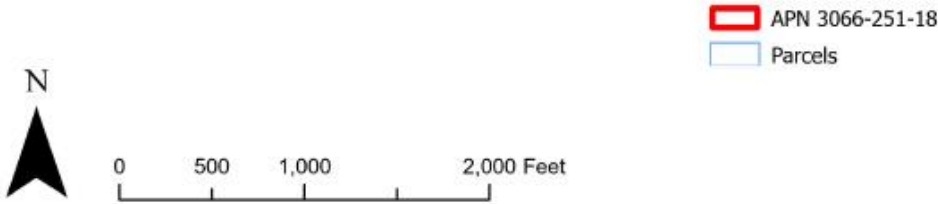
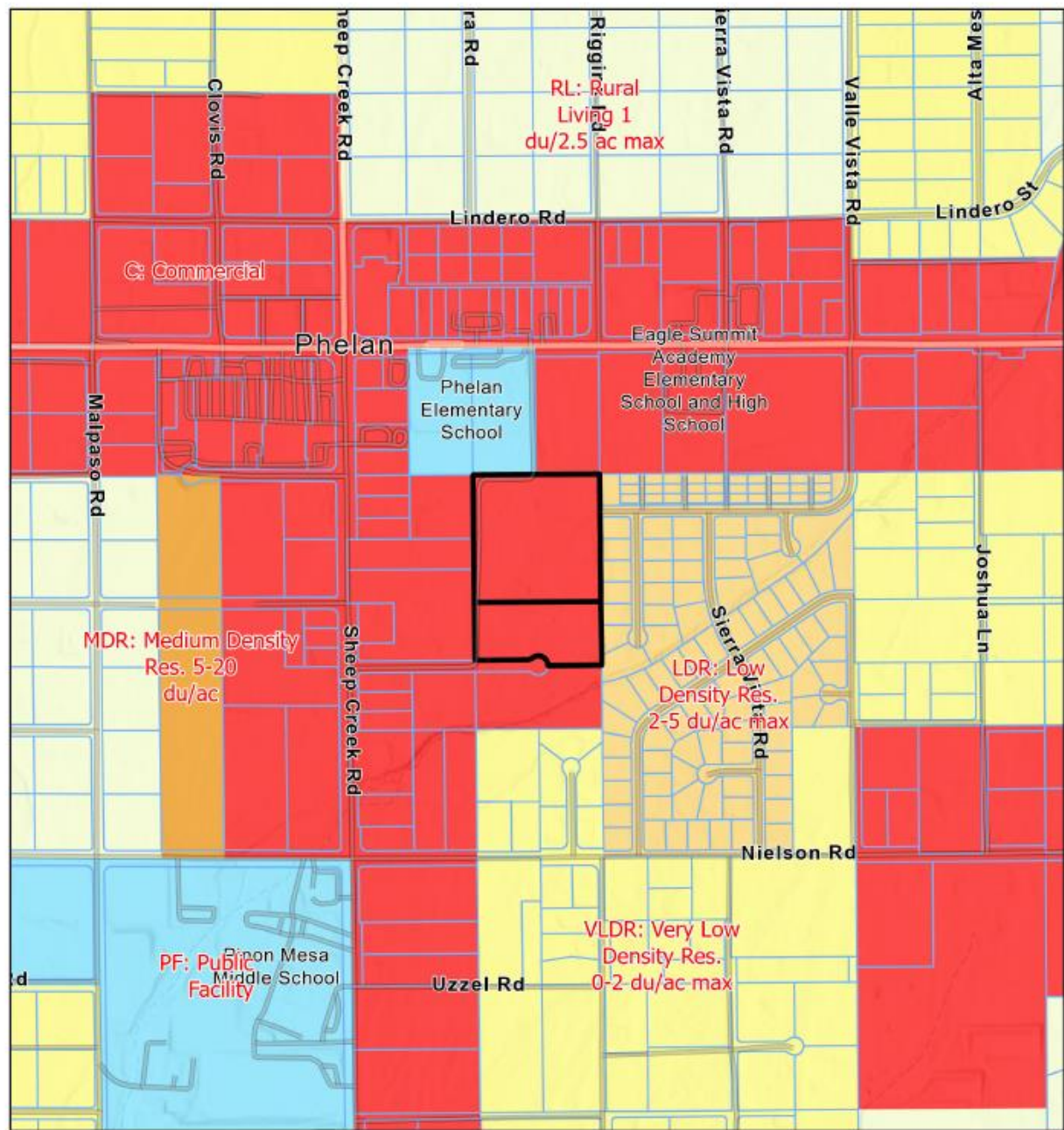


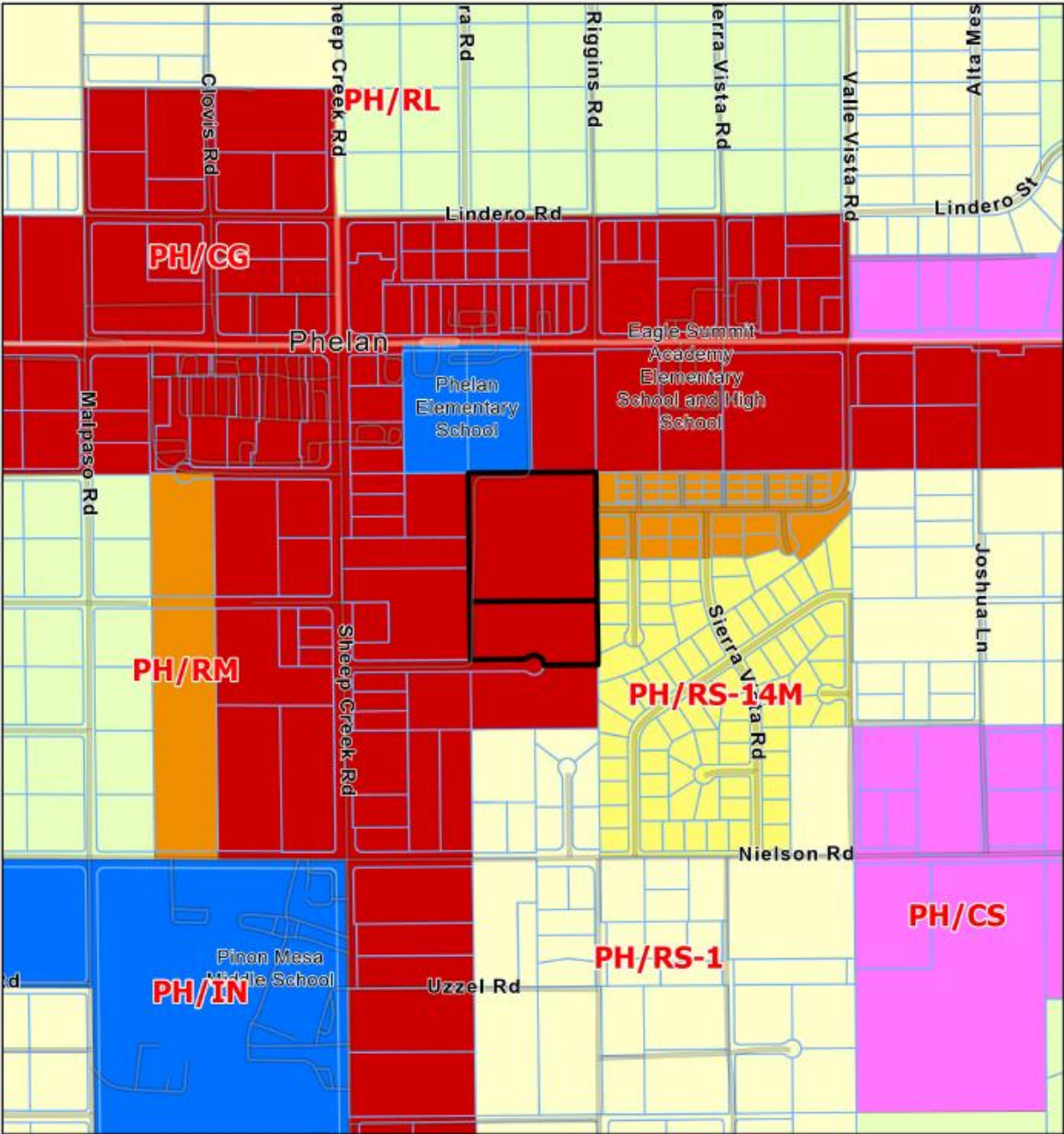
FIGURE 2 – LAND USE CATEGORY MAP



Land Use Categories



FIGURE 3 – ZONING MAP (EXISTING)



Land Use Zoning Districts

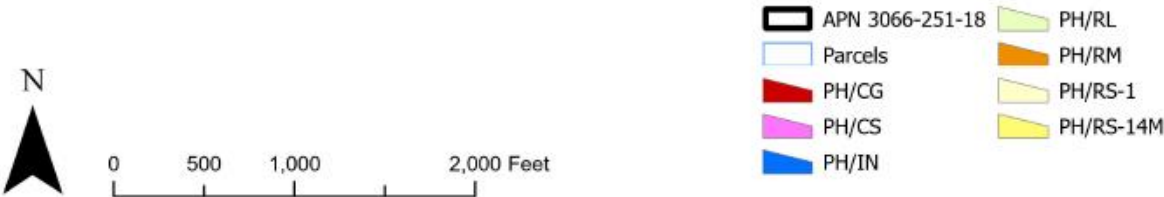
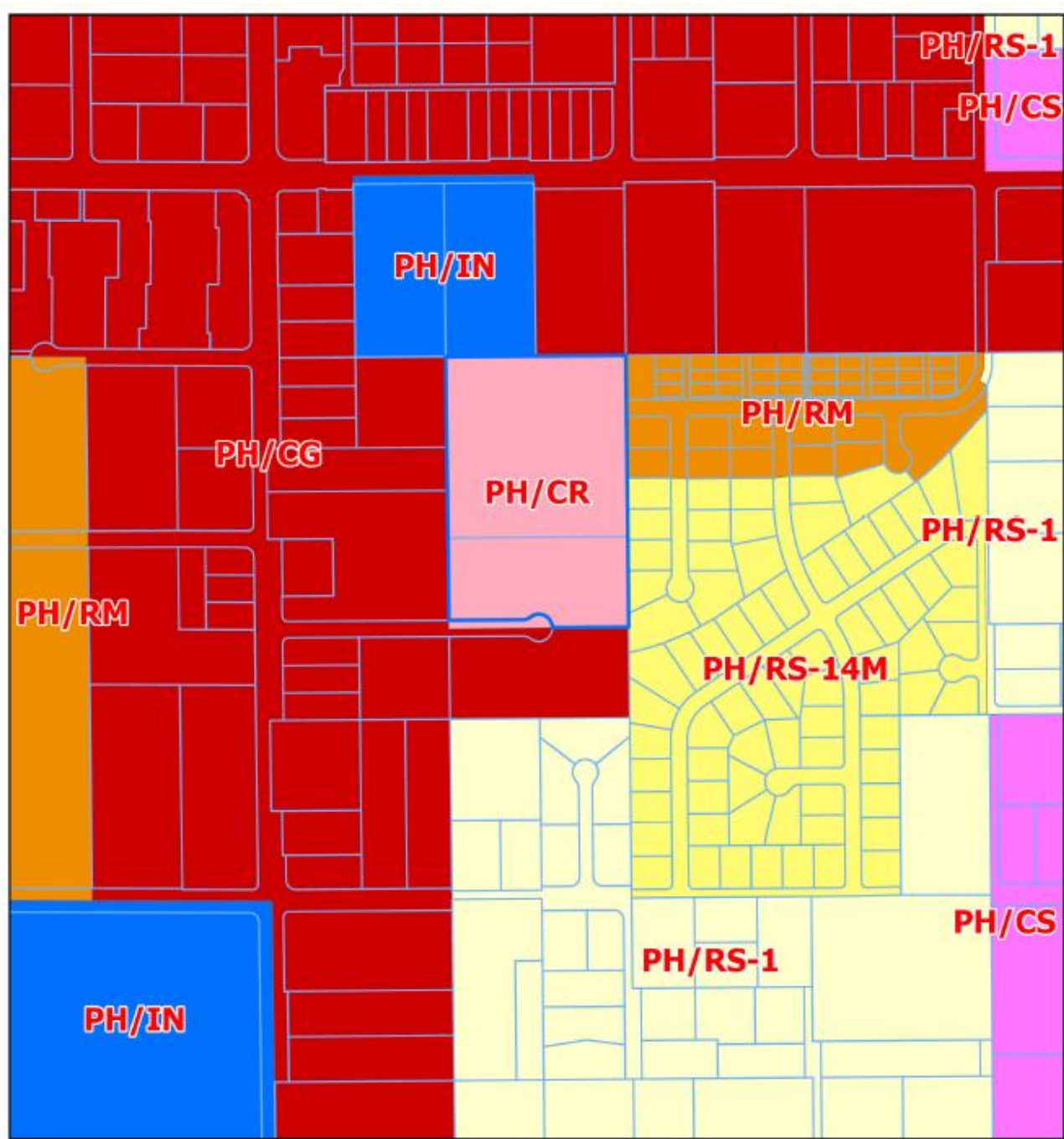


FIGURE 4 – ZONING MAP (PROPOSED)



Land Use Zoning Districts
PROJ-2022-00184 // PHELAN PINON HILLS PARK



FIGURE 5 - PROJECT SITE
View of site looking north from Sahara Road at Warbler Road



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



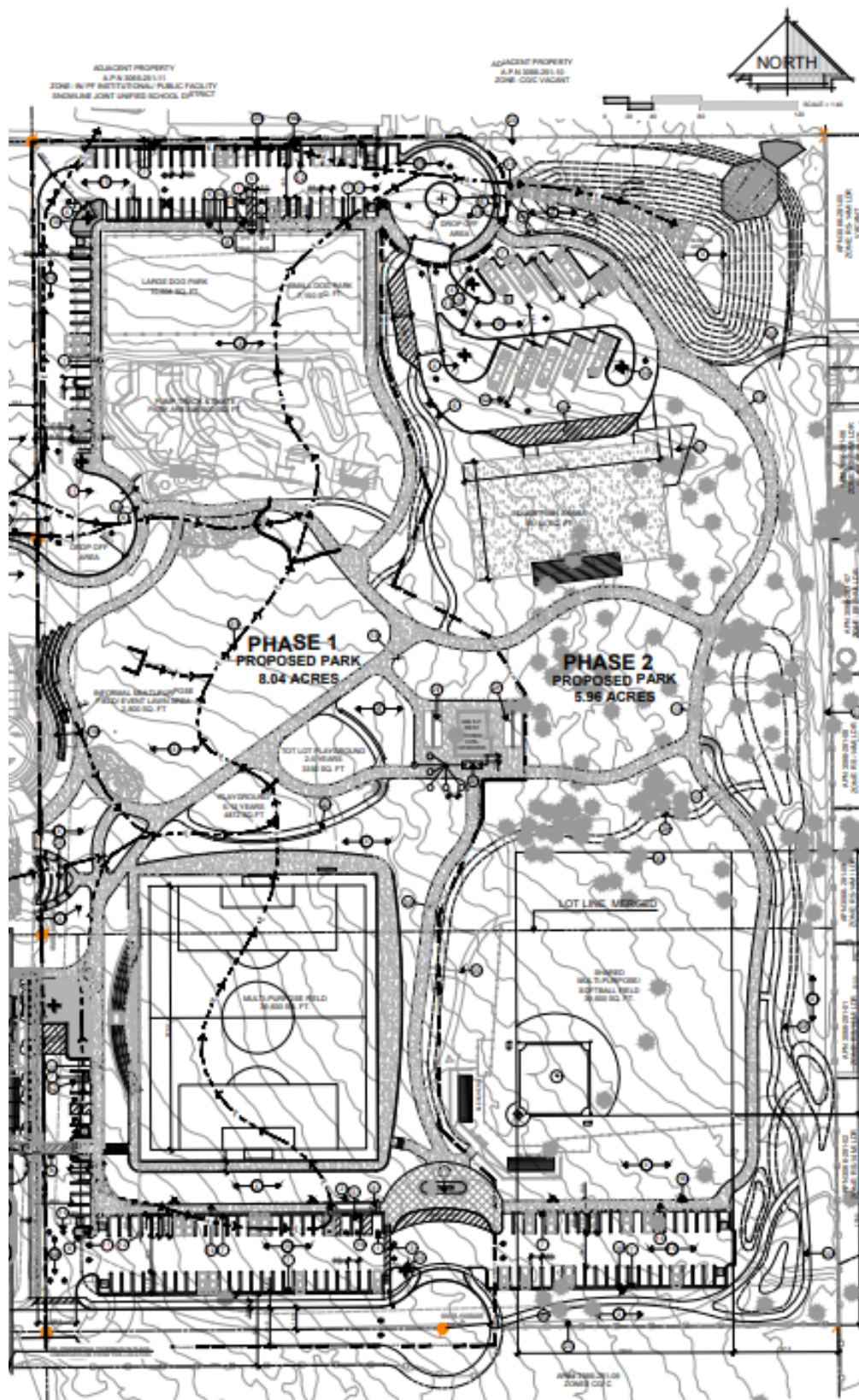
FIGURE 7 - PROJECT SITE
View of Sahara Road looking west



FIGURE 8 - PROJECT SITE
View of Sahara Road looking east



FIGURE 9 – SITE PLAN



PROJECT DESCRIPTION AND BACKGROUND

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

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

PROJECT ANALYSIS.

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

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

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

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

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

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

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

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

Table 2: Project Code Compliance

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

California Environmental Quality Act Compliance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Public Comments:

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

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

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

ATTACHMENTS:

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